
A BILL FOR AN ACT

RELATING TO ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature recognizes the importance of
2 developing and utilizing renewable energy resources to reduce
3 dependence on imported fossil fuels and has taken steps to
4 encourage the development and use of renewable resources by
5 establishing the renewable energy technologies income tax
6 credit. However, fiscal responsibility must be exercised while
7 achieving the State's renewable energy goals. In 2011, the
8 renewable energy technologies income tax credit resulted in a
9 loss of \$40,000,000 in tax revenue.

10 The legislature believes that in addition to encouraging
11 the development and use of renewable energy technologies,
12 government should also develop and use renewable energy to power
13 its facilities. It would be more beneficial for government
14 agencies to purchase a renewable energy system, rather than to
15 enter into a power purchase agreement.

16 The purpose of this Act is to ensure the cost effectiveness
17 of renewable energy technology projects by:



1 (1) Disallowing a taxpayer to claim a tax credit for
2 renewable energy technologies for installing a
3 renewable energy system for, or entering into a power
4 purchase agreement with, a county, state, or federal
5 agency;

6 (2) Applying the renewable energy technologies credit on a
7 per-property basis; and

8 (3) Authorizing the issuance of general obligation bonds
9 to purchase renewable energy systems for state
10 facilities.

11 SECTION 2. Section 235-12.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§235-12.5 Renewable energy technologies; income tax**

14 **credit.** (a) When the requirements of subsection (d) are met,
15 each individual or corporate taxpayer that files an individual
16 or corporate net income tax return for a taxable year may claim
17 a tax credit under this section against the Hawaii state
18 individual or corporate net income tax. The tax credit may be
19 claimed for every property upon which an eligible renewable
20 energy technology system [~~that~~] is installed and placed in
21 service in the State by a taxpayer during the taxable year. The
22 tax credit may be claimed as follows:



- 1 (1) For [~~each~~] a solar energy system: thirty-five per
2 cent of the actual cost or the cap amount determined
3 in subsection (b), whichever is less; or
- 4 (2) For [~~each~~] a wind-powered energy system: twenty per
5 cent of the actual cost or the cap amount determined
6 in subsection (b), whichever is less;
- 7 provided that multiple owners of a single system shall be
8 entitled to a single tax credit; and provided further that the
9 tax credit shall be apportioned between the owners in proportion
10 to their contribution to the cost of the system.

11 In the case of a partnership, S corporation, estate, or
12 trust, the tax credit allowable is for every eligible renewable
13 energy technology system that is installed and placed in service
14 in the State by the entity. The cost upon which the tax credit
15 is computed shall be determined at the entity level.
16 Distribution and share of credit shall be determined pursuant to
17 section 235-110.7(a).

18 (b) The amount of credit allowed for each property upon
19 which an eligible renewable energy technology system is
20 installed and placed in service shall not exceed the applicable
21 cap amount, which is determined as follows:



1 (1) If the primary purpose of the solar energy system is
2 to use energy from the sun to heat water for household
3 use, then the cap amounts shall be:

4 (A) [~~\$2,250~~] \$2,500 per [~~system for~~] single-family
5 residential [~~property;~~] tax map key number;

6 (B) [~~\$350~~] \$1,000 per unit per [~~system for~~] multi-
7 family residential [~~property;~~] tax map key
8 number; and

9 (C) \$250,000 per [~~system for commercial property;~~]
10 nonresidential tax map key number;

11 (2) For all other solar energy systems, the cap amounts
12 shall be:

13 (A) [~~\$5,000~~] \$7,000 per [~~system for~~] single-family
14 residential [~~property;~~] tax map key number;
15 provided that if all or a portion of the system
16 is used to fulfill the substitute renewable
17 energy technology requirement pursuant to section
18 196-6.5(a) (3), the credit shall be reduced by
19 thirty-five per cent of the actual system cost or
20 \$2,250, whichever is less;



1 (B) [~~\$350~~] \$1,000 per unit per [~~system for~~] multi-
2 family residential [~~property;~~] tax map key
3 number; and

4 (C) [~~\$500,000 per system for commercial property;~~]
5 For a single nonresidential tax map key number,
6 \$1,500 per kilowatt placed in service for the
7 first three hundred kilowatts of capacity and
8 \$1,000 per kilowatt for the next four thousand
9 seven hundred kilowatts placed into service;
10 provided that the credit shall not apply to
11 kilowatts produced in excess of five thousand
12 kilowatts of capacity that are placed into
13 service; and

14 (3) For all wind-powered energy systems, the cap amounts
15 shall be:

16 (A) \$1,500 per [~~system for~~] single-family residential
17 [~~property;~~] tax map key number; provided that if
18 all or a portion of the system is used to fulfill
19 the substitute renewable energy technology
20 requirement pursuant to section 196-6.5(a)(3),
21 the credit shall be reduced by twenty per cent of



1 the actual system cost or \$1,500, whichever is
2 less;

3 (B) \$200 per unit per [~~system for~~] multi-family
4 residential [~~property;~~] tax map key number; and

5 (C) \$500,000 per [~~system for commercial property.~~]
6 nonresidential tax map key number.

7 (c) For the purposes of this section:

8 "Actual cost" means costs related to the renewable energy
9 technology systems under subsection (a), including accessories
10 and installation, but not including the cost of consumer
11 incentive premiums unrelated to the operation of the system or
12 offered with the sale of the system and costs for which another
13 credit is claimed under this chapter.

14 "Household use" means any use to which heated water is
15 commonly put in a residential setting, including commercial
16 application of those uses.

17 "Renewable energy technology system" means a new system
18 that captures and converts a renewable source of energy, such as
19 solar or wind energy, into:

- 20 (1) A usable source of thermal or mechanical energy;
21 (2) Electricity; or
22 (3) Fuel.



1 "Solar or wind energy system" means any identifiable
2 facility, equipment, apparatus, or the like that converts solar
3 or wind energy to useful thermal or electrical energy for
4 heating, cooling, or reducing the use of other types of energy
5 that are dependent upon fossil fuel for their generation.

6 (d) For taxable years beginning after December 31, 2005,
7 the dollar amount of any utility rebate shall be deducted from
8 the cost of the qualifying system and its installation before
9 applying the state tax credit.

10 (e) The director of taxation shall prepare any forms that
11 may be necessary to claim a tax credit under this section,
12 including forms identifying the technology type of each tax
13 credit claimed under this section, whether for solar or wind.
14 The director may also require the taxpayer to furnish reasonable
15 information to ascertain the validity of the claim for credit
16 made under this section and may adopt rules necessary to
17 effectuate the purposes of this section pursuant to chapter 91.

18 (f) If the tax credit under this section exceeds the
19 taxpayer's income tax liability, the excess of the credit over
20 liability may be used as a credit against the taxpayer's income
21 tax liability in subsequent years until exhausted, unless
22 otherwise elected by the taxpayer pursuant to subsection (g) or



1 (h). All claims for the tax credit under this section,
2 including amended claims, shall be filed on or before the end of
3 the twelfth month following the close of the taxable year for
4 which the credit may be claimed. Failure to comply with this
5 subsection shall constitute a waiver of the right to claim the
6 credit.

7 (g) For solar energy systems, a taxpayer may elect to
8 reduce the eligible credit amount by thirty per cent and if this
9 reduced amount exceeds the amount of income tax payment due from
10 the taxpayer, the excess of the credit amount over payments due
11 shall be refunded to the taxpayer; provided that tax credit
12 amounts properly claimed by a taxpayer who has no income tax
13 liability shall be paid to the taxpayer; and provided further
14 that no refund on account of the tax credit allowed by this
15 section shall be made for amounts less than \$1.

16 The election required by this subsection shall be made in a
17 manner prescribed by the director on the taxpayer's return for
18 the taxable year in which the system is installed and placed in
19 service. A separate election may be made for each separate
20 system that generates a credit. An election once made is
21 irrevocable.



1 (h) Notwithstanding subsection (g), for any property upon
2 which a renewable energy technology system[7] is installed and
3 placed in service, an individual taxpayer may elect to have any
4 excess of the credit over payments due refunded to the taxpayer,
5 if:

6 (1) All of the taxpayer's income is exempt from taxation
7 under section 235-7(a)(2) or (3); or

8 (2) The taxpayer's adjusted gross income is \$20,000 or
9 less, [+] or \$40,000 or less if filing a tax return as
10 married filing jointly~~[+]~~;

11 provided that tax credits properly claimed by a taxpayer who has
12 no income tax liability shall be paid to the taxpayer; and
13 provided further that no refund on account of the tax credit
14 allowed by this section shall be made for amounts less than \$1.

15 A husband and wife who do not file a joint tax return shall
16 only be entitled to make this election to the extent that they
17 would have been entitled to make the election had they filed a
18 joint tax return.

19 The election required by this subsection shall be made in a
20 manner prescribed by the director on the taxpayer's return for
21 the taxable year in which the system is installed and placed in
22 service. A separate election may be made for each separate



1 system that generates a credit. An election once made is
2 irrevocable.

3 (i) No taxpayer shall be allowed a credit under this
4 section for the portion of the renewable energy technology
5 system required by section 196-6.5 that is installed and placed
6 in service on any newly constructed single-family residential
7 property authorized by a building permit issued on or after
8 January 1, 2010.

9 (j) No taxpayer shall be allowed to claim a tax credit
10 under this section for installing a renewable energy system for,
11 or entering into a power purchase agreement with, any county,
12 state, or federal agency.

13 [~~(j)~~] (k) To the extent feasible, using existing resources
14 to assist the energy-efficiency policy review and evaluation,
15 the department shall assist with data collection on the
16 following for each taxable year:

17 (1) The number of [~~renewable energy technology systems~~]
18 properties that have qualified for a tax credit during
19 the calendar year by:

20 (A) Technology type; and

21 (B) Taxpayer type (corporate and individual); and



- 1 (2) The total cost of the tax credit to the State during
- 2 the taxable year by:
- 3 (A) Technology type; and
- 4 (B) Taxpayer type.

5 [~~(k)~~] (1) This section shall apply to properties upon
 6 which an eligible renewable energy technology [~~systems that are~~]
 7 is installed and placed in service on or after July 1, 2009."

8 SECTION 3. Independent power producers not currently
 9 regulated by the public utilities commission that have submitted
 10 an agreement with an electric utility company for approval by
 11 the public utilities commission by January 1, 2013, shall be
 12 allowed tax credits as authorized in the 2012 calendar year for
 13 renewable energy technologies placed into service after January
 14 1, 2013, as part of the agreement.

15 SECTION 4. The director of finance is authorized to issue
 16 general obligation bonds in the sum of \$ or so much
 17 thereof as may be necessary and the same sum or so much thereof
 18 as may be necessary is appropriated for fiscal year 2012-2013 to
 19 purchase renewable energy systems for state facilities that are
 20 operated by programs funded by general funds.

21 The sum appropriated shall be expended by the department of
 22 accounting and general services for the purposes of this Act.



1 SECTION 5. The appropriation made for the capital
2 improvement project authorized by section 4 of this Act shall
3 not lapse at the end of the fiscal biennium for which the
4 appropriation is made; provided that all moneys from the
5 appropriation unencumbered as of June 30, 2014, shall lapse as
6 of that date.

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect on July 1, 2030, and
10 shall apply to taxable years beginning after December 31, 2012.



Report Title:

Renewable Energy Technologies; Renewable Energy Systems; Tax Credit; GO Bonds

Description:

Applies the renewable energy technologies tax credit on a per-property basis. Prohibits a taxpayer from claiming the renewable energy technologies income tax credit for a renewable energy system installed for, a power purchase agreement with any government agency. Increases the credit for systems installed on various types of properties. Authorizes the issuance of general obligation bonds for renewable energy systems for state facilities. Applies to taxable years beginning after December 31, 2012. Effective July 1, 2030. (PROPOSED SB2288 HD1)

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