
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that the renewable energy
2 technologies income tax credit remains in the public interest
3 because it helps to promote effective energy policy in line with
4 Hawaii's energy goals. The legislature further finds that the
5 renewable energy technologies income tax credit has resulted in
6 job creation; the department of business, economic development,
7 and tourism reports that solar energy projects constituted
8 fifteen per cent of all construction activity in the State in
9 2012. In addition to job creation, the tax credit has also
10 helped to bring private and federal capital into the State, as
11 well as aiding in the reduction of Hawaii's vulnerability to
12 economic downturns caused by spikes in the price of oil. The
13 widely-claimed renewable energy technologies income tax credit
14 has also proven popular with the general public. This has led
15 to increased awareness and support of other State energy
16 initiatives and policy measures.

17 The legislature further finds that despite its many
18 benefits, the renewable energy technologies income tax credit



1 has become difficult to administer. Specifically, recent
2 economic studies and forecasts have shown that the credit has
3 cost the state general fund significant amounts in lost tax
4 revenues. Additionally, as technology has advanced, the cost
5 for the development and installation of renewable energy systems
6 has decreased. This has led to a discrepancy in the current
7 levels of State provided renewable energy tax incentives when
8 compared to recently lowered costs of renewable energy
9 technology systems.

10 To remedy some of the problems caused by the renewable
11 energy technologies income tax credit, the legislature finds
12 that it is necessary and appropriate to substantially revise the
13 credit in order to streamline its administration and reduce its
14 outlay of taxable funds. In order to ensure that resident
15 businesses and homeowners continue to invest in renewable energy
16 systems, this Act proposes a steady, predictable, and gradual
17 reduction of the available credit amounts. In addition, to
18 reduce the credit's fiscal and administrative burden on the
19 department of taxation and to enhance the credit's transparency
20 to the general public, this measure also proposes various
21 simplifications to the overall structure of the credit. The
22 intent of this Act is, to the extent possible, to follow the



1 policy and structure devised by the federal government in the
2 design and administration of solar technology credits introduced
3 under the Energy Policy Act of 2005.

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

6 **"§235-12.5 Renewable energy technologies; income tax**

7 **credit.** (a) ~~[When the requirements of subsection (d) are met,~~
8 ~~each individual or corporate taxpayer that files an individual~~
9 ~~or corporate net income tax return for a taxable year may claim~~
10 ~~a tax credit under this section against the Hawaii state~~
11 ~~individual or corporate net income tax. The tax credit may be~~
12 ~~claimed for every eligible renewable energy technology system~~
13 ~~that is installed and placed in service in the State by a~~
14 ~~taxpayer during the taxable year. The tax credit may be claimed~~

15 ~~as follows:] There shall be allowed to each taxpayer subject to~~

16 the tax imposed under this chapter, an income tax credit which

17 shall be deductible from the taxpayer's net income tax

18 liability, if any, imposed by this chapter for the taxable year

19 in which the credit is properly claimed. The amount of the

20 credit shall be:

- 21 (1) For ~~[each]~~ solar energy ~~[system: thirty five per cent~~
- 22 ~~of the actual cost or the cap amount determined in~~



- 1 ~~subsection (b), whichever is less,]~~ property that is
2 placed in service in the State by a taxpayer during
3 the taxable year and that is not part of a utility
4 scale solar energy facility and for which no credit
5 has been claimed under subsection (a) (4): the
6 percentage set forth in subsection (b) (1) and
7 calculated using the applicable tax basis for solar
8 energy property defined in subsection (d); or
- 9 (2) ~~For [each wind powered energy system: twenty per cent~~
10 ~~of the actual cost or the cap amount determined in~~
11 ~~subsection (b), whichever is less,]~~ wind energy
12 property that is placed in service in the State by a
13 taxpayer during the taxable year and that is not part
14 of a utility scale solar energy facility: the
15 percentage set forth in subsection (b) (2) and
16 calculated using the applicable tax basis for wind
17 energy defined in subsection (d);
- 18 (3) For utility scale solar energy facilities placed in
19 service in the State: the relevant rate set out under
20 subsection (b) (3) multiplied by the number of kilowatt
21 hours produced by the facility for sale primarily to a
22 public utility company for resale to the public during



1 the taxable year. This rate shall be available for
2 the ten-year period beginning on the date the facility
3 was originally placed in service subject to the credit
4 allowed under subsection (b) (3); or
5 (4) For solar energy property that is placed in service in
6 the State and that is not part of a utility scale
7 solar energy facility and for which no credit has been
8 claimed under subsection (a) (1): the relevant rate set
9 out under subsection (b) (4) multiplied by the number
10 of kilowatt hours produced by the property during the
11 taxable year. This rate shall be available for the
12 ten-year period beginning on the date the facility was
13 originally placed in service subject to the credit
14 allowed under subsection (b) (4);
15 provided that multiple owners of a single [~~system~~] solar energy
16 property, wind energy property, or utility scale solar energy
17 facility shall be entitled to a single tax credit[~~, and provided~~
18 ~~further that the tax credit shall be apportioned between the~~
19 ~~owners in proportion to their contribution to the cost of the~~
20 ~~system.~~] for that property or facility.

21 In the case of a partnership, S corporation, estate, or
22 trust, the tax credit allowable is for [~~every~~] all eligible



1 ~~[renewable energy technology system]~~ solar and wind energy
2 properties ~~[that is]~~ installed and placed in service in the
3 State by the entity~~[-]~~ and all energy produced by solar energy
4 property or produced and sold by a utility scale solar energy
5 facility during the applicable taxable year. The ~~[cost upon~~
6 ~~which]~~ amount of the tax credit ~~[is computed]~~ shall be
7 determined at the entity level. Distribution and share of
8 credit shall be determined ~~[pursuant to section 235-110.7(a)]~~ by
9 the entity.

10 (b) The amount of credit allowed ~~[for each eligible~~
11 ~~renewable energy technology system shall not exceed the~~
12 ~~applicable cap amount, which is determined]~~ under this section
13 shall be as follows:

14 ~~[(1) If the primary purpose of the solar energy system is~~
15 ~~to use energy from the sun to heat water for household~~
16 ~~use, then the cap amounts shall be:~~

17 ~~(A) \$2,250 per system for single-family residential~~
18 ~~property;~~

19 ~~(B) \$350 per unit per system for multi-family~~
20 ~~residential property; and~~

21 ~~(C) \$250,000 per system for commercial property;~~



- 1 ~~(2) For all other solar energy systems, the cap amounts~~
- 2 ~~shall be:~~
- 3 ~~(A) \$5,000 per system for single family residential~~
- 4 ~~property; provided that if all or a portion of~~
- 5 ~~the system is used to fulfill the substitute~~
- 6 ~~renewable energy technology requirement pursuant~~
- 7 ~~to section 196 6.5(a)(3), the credit shall be~~
- 8 ~~reduced by thirty five per cent of the actual~~
- 9 ~~system cost or \$2,250, whichever is less;~~
- 10 ~~(B) \$350 per unit per system for multi family~~
- 11 ~~residential property; and~~
- 12 ~~(C) \$500,000 per system for commercial property; and~~
- 13 ~~(3) For all wind powered energy systems, the cap amounts~~
- 14 ~~shall be:~~
- 15 ~~(A) \$1,500 per system for single family residential~~
- 16 ~~property; provided that if all or a portion of~~
- 17 ~~the system is used to fulfill the substitute~~
- 18 ~~renewable energy technology requirement pursuant~~
- 19 ~~to section 196 6.5(a)(3), the credit shall be~~
- 20 ~~reduced by twenty per cent of the actual system~~
- 21 ~~cost or \$1,500, whichever is less;~~

- 1 ~~(B) \$200 per unit per system for multi-family~~
- 2 ~~residential property; and~~
- 3 ~~(C) \$500,000 per system for commercial property.]~~
- 4 (1) For solar energy property:
- 5 (A) Thirty per cent of the basis of solar energy
- 6 property placed in service on or after July 1,
- 7 2013 and on or before December 31, 2014;
- 8 (B) Twenty-five per cent of the basis of solar energy
- 9 property placed in service on or after January 1,
- 10 2015 and on or before December 31, 2015;
- 11 (C) Twenty per cent of the basis of solar energy
- 12 property placed in service on or after January 1,
- 13 2016 and on or before December 31, 2016;
- 14 (D) Fifteen per cent of the basis of solar energy
- 15 property placed in service on or after January 1,
- 16 2017 and on or before December 31, 2017; and
- 17 (E) Ten per cent of the basis of solar energy
- 18 property placed in service on or after January 1,
- 19 2018;
- 20 (2) For wind energy property: twenty per cent of the basis
- 21 of wind energy property placed in service on or after
- 22 July 1, 2013;



- 1 (3) For a utility scale solar energy facility:
- 2 (A) Eleven and one-half cents per kilowatt hour for
- 3 ordinary utility scale solar energy facilities
- 4 placed in service on or after July 1, 2013 and on
- 5 or before December 31, 2019; and
- 6 (B) Five and three-quarter cents per kilowatt hour
- 7 for competitively-bid utility scale solar energy
- 8 facilities placed in service on or after July 1,
- 9 2013 and on or before December 31, 2019; and
- 10 (4) For solar energy property for which no credit is
- 11 claimed under subsection (a)(1): eleven and one-half
- 12 cents per kilowatt hour for energy property placed in
- 13 service on or after July 1, 2013 and on or before
- 14 December 31, 2019.
- 15 (c) For the purposes of this section:
- 16 [~~"Actual cost" means costs related to the renewable energy~~
- 17 ~~technology systems under subsection (a), including accessories~~
- 18 ~~and installation, but not including the cost of consumer~~
- 19 ~~incentive premiums unrelated to the operation of the system or~~
- 20 ~~offered with the sale of the system and costs for which another~~
- 21 ~~credit is claimed under this chapter.~~



1 ~~"Household use" means any use to which heated water is~~
2 ~~commonly put in a residential setting, including commercial~~
3 ~~application of those uses.~~

4 ~~"Renewable energy technology system" means a new system~~
5 ~~that captures and converts a renewable source of energy, such as~~
6 ~~solar or wind energy, into:~~

- 7 ~~(1) A usable source of thermal or mechanical energy;~~
8 ~~(2) Electricity; or~~
9 ~~(3) Fuel.]~~

10 "Competitively-bid utility scale solar energy facility"
11 means a utility scale solar energy facility that is installed
12 and placed in service through the use of a competitive bidding
13 process required by statute or administrative rule and conducted
14 by or on behalf of the public utilities commission or a public
15 utilities commission regulated entity.

16 "Ordinary utility scale solar energy facility" means a
17 utility scale solar energy facility that is not installed and
18 placed in service through the use of a competitive bidding
19 process required by statute or administrative rule and conducted
20 by or on behalf of the public utilities commission or a public
21 utilities commission regulated entity.



1 "Placed in service" shall have the same meaning as in
2 United States Treasury Regulation 1.167(a)-11(e)(1).

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

8 "Solar energy property" means:

9 (1) Any equipment constructed, reconstructed, or erected
10 by a credit-claiming taxpayer for the purpose of
11 generating solar electricity or solar-powered heating
12 or cooling; or

13 (2) Any equipment acquired by a credit-claiming taxpayer,
14 provided that the use of the property to generate
15 solar electricity or solar-powered heating or cooling
16 commences with the taxpayer's acquisition of the
17 property.

18 "Sub-transmission or transmission voltage" means the
19 applicable primary, transmission, or sub-transmission voltage
20 level filed by the appropriate electric utility and deemed as
21 nominal by the public utilities commission, allowing for



1 acceptable variations in voltage levels as defined by the public
2 utilities commission.

3 "Utility scale solar energy facility" means solar energy
4 property that is:

5 (1) Designed, installed, and placed into service to
6 produce electricity; and

7 (2) Interconnected to a utility grid at a sub-transmission
8 or transmission voltage.

9 "Wind energy property" means any equipment that is not
10 interconnected to a utility grid at a sub-transmission or
11 transmission voltage and that is:

12 (1) Constructed, reconstructed, or erected by a credit-
13 claiming taxpayer to generate electricity using wind
14 energy; or

15 (2) Acquired by a credit-claiming taxpayer, provided that
16 the use of the property to generate electricity using
17 wind energy commences with the taxpayer's acquisition
18 of the property.

19 ~~(d) [For taxable years beginning after December 31, 2005,~~
20 ~~the dollar amount of any utility rebate shall be~~
21 ~~deducted from the cost of the qualifying system and~~
22 ~~its installation before applying the state tax~~



1 ~~credit.]~~ For the purposes of calculating the credit
2 allowed under this chapter:
3 (1) The basis of the solar or wind energy property shall
4 include all costs related to the solar or wind energy
5 property, including accessories and installation, but
6 shall not include the cost of consumer incentive
7 premiums unrelated to the operation of the property or
8 offered with the sale of the property. The basis used
9 for claiming the credit allowed under this chapter
10 shall be consistent with the basis used by the
11 taxpayer for claiming the federal energy investment
12 tax credit described in section 48 of the Internal
13 Revenue Code or the qualified solar electric property
14 expenditure used by the taxpayer in claiming the
15 federal residential energy efficient property credit
16 described in section 25D of the Internal Revenue Code;
17 provided that for the purposes of calculating the
18 credit allowed under this chapter, the basis of the
19 solar or wind energy property shall not be reduced by
20 the amount of any federal tax credits or other
21 subsidized energy financing received by the taxpayer;
22 and



1 (2) The number of kilowatt hours produced by solar energy
2 property shall be determined by a meter or metering
3 system installed on the property which allows the
4 taxpayer to determine the amount of solar energy
5 production accurate to within two per cent of actual
6 system output. The installed meter or meters shall be
7 a separate interval data recording meter or a complete
8 system capable of recording data no less frequently
9 than every fifteen minutes or its functional
10 equivalent. The type of meter installed on the solar
11 energy property shall be listed with the California
12 energy commission.

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

21 (f) If the tax credit under this section exceeds the
22 taxpayer's income tax liability, the excess of the credit over



1 liability may be used as a credit against the taxpayer's income
2 tax liability in subsequent years until exhausted, unless
3 otherwise elected by the taxpayer pursuant to subsection (g) [~~or~~
4 ~~(h)~~]. All claims for the tax credit under this section,
5 including amended claims, shall be filed on or before the end of
6 the twelfth month following the close of the taxable year for
7 which the credit may be claimed. Failure to comply with this
8 subsection shall constitute a waiver of the right to claim the
9 credit.

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

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



1 service. A separate election may be made for each separate
2 ~~[system]~~ solar energy property and utility scale solar energy
3 facility that generates a credit. An election once made is
4 irrevocable.

5 ~~[(h) Notwithstanding subsection (g), for any renewable~~
6 ~~energy technology system, an individual taxpayer may elect to~~
7 ~~have any excess of the credit over payments due refunded to the~~
8 ~~taxpayer, if:~~

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

11 (2) ~~The taxpayer's adjusted gross income is \$20,000 or~~
12 ~~less (or \$40,000 or less if filing a tax return as~~
13 ~~married filing jointly);~~

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

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



1 ~~The election required by this subsection shall be made in a~~
2 ~~manner prescribed by the director on the taxpayer's return for~~
3 ~~the taxable year in which the system is installed and placed in~~
4 ~~service. A separate election may be made for each separate~~
5 ~~system that generates a credit. An election once made is~~
6 ~~irrevocable.~~

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

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

17 ~~(1) The number of renewable energy technology systems that~~
18 ~~have qualified for a tax credit during the calendar~~
19 ~~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) This section shall apply to eligible renewable energy~~
6 ~~technology systems that are installed and placed in service on~~
7 ~~or after July 1, 2009.]~~

8 (h) The credit allowed under this section is subject to
9 the following:

10 (1) Solar energy property shall not include any renewable
11 energy technology property installed to comply with
12 the requirements of section 196-6.5;

13 (2) The basis of solar or wind energy property shall not
14 include any amount for which another credit is claimed
15 under this chapter;

16 (3) A utility scale solar energy facility shall not
17 include any facility for which another credit is
18 claimed under this chapter;

19 (4) The credit under this section shall not be allowed to:

20 (A) Any federal, state, or local government or any
21 political subdivision, agency, or instrumentality
22 thereof;



- 1 (B) Any organization described in section 501(c) of
2 the Internal Revenue Code and exempt from tax
3 under section 501(a) of the Internal Revenue
4 Code;
- 5 (C) Any entity referred to in section 54(j)(4) of the
6 Internal Revenue Code; or
- 7 (D) Any partnership or other pass-through entity or
8 any partner or other holder of an equity or
9 profits interest of which is described in
10 paragraph (A), (B), or (C); and
- 11 (5) An association of owners under chapter 514A, 514B,
12 421I, or 421J may claim the credit allowed under this
13 section in its own name for property or facilities
14 placed in service and located on common areas.
- 15 (i) The department shall collect data regarding tax
16 credits claimed under this section and shall report to the
17 legislature no later than December 31 of each year the credit
18 allowed under this section remains available. The information
19 contained in this report shall include credit information
20 received by the department as of August 31 of the applicable
21 year and any credit information available for the preceding
22 year. The annual report submitted for each year shall also



1 include an update of the figures reported in the previous year's
2 annual report. The information to be included in the annual
3 report shall be as follows:

4 (1) The dollar amount of tax credits claimed for solar
5 energy property under subsection (a)(1) of this
6 section;

7 (2) The dollar amount of tax credits claimed for solar
8 energy property under subsection (a)(4) of this
9 section;

10 (3) The dollar amount of tax credits claimed for
11 competitively-bid utility scale solar energy
12 facilities;

13 (4) The dollar amount of tax credits claimed for ordinary
14 utility scale solar energy facilities;

15 (5) The dollar amount of tax credits claimed for wind
16 energy property;

17 (6) The total dollar amount of tax credits claimed under
18 this section; and

19 (7) The dollar amount of tax credits taken as refundable
20 tax credits for each of the reporting categories
21 above.



1 (j) The tax credits provided for in this section shall be
2 construed in accordance with United States treasury regulations
3 and judicial interpretations of similar provisions in sections
4 25D, 45, and 48 of the Internal Revenue Code."

5 SECTION 3. (a) The department of business, economic
6 development, and tourism shall conduct a study in the 2017
7 calendar year to determine:

- 8 (1) The extent to which renewable energy technologies
9 income tax credits have benefitted the State by
10 advancing the State's renewable energy goals, reducing
11 energy costs for homeowners and business owners, and
12 generating economic growth;
- 13 (2) The net cost to the State of the renewable energy
14 technologies income tax credits;
- 15 (3) The extent to which the State will be able to achieve
16 its renewable energy goals without further
17 modification to the existing renewable energy
18 technologies income tax credit; and
- 19 (4) Whether the renewable energy technologies income tax
20 credit should be extended, eliminated, or otherwise
21 revised for tax years beginning January 1, 2020.



1 (b) To the extent possible, in conducting this study, the
2 department of business, economic development, and tourism shall
3 consult with, at minimum, representatives of the following:

- 4 (1) The department of taxation;
- 5 (2) The Blue Planet Foundation;
- 6 (3) The Ulupono Initiative;
- 7 (4) The Sierra Club;
- 8 (5) The Hawaii Solar Energy Association;
- 9 (6) The Hawaii Renewable Energy Association; and
- 10 (7) The Hawaii PV Coalition.

11 (c) The department of business, economic development, and
12 tourism shall submit a report of findings and recommendations to
13 the legislature no later than twenty days prior to the convening
14 of the regular session of 2018.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act, upon its approval, shall take effect
18 on July 1, 2013 and shall apply to taxable years beginning after
19 December 31, 2012; provided that:

- 20 (1) Taxpayers who have installed and placed in service
21 renewable energy technology systems prior to July 1,
22 2013, may instead elect to claim tax credits under



H.B. NO. 756

1 section 235-12.5, Hawaii Revised Statutes, in the form
2 in which it read on June 30, 2013; and
3 (2) Taxpayers not currently regulated by the public
4 utilities commission that have entered into agreements
5 on or before December 31, 2012 for the sale of
6 electrical energy from a non-residential non-utility
7 scale solar energy property through a public
8 solicitation and procurement process, shall be allowed
9 to elect to receive tax credits under section 235-
10 12.5, Hawaii Revised Statutes for energy properties
11 placed into service prior to January 1, 2014 on the
12 same basis as if the energy property had been placed
13 into service prior to July 1, 2013.

14

INTRODUCED BY: _____



JAN 22 2013



H.B. NO. 756

Report Title:

Renewable Energy Technologies Tax Credit Rates

Description:

Provides a graduated reduction of rates for the renewable energy technologies tax credit for various types of renewable energy properties. Requires an annual report from Department of Taxation and a 2017 study from the Department of Business, Economic Development and Tourism. Applies to taxable years after December 31, 2012.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

