
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. Section 235-12.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§235-12.5 Renewable energy technologies; income tax**

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

13 (1) For each solar energy [~~system~~] property that is used
14 exclusively to heat water and is installed and first
15 placed in service in the State by a taxpayer during
16 the taxable year: thirty-five per cent of the [~~actual~~
17 ~~cost or the cap amount determined in subsection (b),~~



1 ~~whichever is less; or] basis up to the applicable cap~~
2 amount, which is determined as follows:

3 (A) \$ _____ per property for single-family
4 residential property;

5 (B) \$ _____ per unit per property for multi-family
6 residential property; and

7 (C) \$ _____ per property for commercial property;

8 (2) For each solar energy property that is used primarily
9 to generate electricity, is less than one megawatt in
10 alternating current capacity, and is installed and
11 first placed in service in the State by a taxpayer
12 during the taxable year; provided that no energy
13 property that receives a tax credit under this
14 paragraph may later receive a production tax credit
15 even if the property is one megawatt or greater:

16 (A) _____ per cent of the basis for solar energy
17 property first placed in service after December
18 31, 2012, and before January 1, 2014;

19 (B) _____ per cent of the basis for solar energy
20 property first placed in service after December
21 31, 2013, and before January 1, 2016;



1 (C) per cent of the basis for solar energy
2 property first placed in service after December
3 31, 2015, and before January 1, 2018; and

4 (D) per cent of the basis for solar energy
5 property first placed in service after December
6 31, 2017;

7 (3) For each solar energy property that is used to
8 generate electricity, has not already received a tax
9 credit under paragraph (2), and is one megawatt or
10 larger in alternating current capacity and that is
11 placed in service:

12 (A) On or before December 31, 2016, cents
13 multiplied by the number of kilowatt-hours
14 produced by the solar energy property and sold by
15 the taxpayer to an unrelated entity during the
16 taxable year, or produced by the solar energy
17 property and used on-site to offset the site's
18 demand for electricity during the taxable year,
19 for the first ten years that the solar energy
20 property is in service;

21 (B) After December 31, 2016, but on or before
22 December 31, 2020, cents multiplied by

1 the number of kilowatt-hours produced by the
 2 solar energy property and sold by the taxpayer to
 3 an unrelated entity during the taxable year or
 4 produced by the solar energy property and used
 5 on-site to offset the site's demand for
 6 electricity during the taxable year, for the
 7 first ten years that the solar energy property is
 8 in service; and

9 (C) After December 31, 2020, cents multiplied by
 10 the number of kilowatt-hours produced by the
 11 solar energy property and sold by the taxpayer to
 12 an unrelated entity during the taxable year or
 13 produced by the solar energy property and used
 14 on-site to offset the site's demand for
 15 electricity during the taxable year, for the
 16 first ten years that the solar energy property is
 17 in service; or

18 [-(2)-] (4) For each [~~wind-powered~~] wind energy [~~system-~~]
 19 property that is less than one megawatt in output and
 20 is not part of a larger wind energy property: twenty
 21 per cent of the [~~actual cost or the cap amount~~]

1 ~~determined in subsection (b),~~ basis or \$ _____,
2 whichever is less[+].

3 [~~provided that multiple~~] Multiple owners of a single [~~system~~]
4 property shall be entitled to a single tax credit[+], and
5 [~~provided further that~~] the tax credit shall be apportioned
6 between the owners in proportion to their contribution to the
7 cost of the [~~system.~~] property.

8 In the case of a partnership, S corporation, estate, or
9 trust, the tax credit allowable is for every eligible renewable
10 energy technology [~~system~~] property that is installed and placed
11 in service in the State by the entity. The cost upon which the
12 tax credit is computed shall be determined at the entity level.
13 Distribution and share of credit shall be determined pursuant to
14 section [~~235-110.7(a).~~] 704(b) of the Internal Revenue Code.

15 [~~(b) The amount of credit allowed for each eligible~~
16 ~~renewable energy technology system shall not exceed the~~
17 ~~applicable cap amount, which is determined as follows:~~

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

21 (A) ~~\$2,250 per system for single family residential~~
22 ~~property,~~



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



1 ~~reduced by twenty per cent of the actual system~~
2 ~~cost or \$1,500, whichever is less;~~
3 ~~(B) \$200 per unit per system for multi family~~
4 ~~residential property; and~~
5 ~~(C) \$500,000 per system for commercial property.~~

6 ~~(e)]~~ (b) For the purposes of this section:

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

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

16 "Basis" means costs related to the solar or wind energy
17 property under subsection (a), including accessories, energy
18 storage, and installation, but does not include the cost of
19 consumer incentive premiums unrelated to the operation of the
20 energy property or offered with the sale of the energy property
21 and costs for which another credit is claimed under this
22 chapter. Any cost incurred and paid for the repair,



1 construction, or reconstruction of a structure in conjunction
2 with the installation and placing in service of solar or wind
3 energy property, such as the re-roofing of single-family
4 residential property, multi-family residential property, or
5 commercial property, shall not constitute a part of the basis for
6 the purpose of this section; provided that costs incurred for the
7 physical support of the solar or wind energy property, such as
8 racking and mounting equipment and costs incurred to seal or
9 otherwise return a roof to its pre-installation condition shall
10 constitute part of the basis for the purposes of this section.

11 The basis used under this section shall be consistent with
12 the use of basis in section 25D or section 48 of the Internal
13 Revenue Code; provided that, for the purposes of calculating the
14 credit allowed under this section, the basis of the solar energy
15 property or the wind energy property shall not be reduced by the
16 amount of any federal tax credit or other federally subsidized
17 energy financing received by the taxpayer.

18 "First placed in service" has the same meaning as in
19 Treasury Regulation 1.167(a)-11(e)(1).

20 "Property" means equipment that uses solar or wind energy
21 to generate electricity, the construction, reconstruction, or
22 erection of which is completed by the taxpayer, or which is



1 acquired by the taxpayer if the original use of the property
2 commences with the taxpayer.

3 "Public sector agency" means any political subdivision,
4 agency, or instrumentality of the State or of the federal
5 government.

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

- 9 (1) A usable source of thermal or mechanical energy;
- 10 (2) Electricity; or
- 11 (3) Fuel.

12 "Solar or wind energy [~~system~~] property" means any
13 identifiable facility, equipment, apparatus, or the like that
14 converts solar or wind energy to useful thermal or electrical
15 energy for heating, cooling, or reducing the use of other types
16 of energy that are dependent upon fossil fuel for their
17 generation.

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



1 [~~(e)~~] (d) The director of taxation shall prepare any forms
2 that may be necessary to claim a tax credit under this section,
3 including forms identifying the technology type of each tax
4 credit claimed under this section [~~, whether for solar or wind~~].
5 The director may also require the taxpayer to furnish reasonable
6 information to ascertain the validity of the claim for credit
7 made under this section and may adopt rules necessary to
8 effectuate the purposes of this section pursuant to chapter 91.

9 [~~(f)~~] (e) If the tax credit under [~~this section~~]
10 subsection (a)(1), (2), and (4) exceeds the taxpayer's income
11 tax liability, the excess of the credit over liability may be
12 used as a credit against the taxpayer's income tax liability in
13 subsequent years until exhausted, unless otherwise elected by
14 the taxpayer pursuant to subsection (f) or (g) [~~or (h)~~]. All
15 claims for the tax credit under this section, including amended
16 claims, shall be filed on or before the end of the twelfth month
17 following the close of the taxable year for which the credit may
18 be claimed. Failure to comply with this subsection shall
19 constitute a waiver of the right to claim the credit.

20 [~~(g)~~] (f) For solar energy [~~systems,~~] properties under
21 subsection (a)(1) and (2) or for any wind energy property under
22 subsection (a)(4), a taxpayer may elect to reduce the eligible



1 credit amount by thirty per cent and if this reduced amount
2 exceeds the amount of income tax payment due from the taxpayer,
3 the excess of the credit amount over payments due shall be
4 refunded to the taxpayer; provided that tax credit amounts
5 properly claimed by a taxpayer who has no income tax liability
6 shall be paid to the taxpayer; and provided further that no
7 refund on account of the tax credit allowed by this section
8 shall be made for amounts less than \$1.

9 The election required by this subsection shall be made in a
10 manner prescribed by the director on the taxpayer's return for
11 the taxable year in which the ~~[system]~~ property is installed and
12 first placed in service. A separate election may be made for
13 each separate ~~[system]~~ property that generates a credit. An
14 election once made is irrevocable.

15 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)]~~, (f), for any
16 ~~[renewable energy technology system]~~ solar energy property
17 under subsection (a)(1) and (2) or for any wind energy property
18 under subsection (a)(4), an individual taxpayer may elect to
19 have any excess of the credit over payments due refunded to the
20 taxpayer~~]~~ without discount, if:

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



1 (2) The taxpayer's adjusted gross income is \$20,000 or
2 less (or \$40,000 or less if filing a tax return as
3 married filing jointly);
4 provided that tax credits properly claimed by a taxpayer who has
5 no income tax liability shall be paid to the taxpayer; and
6 provided further that no refund on account of the tax credit
7 allowed by this section shall be made for amounts less than \$1.

8 A husband and wife who do not file a joint tax return shall
9 only be entitled to make this election to the extent that they
10 would have been entitled to make the election had they filed a
11 joint tax return.

12 The election required by this subsection shall be made in a
13 manner prescribed by the director on the taxpayer's return for
14 the taxable year in which the [~~system~~] property is installed and
15 first placed in service. A separate election may be made for
16 each separate [~~system~~] property that generates a credit. An
17 election once made is irrevocable.

18 [~~(i)~~] (h) No taxpayer shall be allowed a credit under this
19 section for the portion of the renewable energy technology
20 system required by section 196-6.5 that is installed and first
21 placed in service on any newly constructed single-family



1 residential property authorized by a building permit issued on
2 or after January 1, 2010.

3 ~~[(j) To the extent feasible, using existing resources to~~
4 ~~assist the energy efficiency policy review and evaluation, the~~
5 ~~department shall assist with data collection on the following~~
6 ~~for each taxable year.]~~

7 (i) If the tax credit under subsection (a)(3) exceeds the
8 taxpayer's income tax liability, the excess of the credit over
9 liability shall be refunded to the taxpayer; provided that tax
10 credit amounts properly claimed by a taxpayer who has no income
11 tax liability shall be paid to the taxpayer; provided further
12 that no refund on account of the tax credit allowed by this
13 section shall be made for amounts less than \$1.

14 (j) The tax credit provided for in this section shall be
15 construed in accordance with Treasury Regulations and judicial
16 interpretations of similar provisions in sections 25D, 45, and
17 48 of the Internal Revenue Code.

18 (k) Notwithstanding the foregoing, and in lieu of the
19 credit described above, an individual or corporate taxpayer not
20 currently regulated by the public utilities commission that had
21 by December 31, 2012, entered into an agreement with a public
22 sector agency pursuant to a public solicitation and procurement



1 process for the sale of electrical energy from non-residential
2 solar energy property with less than one megawatt of alternating
3 current capacity shall be allowed to elect to receive the tax
4 credit for energy properties placed into service prior to
5 January 1, 2014, on the same basis as if the energy property had
6 been placed into service prior to January 1, 2013; provided that
7 the taxpayer shall provide a copy of the agreement to the
8 department of taxation.

9 (l) Taxpayers who have received letters from the
10 department of taxation extending the department's letter rulings
11 or determination letters to December 31, 2013, and have
12 submitted the requested status update may qualify for the tax
13 credit as it existed on December 31, 2012; provided that the
14 energy property is first placed in service on or before December
15 31, 2013.

16 (m) An association of owners under chapter 421I, 421J,
17 514A, or 514B may claim the credit allowed under this section in
18 its own name for property or facilities placed in service and
19 located on common areas.

20 (n) No credit under this section shall be allowed to any
21 federal, state, or local government or any political
22 subdivision, agency, or instrumentality thereof.



1 (o) The department of taxation, in collaboration with the
2 department of business, economic development, and tourism, shall
3 submit a joint report to the legislature annually no later than
4 twenty days prior to the convening of each regular session on
5 the following for the preceding taxable year:

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

9 (A) Technology type; and

10 (B) Taxpayer type (corporate and individual); [~~and~~]

11 (2) The total cost of the tax credit to the State during
12 the taxable year by:

13 (A) Technology type; [~~and~~]

14 (B) Taxpayer type[-];

15 (C) Tax credit type (investment or production); and

16 (D) Refundability type (refundable or nonrefundable);

17 and

18 (3) The estimated economic benefit that may be
19 attributable to the renewable energy tax credit,
20 including:

21 (A) Impact on the economy, including:

22 (i) Economic boost;



1 (ii) Net flow of money into or out of the State;

2 and

3 (iii) General excise and income tax revenue

4 generated; and

5 (B) Jobs, including:

6 (i) Number of jobs maintained;

7 (ii) Number of jobs created and the number of

8 jobs lost; and

9 (iii) Average pay.

10 ~~[(k) This section shall apply to eligible renewable energy~~
11 ~~technology systems that are installed and placed in service on~~
12 ~~or after July 1, 2009.]~~

13

(p) The department of business, economic development, and
14 tourism shall commence a study no later than July 1, 2016, on
15 the costs incurred and benefits generated by this section, as
16 well as the extent to which the tax credit under this section
17 has helped the State to achieve its energy goals. In conducting
18 this study, the department of business, economic development,
19 and tourism shall consult with the department of taxation and
20 industry trade groups and may consult with other stakeholders.
21 The department of business, economic development, and tourism
22 shall submit a report to the legislature no later than December



1 31, 2017. This report to the legislature shall include, at a
2 minimum, the following:

- 3 (1) The elements in subsection (o);
4 (2) The results of its study; and
5 (3) Recommendations on whether the tax credit under this
6 section should be wholly or partially continued,
7 eliminated, or revised."

8 SECTION 2. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2050, and
17 shall apply to taxable years beginning after December 31, 2012.



Report Title:

Renewable Energy; Solar Energy Property; Tax Credit

Description:

Replaces the current renewable energy technology systems tax credit with tax credits for solar energy property and wind energy property. Requires DOTAX and DBEDT to report tax credits claimed under section 235-12.5, HRS. Effective July 1, 2050.
(SB623 HD2)

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

