
A BILL FOR AN ACT

RELATING TO UTILITY-SCALE RENEWABLE ENERGY SYSTEM TAX CREDITS.

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

1 SECTION 1. The legislature finds that as a result of
2 pursuing its goal to reach one hundred per cent renewable energy
3 by 2045, Hawaii must continue to support utility-scale renewable
4 energy projects that benefit residents and ratepayers.
5 Currently, there are sixty utility-scale renewable energy
6 projects feeding into the State's power grids, and many more are
7 projected for completion in the next several years. Despite
8 great progress, the State continues to depend heavily upon
9 imported petroleum for its energy needs, and it must support a
10 stable and robust financial framework for renewable energy
11 projects to reach Hawaii's ambitious renewable energy goals.

12 The legislature further finds that in order to continue to
13 support this goal, the State must distinguish utility-scale
14 renewable energy projects from other renewable energy technology
15 systems under the state income tax credit program. Under the
16 terms of Public Utilities Commission Order 35286, which
17 authorized a solicitation for utility-scale renewable energy



1 projects in 2018, bidders were required to pass through the full
2 value of the tax credit to ratepayers in the form of lower power
3 prices. Eight projects totaling approximately 275 MW AC were
4 selected in this solicitation, with expected completion dates
5 between 2021 and 2022. These eight projects are essential to
6 the State's ability to meet its near-term clean energy and
7 carbon reduction goals. However, while the projects' power
8 prices assume the full value of the tax credit at the time of
9 bidding, the projects will not secure the tax credit until
10 completed and energized. Without certainty as to the value of
11 the tax credit, these projects would need to take on the full
12 risk of a reduced or eliminated credit as they secure financing
13 and complete construction, placing the projects at risk of
14 cancellation. Providing certainty for these types of projects
15 is necessary to ensure their financial viability and keep the
16 State on track to achieve its clean energy goals.

17 The purpose of this Act is to:

- 18 (1) Add a new definition for "eligible utility-scale
19 renewable energy project" under the renewable energy
20 technologies income tax credit;



- 1 (2) Clarify the calculation of the income tax credit
- 2 available to commercial solar energy systems; and
- 3 (3) Amend the renewable energy technologies income tax
- 4 credit to provide certainty as to the value of the tax
- 5 credit for the utility-scale renewable energy
- 6 projects.

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

9 "**§235-12.5 Renewable energy technologies; income tax**
10 **credit.** (a) When the requirements of subsection (d) are met,
11 each individual or corporate taxpayer that files an individual
12 or corporate net income tax return for a taxable year may claim
13 a tax credit under this section against the Hawaii state
14 individual or corporate net income tax. The tax credit may be
15 claimed for every eligible renewable energy technology system
16 that is installed and placed in service in the State by a
17 taxpayer during the taxable year. The tax credit may be claimed
18 as follows:

- 19 (1) For each solar energy system: thirty-five per cent of
- 20 the actual cost or the cap amount determined in
- 21 subsection (b), whichever is less; or



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

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 that is installed and placed in service
11 in the State by the entity. The cost upon which the tax credit
12 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).

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:



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

3 (B) \$350 per unit per system for multi-family
4 residential property; and

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

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

8 (A) \$5,000 per system for single-family residential
9 property; provided that if all or a portion of
10 the system is used to fulfill the substitute
11 renewable energy technology requirement pursuant
12 to section 196-6.5(a)(3), the credit shall be
13 reduced by thirty-five per cent of the actual
14 system cost or \$2,250, whichever is less;

15 (B) \$350 per unit per system for multi-family
16 residential property; and

17 (C) \$500,000 per ~~[system]~~ megawatt direct current for
18 systems installed on commercial property; and

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



1 (A) \$1,500 per system for single-family residential
2 property; provided that if all or a portion of
3 the system is used to fulfill the substitute
4 renewable energy technology requirement pursuant
5 to section 196-6.5(a)(3), the credit shall be
6 reduced by twenty per cent of the actual system
7 cost or \$1,500, whichever is less;

8 (B) \$200 per unit per system for multi-family
9 residential property; and

10 (C) \$500,000 per system for commercial property.

11 (c) For the purposes of this section:

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

18 "Eligible utility-scale renewable energy project" means a
19 renewable energy project that was approved prior to December 31,
20 2018, and that is placed in service no later than December 31,
21 2023.



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

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

19 (e) The director of taxation shall prepare any forms that
20 may be necessary to claim a tax credit under this section,
21 including forms identifying the technology type of each tax



1 credit claimed under this section, whether for solar or wind.
2 The director may also require the taxpayer to furnish reasonable
3 information to ascertain the validity of the claim for credit
4 made under this section and may adopt rules necessary to
5 effectuate the purposes of this section pursuant to chapter 91.

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

17 (g) For solar energy systems, a taxpayer may elect to
18 reduce the eligible credit amount by thirty per cent and if this
19 reduced amount exceeds the amount of income tax payment due from
20 the taxpayer, the excess of the credit amount over payments due
21 shall be refunded to the taxpayer; provided that tax credit



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

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

11 (h) Notwithstanding subsection (g), for any renewable
12 energy technology system, an individual taxpayer may elect to
13 have any excess of the credit over payments due refunded to the
14 taxpayer, if:

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

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

20 provided that tax credits properly claimed by a taxpayer who has
21 no income tax liability shall be paid to the taxpayer; and



1 provided further that no refund on account of the tax credit
2 allowed by this section shall be made for amounts less than \$1.

3 A husband and wife who do not file a joint tax return shall
4 only be entitled to make this election to the extent that they
5 would have been entitled to make the election had they filed a
6 joint tax return.

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

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

19 (j) To the extent feasible, using existing resources to
20 assist the energy-efficiency policy review and evaluation, the



1 department shall assist with data collection on the following
2 for each taxable year:

3 (1) The number of renewable energy technology systems that
4 have qualified for a tax credit during the calendar
5 year by:

6 (A) Technology type; and

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

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

10 (A) Technology type; and

11 (B) Taxpayer type.

12 (k) This section shall apply to eligible renewable energy
13 technology systems that are installed and placed in service on
14 or after July 1, 2009 [-]; provided that for an eligible utility-
15 scale renewable energy project, the tax credit shall be based on
16 the credit value and cap that were in effect as of December 31,
17 2019."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



H.B. NO. 1857

1 SECTION 4. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2019.

3

INTRODUCED BY: *Nicole E. Lowen*

JAN 16 2020



H.B. NO. 1857

Report Title:

Renewable Energy Projects; Income Tax Credit

Description:

Amends the renewable energy technologies income tax credit by adding a new definition for "eligible utility-scale renewable energy project." Clarifies the calculation of the income tax credit available to commercial solar energy systems.

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