THE SENATE
THIRTIETH LEGISLATURE, 2020
STATE OF HAWAII

S.B. NO. 3036 S.D. 1

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY TECHNOLOGIES TAX CREDITS.

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

SECTION 1. The legislature finds that every year, proposals to change or eliminate renewable energy tax credits are submitted that could potentially negatively affect renewable energy projects, which are currently in development and were initiated in reliance on existing renewable energy tax credits. These renewable energy tax credits are applied to the rates that are contracted with the electric utilities and ultimately reflected in the rates benefitting ratepayers. Changes to renewable energy tax credits that affect renewable energy projects that are already under development would negatively impact the financeability rate and overall viability of affected renewable energy projects, which will hinder the electric utility in achieving the State's renewable portfolio standard of one hundred per cent by 2045.

The legislature further finds that renewable energy tax credits for utility-scale projects contracted with the electric utility and approved by the public utilities commission's decision and order in 2019 must be taken on tax returns filed after the project is commercially operational in subsequent years. As a result, such projects are at risk for any changes in law that might reduce the value of the credit between now and the completion of the project. Any changes to renewable energy tax credits prior to the completion of such projects could financially harm the developer's ability to deliver the proposed renewable energy projects, which would ultimately harm the ratepayers and the State's energy policy goals. It is therefore important to provide developers of utility-scale renewable energy projects with certainty that that the currently existing renewable energy tax credit will still apply to projects that have already been approved by the public utilities commission in 2019 and currently under development when they are ultimately completed. This assurance will help reduce risks and costs for developers and increase the number of developers willing to propose and develop renewable energy projects in Hawaii. Increasing competition for renewable energy projects is in the public interest, as it will help reduce renewable energy costs for ratepayers.

Accordingly, the purpose of this Act is to ensure that, notwithstanding any amendments to the existing renewable energy tax credits, previously approved commercial utility-scale renewable energy projects that are currently under development are not to be affected by any subsequent amendments to existing state law relating to renewable energy technologies tax credit.

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

1. By amending subsection (a) to read:

"(a) When the requirements of subsection (d) are met, each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology system that is installed and placed in service in the State by a taxpayer during the taxable year. The tax credit may be claimed as follows:

(1) For each solar energy system: thirty-five per cent of the actual cost or the cap amount determined in subsection (b), whichever is less; [~~or~~] provided that,

<u>notwithstanding any law to the contrary and any subsequent amendments to this paragraph or to any applicable law, a solar energy system with a power purchase agreement approved by a decision and order issued by the public utilities commission prior to December 31, 2019, shall continue to receive thirty-five per cent of the actual cost or $500,000 per solar energy system in which each system has a total output capacity of at least one thousand kilowatts per system of direct current for commercial property, whichever is less; or</u>

(2) For each wind-powered energy system: twenty per cent of the actual cost or the cap amount determined in subsection (b), whichever is less;

provided that multiple owners of a single system shall be entitled to a single tax credit; and provided further that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the system.

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

2. By amending subsection (k) to read:

(k) This section shall apply to eligible renewable energy technology systems that are installed and placed in service on or after July 1, 2009[~~.~~]; provided that a project is eligible to receive a tax credit pursuant to this section only if a project has a power purchase agreement that is approved by a decision or order by the public utilities commission or has filed with, or is pending approval from, the public utilities commission prior to December 31, 2019."

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

SECTION 4. This Act shall take effect upon its approval.

Report Title:
Renewable Energy Technologies Tax Credits; Power Purchase Agreements

Description:
Clarifies that notwithstanding any law to the contrary or subsequent amendments to existing state renewable energy investment tax credits, a power purchase agreement approved by the public utilities commission prior to 12/31/2019 shall receive thirty-five per cent of the actual cost or $500,000 per solar energy system. Provides that a project is eligible to receive a tax credit only if a project has a power purchase agreement that is approved by the Public Utilities Commission or is filed with or pending approval by the Commission. (SD1)

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