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# 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 Act 97, Session Laws  
2 of Hawaii 2015, requires electric utilities in the State to  
3 achieve a one hundred per cent renewable portfolio standard by  
4 December 31, 2045, with the intent to transition the State away  
5 from imported fossil fuels and toward renewable local resources  
6 that provide a secure source of affordable energy. The  
7 successful deployment of large-scale renewable energy projects  
8 is integral to the achievement of this goal.

9           The legislature further finds that, in late 2021, the city  
10 and county of Honolulu real property assessment division changed  
11 the classification of some parcels of land from agricultural to  
12 industrial for tax purposes as a result of those parcels being  
13 developed with renewable energy projects. This change in  
14 classification resulted in a drastic increase in property taxes  
15 for affected renewable energy projects, resulting in some  
16 project operators receiving assessments that were hundreds of  
17 times higher than their prior assessments. An increase of this



1 scale was not factored into contract negotiations or other  
2 business considerations when the affected projects were financed  
3 and under development.

4 The legislature additionally finds that increases in real  
5 property taxes for renewable energy projects may significantly  
6 impact the viability of existing and future renewable energy  
7 projects, and consequently the State's progress toward meeting  
8 its one hundred per cent renewable energy mandate. Power  
9 purchase contracts that have already been executed may require  
10 renegotiations with the electric utility and renewed approvals  
11 by the public utilities commission, neither of which are  
12 guaranteed. Increased costs of renewable energy projects would  
13 likely be borne by ratepayers, with low- and middle-income  
14 residents bearing a substantial energy cost burden.

15 In response to the tax increase, the Honolulu city council  
16 adopted Ordinance 21-32 in 2021 to create a partial exemption  
17 for renewable energy projects. While this newly enacted  
18 ordinance provided some immediate relief, there is still  
19 significant uncertainty related to how existing tax policies  
20 will be applied, which could have a chilling effect on the



1 future development and financing of renewable energy projects in  
2 the State due to the risk of unanticipated tax increases.

3 The legislature finds that, under section 239-5, Hawaii  
4 Revised Statutes, and section 8-10.24, Revised Ordinances of  
5 Honolulu, public service companies including electric utilities  
6 are assessed public service taxes by the city and county of  
7 Honolulu in lieu of real property taxes, and therefore, exempts  
8 public utilities from real property taxes on real property that  
9 is owned or leased and actually used by a public service  
10 company. Allowing the counties to establish an in-lieu-of real  
11 property tax program for independent renewable power producers  
12 balances the interests and goals of the State, the counties, and  
13 the renewable power industry. A payment in-lieu-of-tax program  
14 may similarly provide some stability for renewable energy  
15 projects from fluctuations in real property values and taxes.

16 The purpose of this Act is to provide more certainty for  
17 renewable energy developers and ratepayers, while mitigating any  
18 potential revenue loss to the counties, by allowing the counties  
19 to establish an opt-in program by ordinance that allows an  
20 annual payment in lieu of real property taxes on the land or



1 improvements thereon that are actively used to produce or store  
2 renewable energy that is sold to an electric utility.

3 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
4 by adding a new section to be appropriately designated and to  
5 read as follows:

6 "§46- Renewable energy projects; payment in lieu of  
7 real property taxes. A county may enact an ordinance, which it  
8 may amend from time to time, to establish an opt-in by the  
9 property owner or taxpayer program that allows an annual payment  
10 in lieu of real property taxes on land or improvements thereon  
11 that are actively used to produce or store renewable energy  
12 primarily for the purpose of public consumption that is sold  
13 under a power purchase agreement to an electric utility;  
14 provided that:

- 15 (1) The ordinance also exempts renewable energy projects  
16 from one hundred per cent of real property taxes; and  
17 (2) The payment may be determined by the county on a per  
18 megawatt nameplate alternating current (AC) capacity  
19 basis."

20 SECTION 3. If any provision of this Act, or the  
21 application thereof to any person or circumstance, is held



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1 invalid, the invalidity does not affect other provisions or  
2 applications of the Act that can be given effect without the  
3 invalid provision or application, and to this end the provisions  
4 of this Act are severable.

5 SECTION 4. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2023.

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INTRODUCED BY: *Nicole E. Low*  
JAN 19 2023



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**Report Title:**

Renewable Energy Projects; Real Property Taxes; County Ordinance

**Description:**

Allows the counties to establish, by ordinance, an opt-in program that allows an annual payment in lieu of real property taxes on the land or improvements thereon that are actively used to produce or store renewable energy that is sold to an electric utility.

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

