

JAN 28 2015

A BILL FOR AN ACT

RELATING TO ENERGY STORAGE.

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

1 SECTION 1. The legislature finds that for economic and
2 energy security reasons, state law and policy direct an increase
3 in the use of renewable energy resources. The majority of
4 renewable energy resources will be interconnected to the Hawaii
5 electric system, however, the quantity and rate of
6 interconnection may be reduced or slowed based on limitations of
7 the electric system's ability to accept variable generation.

8 The legislature further finds that the limitations of the
9 electric system can be alleviated through an increase in the use
10 of energy storage and the integration of energy storage with the
11 electric system. Small-scale energy storage systems can supply
12 utility customers with electricity to timely serve site-specific
13 needs, and utility scale systems can serve the entire electric
14 system. Small- and large-scale energy storage systems are
15 advanced and grid-interactive, thus improving the electric
16 system's ability to use renewable energy resources.

17 The purpose of this Act is to facilitate the greater use of
18 renewable energy by establishing a tax credit for energy storage



1 properties that primarily supply utility customers with
2 electricity for site-specific needs or serve the entire electric
3 system; provided that the energy storage properties are advanced,
4 grid-interactive systems capable of and actively participating in
5 utility demand response programs, providing ancillary services,
6 and serving as a resource to the electric system.

7 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 **"§235- Energy storage tax credit; certification. (a)**

11 There shall be allowed to each taxpayer subject to the tax
12 imposed by this chapter, an energy storage tax credit for each
13 energy storage property:

14 (1) That is used primarily to store electricity to supply
15 utility customers with electricity for site-specific
16 needs or to serve the entire electric system; provided
17 that all energy storage properties are advanced, grid-
18 interactive systems capable of participating in
19 utility demand response programs, providing ancillary
20 services, and serving as a resource to the electric
21 system;



1 (2) For which the taxpayer enters into an agreement with
2 an electric utility after June 30, 2015, and on or
3 before December 31, 2021; and

4 (3) That is installed and first placed in service by a
5 taxpayer during a taxable year after December 31,
6 2015, and on or before December 31, 2025.

7 (b) The tax credit shall be claimed as follows:

8 (1) 30 per cent of the basis for energy storage property
9 first placed in service after December 31, 2015, and
10 before January 1, 2018;

11 (2) 25 per cent of the basis for energy storage property
12 first placed in service after December 31, 2017, and
13 before January 1, 2021;

14 (3) 20 per cent of the basis for energy storage property
15 first placed in service after December 31, 2020, and
16 before January 1, 2024; and

17 (4) 15 per cent of the basis for energy storage property
18 first placed in service after December 31, 2023.

19 (c) To qualify for the tax credit, a taxpayer shall first
20 obtain certification from the department. When applying for



1 certification, a taxpayer shall provide the department with
2 evidence that:

3 (1) The taxpayer has control of the site for the proposed
4 project, including but not limited to a copy of a
5 deed, lease, or option to lease; or

6 (2) The entity having site control has entered into an
7 agreement for the installation of an energy storage
8 property at the site.

9 (d) Within twelve months of receiving certification, a
10 taxpayer shall provide the department with evidence that the
11 taxpayer has invested at least 5 per cent of the amount of the
12 taxpayer's projected cumulative tax credits into the project.

13 The department shall rescind the certification of a taxpayer who
14 fails to comply with this subsection and consider the next
15 taxpayer awaiting certification.

16 (e) Beginning on January 1 of the calendar year that a
17 taxpayer receives certification, the taxpayer shall annually
18 provide written evidence to the department that the energy
19 storage project continues to directly support the ability of the
20 electric system to accept and use renewable energy through
21 participation in utility demand response programs, delivery of



1 ancillary services, and serving as a resource to the electric
2 system to increase the use of renewable resources in the State.
3 The department shall rescind the certification of a taxpayer who
4 fails to comply with this subsection, and the tax credit shall
5 not be available for the year during which the rescission occurs
6 or thereafter.

7 (f) When the aggregate tax credit certifications for the
8 year reaches \$20,000,000, the department shall cease
9 certification of tax credits for the year; provided that
10 remaining projects awaiting certification shall carry over to
11 the next year.

12 (g) The department shall notify the department of taxation
13 of all certifications of tax credits and rescissions of
14 certifications.

15 (h) The public utilities commission shall direct the
16 electric utilities, through appropriate tariffs, programs, and
17 other means, to use all energy storage properties benefiting
18 from the tax credit for demand response, ancillary services, and
19 other similar advanced energy storage and grid supportive
20 functions.



1 (i) For battery storage projects providing significant
2 energy storage capacity and energy storage projects with a
3 capacity of at least five kilowatts of power and five kilowatt-
4 hours of energy storage and a maximum capacity of one megawatt
5 of power and one megawatt-hour of energy storage, the tax credit
6 shall be available in the following amounts:

7 (1) 50 per cent of the applicable tax credit for energy
8 storage projects with the capacity of one megawatt of
9 power and one megawatt-hour of energy storage and a
10 maximum of two megawatts of power and two megawatt-
11 hours of energy storage; and

12 (2) 25 per cent of the applicable tax credit for energy
13 storage projects with the capacity of two megawatts of
14 power and two megawatt-hours of energy storage and a
15 maximum of three megawatts of power and three
16 megawatt-hours of energy storage.

17 (j) An equipment manufacturer of energy storage properties
18 shall be limited to 40 per cent of the annual aggregate tax
19 credit certification amounts. The department shall not issue
20 tax certifications to a project that uses a technology produced
21 by a manufacturer that has already received 40 per cent of the



1 annual aggregate tax credit certification amounts. This limit
2 shall be posted by the department at the beginning of each
3 calendar year and shall remain the same throughout the year.

4 (k) The tax credit shall be deductible from the taxpayer's
5 net income tax liability imposed by this chapter for the taxable
6 year in which the credit is properly claimed. If the tax
7 credits under subsection (b) exceed the taxpayer's income tax
8 liability, the excess of the credit over liability may be used
9 as a credit against the taxpayer's income tax liability in
10 subsequent years until exhausted, unless otherwise elected by
11 the taxpayer pursuant to subsection (l).

12 (l) For any energy storage property, a taxpayer may elect
13 to reduce the eligible credit amount by 30 per cent and, if this
14 reduced amount exceeds the amount of income tax payment due from
15 the taxpayer, the excess of the credit amount over payments due
16 shall be refunded to the taxpayer; provided, however, that no
17 refund on account of the tax credit allowed by this section
18 shall be made for amounts less than \$1.

19 The election required by this subsection shall be made in a
20 manner prescribed by the director of taxation on the taxpayer's
21 return for the taxable year in which the energy storage property



1 is installed and placed in service. A separate election may be
2 made for each separate property that generates a credit. An
3 election once made is irrevocable.

4 (m) The dollar amount of any utility rebate shall be
5 deducted from the basis of the qualifying energy storage
6 property and its installation before applying the state tax
7 credit.

8 (n) Multiple owners of a single energy storage property
9 shall be entitled to a single tax credit, and the tax credit
10 shall be apportioned between the owners in proportion to their
11 contribution to the basis of the energy storage property.

12 (o) In the case of a partnership, S corporation, estate,
13 or trust, the tax credit allowable is for every eligible energy
14 storage property that is installed and placed in service in the
15 state by the entity. The basis upon which the tax credit is
16 computed shall be determined at the entity level. Distribution
17 and share of credit shall be determined pursuant to section
18 704(b) of the Internal Revenue Code.

19 (p) 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 property type of each tax credit



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

6 (q) All claims for the tax credit under this section,
7 including amended claims, shall be filed on or before the end of
8 the twelfth month following the close of the taxable year for
9 which the credit may be claimed. Failure to comply with this
10 subsection shall constitute a waiver of the right to claim the
11 credit.

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

16 (s) No credit under this section shall be allowed to any
17 federal, state, or local government or a public sector agency;
18 provided that any such entity that enters into a contractual
19 agreement for the purchase of electric power or energy storage
20 capacity from a third-party provider shall be eligible for the
21 credit.



1 (t) No later than July 1, 2017, the department shall
2 commence a study on the costs incurred and benefits generated by
3 this section, as well as the extent to which the tax credit under
4 this section has helped the State to achieve its energy goals.
5 In conducting this study, the department shall consult with the
6 department of taxation and industry trade groups and may consult
7 with other stakeholders. The department, in collaboration with
8 the department of taxation, shall submit a joint report to the
9 legislature no later than twenty days prior to the convening of
10 the regular session of 2019. This report to the legislature
11 shall include, at a minimum, the following:

- 12 (1) The number of energy storage properties that have
13 qualified for a tax credit during the calendar year,
14 organized by property type and taxpayer type
15 (corporate and individual);
- 16 (2) The total cost of the tax credit to the State during
17 the taxable year by property type, taxpayer type, and
18 refundability type;
- 19 (3) The estimated economic benefit that may be
20 attributable to the tax credit, including the
21 estimated impact on the economy, net flow of money
22 into or out of the State, general excise and income



1 tax revenue generated, and number of jobs maintained
2 and created and average pay;

3 (4) The results of the study; and

4 (5) Recommendations on whether the tax credit under this
5 section should be wholly or partially continued,
6 eliminated, or revised.

7 (u) For purposes of this section:

8 "Basis" means costs related to the energy storage property,
9 including storage devices, power conditioning equipment,
10 transfer equipment, support structures, and parts related to the
11 functioning of those items, including installation and
12 development costs. "Basis" shall not include:

13 (1) Costs for which another credit is claimed under this
14 chapter; and

15 (2) Costs for equipment that is unrelated to the
16 functioning of the energy storage property.

17 The meaning of "basis" shall be consistent with section 25D or
18 section 48 of the Internal Revenue Code; provided that, for the
19 purposes of calculating the credit allowed under this section,
20 the basis of the energy storage property shall not be reduced by



1 the amount of any federal tax credit or other federally
2 subsidized energy financing received by the taxpayer.

3 "Certification" means a declaration from the department
4 that the taxpayer has met the minimum criteria to qualify for
5 the tax credit for an energy storage property.

6 "Department" means the department of business, economic
7 development, and tourism.

8 "Energy storage capacity" means the amount of electricity
9 measured in kilowatts or kilowatt-hours that may be injected
10 into storage for later retrieval. Energy storage capacity shall
11 be determined based on the storage capability of the equipment,
12 not its actual use when in operation.

13 "Energy storage property" means a property that is
14 permanently affixed to a site and electrically connected to a
15 site distribution panel by means of an installed conduit, not an
16 electric plug, that supports, improves, and enhances the ability
17 of the electric system to accept and use renewable energy by
18 providing electricity, demand response, ancillary services, or
19 other similar functions through the use of equipment that
20 receives electricity generated from various sources, stores the
21 electricity, and delivers the electricity to an electric utility



1 or to a user of the electric system. Furthermore, energy
 2 storage property shall have an energy storage capacity of at
 3 least five kilowatts of power and five kilowatt-hours of energy
 4 storage and a maximum of three megawatts of power and three
 5 megawatt-hours of energy storage. The construction,
 6 reconstruction, or erection of the energy storage property shall
 7 be completed by the taxpayer or shall be acquired by the taxpayer
 8 if the original use of the property commences with the taxpayer.

9 "First placed in service" has the same meaning as in United
 10 States Treasury Regulation section 1.167(a)-11(e)(1).

11 "Public sector agency" means any political subdivision,
 12 agency, or instrumentality of the State or of the federal
 13 government."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act upon approval, shall apply to taxable
 16 years beginning after December 31, 2015.

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S.B. NO. 1172

Report Title:

Energy Storage; Tax Credit

Description:

Establishes an energy storage tax credit for energy storage properties that primarily supply utility customers with electricity for site-specific needs or serve the entire electric system; provided that the energy storage properties are advanced, grid-interactive systems capable of and actively participating in utility demand response programs, providing ancillary services, and serving as a resource to the electric system

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