

Renewable energy developers say new R.I. law is clarifying; some towns say it's unfair

The law prevents local tax officials from raising or reclassifying the real estate property tax assessment of a parcel based on the presence of renewable energy development on it.

By [Brian Amaral](#) Globe Staff, Updated July 13, 2022, 3:17 p.m.

PROVIDENCE — To renewable energy developers in Rhode Island, it's merely a clarification of the way things should have been all along.

To local towns, it was a classic Rhode Island sweetheart deal — developers in one particular industry getting treatment that nobody else is getting.

The fallout over legislation that recently became law — which limits property tax increases for renewable energy projects — underscores the sometimes contentious debate in a state with aggressive carbon emission reduction targets.

“We just generally oppose these special tax exemptions because it shifts the tax burden to other taxpayers,” said Jordan Day, policy director for the Rhode Island League of Cities and Towns.

Is a certain industry — renewable energy — getting special treatment? The industry itself doesn't see it that way, but even if that were true, some argue it would be

justified based on the state's [Act on Climate](#) emissions reduction targets.

“If folks do feel this is a special treatment of renewable energy development, I think that special treatment would be warranted by the fact that our state’s legislature has seen fit to push the development of these renewable energy resources and help the state get energy independent from other states and have a clean base for its electricity,” Nick Nybo, senior legal counsel for Warwick-based Reivity Energy, said in an interview Monday.

[The legislation](#) passed the House and Senate by veto-proof majorities. Governor Dan McKee neither signed it nor vetoed it, which means it became law earlier this month. It goes into effect at the end of the year. Though it affects all sorts of renewable energy projects, it’s most relevant to solar power projects, which take up a lot more acreage than, say, on-shore wind power projects, according to developers.

Technically speaking, the new law prevents local tax officials from raising or reclassifying the real estate property tax assessment of a parcel based on the presence of renewable energy development on it. (There’s an exception for renewable energy projects that take up more than 20 percent of farmland, in which case they’d lose their special tax treatment.) Developers of renewable energy projects will still have to pay real estate property tax on the property they use, and the assessment can be raised for other reasons — say, a town-wide increase — but under the law, the assessment has to revert back to the assessed value before there was any renewable energy development on the property.

That sounds like a pretty good deal: start up a money-making operation but avoid having to pay the increased value in property taxes for it. But those developers are quick to point out that they pay another form of tax for their projects: a tangible tax. That’s a tax on equipment used for business purposes, like kitchen equipment in a restaurant. Based on a 2017 state law, towns can charge \$5,000 per megawatt in

tangible taxes for renewable energy projects.

Solar developers say the 2017 law was a compromise in the wake of an earlier Rhode Island Supreme Court decision: You can impose a tangible tax on renewable energy projects, but you can't also hike their property taxes based on those projects.

Developers point to a 2019 letter from the state Office of Energy Resources to local tax officials, which says taxes on renewable energy projects and equipment can be imposed "only pursuant" to that office's own regulations. Taxing them via the tangible tax, with a set rate of \$5,000 per megawatt, meant their taxes were predictable. That would help a fledgling and thin-profit-margin industry get financing and make plans for the future

Some towns, however, not only assessed the \$5,000 per megawatt tangible tax based on the presence of solar panels, but also raised their real estate property tax assessment, based on the presence of solar panels. Some developers filed lawsuits, arguing that was a form of double taxation.

Now, under the new law, that alleged double taxation won't be possible anymore.

"We're not trying to escape any taxes," said Hannah Morini, director of business development for Green Development LLC. "We just want to know what they are beforehand."

Green Development supported the legislation, but it was not a major priority and the company wasn't a driving force behind it, Morini said. The industry sees this not as a special tax break, but a clarification of what should have been crystal clear from the 2017 law change, Morini said.

To local cities and towns — particularly those in western and southern Rhode Island, where there's more room to put in large solar arrays — the new law gives certain

developers special treatment that no other commercial concern is getting.

In Hopkinton, the town weathered controversy when it allowed zoning changes to allow these projects, and did so based on promises of tax revenue that would help a town with a tight budget.

“They dangled the cheese in front of the council in order to get this, and now they have lawsuits against us in Superior Court saying they’ve been overtaxed,” said Stephen Moffitt, the Hopkinton Town Council president. “It’s unfair to the town of Hopkinton.”

Brian Amaral can be reached at brian.amaral@globe.com. Follow him on Twitter [@bamaral44](https://twitter.com/bamaral44).

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