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# A BILL FOR AN ACT

RELATING TO GREEN INFRASTRUCTURE.

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

1           SECTION 1. The legislature finds that building Hawaii's  
2 clean energy infrastructure at the lowest possible cost is vital  
3 to the State reaching its seventy per cent clean energy goal in  
4 2030.

5           The legislature finds that significant investment in  
6 infrastructure installations is required to achieve the State's  
7 goals of energy self-sufficiency, greater energy security and  
8 diversification, and to support the achievement of the renewable  
9 portfolio standards and energy efficiency portfolio standards,  
10 as established in chapter 269, Hawaii Revised Statutes.

11 Further, these infrastructure installations will require  
12 significant amounts of capital, and it is in the public interest  
13 to minimize these costs. A key component to minimizing cost is  
14 reducing the cost of capital required to finance infrastructure  
15 installations.

16           The legislature further finds that up-front costs of green  
17 infrastructure equipment are a barrier preventing many electric  
18 utility customers from investing in these infrastructure



1 installations. Existing programs and incentives do not serve  
2 the entire spectrum of the customer market, particularly those  
3 customers who lack access to capital or who cannot afford the  
4 large upfront costs required -- thus creating an underserved  
5 market. It is in the public interest to make cost-effective  
6 green infrastructure equipment options accessible and affordable  
7 to customers in an equitable way.

8 A green infrastructure financing program administered by  
9 the State that capitalizes on existing ratepayer contributions  
10 for green infrastructure equipment can serve a critical role in  
11 ensuring all Hawaii electricity ratepayers receive the greatest  
12 opportunity to adopt clean energy. The legislature further  
13 finds the State would be best served by a State-administered  
14 green infrastructure financing program that: (1) focuses on  
15 providing an alternative means of low-cost financing for green  
16 infrastructure equipment for Hawaii ratepayers, particularly  
17 those ratepayers not currently able to obtain such technology on  
18 reasonable financing terms; (2) utilizes excess loan program  
19 funds as a special fund to finance additional green  
20 infrastructure installations, subject to regulatory guidelines  
21 and approval; and (3) establishes clearly defined program  
22 procedures and targets that encourage effective coordination



1 among state agencies, industry, investors, and other critical  
2 energy industry stakeholders in order to help the State achieve  
3 its clean energy policy mandates.

4 The purpose of this Act is to establish a regulatory  
5 financing structure that authorizes the public utilities  
6 commission and the department of business, economic development,  
7 and tourism to acquire and provide alternative low-cost  
8 financing, to be deployed through a financing program to enable  
9 installations of green infrastructure equipment, achieve  
10 measurable cost savings, and achieve Hawaii's clean energy  
11 goals.

12 SECTION 2. Chapter 196, Hawaii Revised Statutes, is  
13 amended by adding a new part to be appropriately designated and  
14 to read as follows:

15 **"PART . GREEN INFRASTRUCTURE LOANS**

16 **§196-A Definitions.** As used in this part:

17 "Authority" means the Hawaii green infrastructure authority  
18 as described in this section, provided that until the authority  
19 is duly constituted the director may exercise all powers  
20 reserved to the authority.

21 "Director" means the director of business, economic  
22 development, and tourism, or the director's designee.



1 "Green infrastructure bond" means any bond issued by the  
2 State under part .

3 "Green infrastructure charge" means the on-bill charges as  
4 authorized by the public utilities commission to be imposed on  
5 electric utility customers to repay green infrastructure loans  
6 made to finance the purchase or installation of green  
7 infrastructure equipment for clean energy technology, demand  
8 response technology, and energy use reduction and demand side  
9 management infrastructure, programs, and services using the  
10 proceeds of green infrastructure bonds.

11 "Green infrastructure costs" means costs incurred or to be  
12 incurred by the electric utility customers to pay for clean  
13 energy technology, demand response technology, and energy use  
14 reduction and demand side management infrastructure including,  
15 without limitation, the purchase or installation of green  
16 infrastructure equipment, programs, and services authorized by  
17 the green infrastructure loan program.

18 "Green infrastructure equipment" means infrastructure  
19 improvements, equipment, and personal property to be installed  
20 to deploy clean energy technology, demand response technology,  
21 and energy use reduction and demand side management  
22 infrastructure.



1 "Green infrastructure loan program" and "green  
2 infrastructure loans" means the program established by this part  
3 and loans made to finance the purchase or installation of green  
4 infrastructure equipment for clean energy technology, demand  
5 response technology, and energy use reduction and demand side  
6 management infrastructure, programs, and services as authorized  
7 by the public utilities commission using the proceeds of green  
8 infrastructure bonds or other proceeds.

9 **§196-B Hawaii green infrastructure loan program.** There is  
10 established a Hawaii green infrastructure loan program, which  
11 shall be a loan program as defined under section 39-51. This  
12 green infrastructure loan program may include loans made to  
13 private entities, whether corporations, partnerships, limited  
14 liability companies or other persons, which entities may lease  
15 or provide green infrastructure equipment to electric utility  
16 customers, as well as direct loans to electric utility  
17 customers, on terms approved by the authority. The green  
18 infrastructure loan program shall be administered by the  
19 authority in a manner consistent with chapter 39, part III.

20 **§196-C Hawaii green infrastructure authority.** (a) There  
21 is established a Hawaii green infrastructure authority as an  
22 instrumentality of the State comprised of five members. The



1 director, the director of finance, and the energy program  
2 administrator shall be members of the authority. The governor  
3 shall appoint the other two members, pursuant to section 26-34.  
4 The director shall be the chairperson of the authority. The  
5 authority shall be placed within the department of business,  
6 economic development, and tourism for administrative purposes,  
7 pursuant to section 26-35.

8 (b) The authority shall utilize the proceeds of green  
9 infrastructure bonds and other amounts in the green  
10 infrastructure special fund established pursuant to section 196-  
11 E for the purposes of making green infrastructure loans to  
12 finance green infrastructure costs, acquire, own, or administer  
13 green infrastructure property, or a combination of these  
14 purposes.

15 (c) The authority shall obtain an order from the public  
16 utilities commission requiring the electric utilities to serve  
17 as collection agents to collect the green infrastructure charges  
18 imposed to repay green infrastructure loans and transfer all  
19 green infrastructure charges collected to the authority to be  
20 applied to repay green infrastructure loans. Green  
21 infrastructure charges shall not be considered revenue of the  
22 electric utilities.



1           **§196-D Functions, powers, and duties of the authority.** In  
2 the performance of, and with respect to the functions, powers,  
3 and duties vested in the authority by this chapter, the  
4 authority may:

- 5           (1) Make loans and expend funds to finance the purchase or  
6           installation of green infrastructure equipment for  
7           clean energy technology, demand response technology,  
8           and energy use reduction and demand side management  
9           infrastructure, programs, and services;
- 10          (2) Hold and invest the proceeds of the green  
11          infrastructure special fund in such investments as  
12          permitted by law and in accordance with approved  
13          investment guidelines established in one or more  
14          financing orders issued by the public utilities  
15          commission pursuant to part        of chapter 269;
- 16          (3) Hire employees necessary to perform its duties,  
17          including an executive director. The executive  
18          director shall be appointed by the authority, and the  
19          executive director's position shall be exempt from  
20          chapter 76;
- 21          (4) Enter into contracts for the service of consultants  
22          for rendering professional and technical assistance



1 and advice, management of the green infrastructure  
2 loan program, and any other contracts that are  
3 necessary and proper for the implementation of the  
4 program, without the necessity of complying with  
5 chapter 103D;

6 (5) Adopt rules in accordance with loan program guidelines  
7 established in one or more financing orders issued by  
8 the public utilities commission pursuant to part of  
9 chapter 269 to carry out this part, which rules shall:

10 (A) Prescribe the qualifications for eligibility of  
11 applicants for loans;

12 (B) Establish preferences and priorities in  
13 determining eligibility for loans; and

14 (C) Establish the terms and conditions for green  
15 infrastructure loans;

16 (6) Be audited at least annually by a firm of independent  
17 certified public accountants selected by the  
18 authority, and provide the results of this audit to  
19 the director; and

20 (7) Perform all functions necessary to effectuate the  
21 purposes of this chapter.





1           **§196-E Hawaii green infrastructure special fund.** (a)

2 There is established the Hawaii green infrastructure special  
3 fund. The Hawaii green infrastructure special fund shall not be  
4 subject to section 37-53.

5           (b) Moneys in the Hawaii green infrastructure special fund  
6 may be used for the purpose of making green infrastructure  
7 loans, paying the administrative costs of the green  
8 infrastructure loan program, or any other costs related to the  
9 green infrastructure loan program. The following shall be  
10 deposited into the Hawaii green infrastructure special fund:

11           (1) The proceeds of green infrastructure bonds net of  
12               issuance costs and reserves or overcollateralization  
13               amounts;

14           (2) Green infrastructure fees collected, pursuant to  
15               section 269-121;

16           (3) Green infrastructure charges received in repayment of  
17               loans;

18           (4) All other funds received by the director and the  
19               authority and legally available for the purposes of  
20               the special fund; and

21           (5) Interest earnings on all amounts in the special fund.



1           The director and the authority may invest funds held in the  
2 Hawaii green infrastructure special fund in such investments as  
3 permitted by law, and in accordance with approved investment  
4 guidelines established in one or more financing orders issued by  
5 the public utilities commission pursuant to chapter 269,  
6 part     . All amounts in the Hawaii green infrastructure  
7 special fund shall not be considered state general funds, and  
8 shall be exempt from all taxes and similar surcharges imposed by  
9 the State. Nothing in this section shall prohibit the authority  
10 from using moneys in the Hawaii green infrastructure special  
11 fund to credit back to electric utility customers at the  
12 direction of the public utilities commission.

13           **§196-F Severability.** If any provision of this part is  
14 held to be invalid or is superseded, replaced, repealed, or  
15 expires for any reason, that occurrence shall not affect any  
16 action allowed under this part that is taken prior to that  
17 occurrence by the public utilities commission, an electric  
18 utility, the director, or the authority. Any such action shall  
19 remain in full force and effect."

20           SECTION 3. Chapter 269, Hawaii Revised Statutes, is  
21 amended by adding a new part to be appropriately designated and  
22 to read as follows:



1                   **"PART . GREEN INFRASTRUCTURE BONDS**

2                   **§269-A Definitions.** As used in this part:

3                   "Ancillary agreement" means any bond insurance policy,  
4 letter of credit, reserve account, surety bond, swap  
5 arrangement, hedging arrangement, liquidity or credit support  
6 arrangement, or other related bond document or other similar  
7 agreement or arrangement entered into in connection with the  
8 issuance of green infrastructure bonds that is designed to  
9 promote the credit quality and marketability of the bonds or to  
10 mitigate the risk of an increase in interest rates.

11                  "Authority" means the Hawaii green infrastructure authority  
12 established under chapter 196-C.

13                  "Bond" or "green infrastructure bond" means any bond, note  
14 or other evidence of indebtedness that is issued by the State,  
15 acting through the department, under a financing order, the  
16 proceeds of which are used directly or indirectly to recover,  
17 finance, or refinance financing costs of clean energy  
18 technology, demand response technology, and energy use reduction  
19 and demand side management infrastructure, programs, and  
20 services, and that are secured by or payable from green  
21 infrastructure property. Green infrastructure bonds are revenue  
22 bonds issued under article VII, section 12 of the Hawaii state

1 constitution and are excluded from the calculation of the  
2 State's debt limit pursuant to article VII, section 13 of the  
3 Hawaii state constitution.

4 "Bondholder" means any holder or owner of a bond.

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

7 "Electric utilities" means all electric utilities subject  
8 to collecting and remitting the public benefit fee pursuant to  
9 section 269-121, at the time the financing order becomes final.

10 "Financing costs" means any of the following:

11 (1) Principal and interest payable on green infrastructure  
12 bonds;

13 (2) Any payment required under an ancillary agreement;

14 (3) Any amount required to fund or replenish a reserve  
15 account or another account established under any

16 indenture, ancillary agreement, or other financing  
17 document relating to the issuance of green

18 infrastructure bonds;

19 (4) Any redemption or call premium or cost of redeeming or  
20 refunding any existing debt of the department in

21 connection with either the issuance of, or the use of  
22 proceeds from, green infrastructure bonds;



- 1           (5) Any costs incurred by the department to modify or  
2           amend any indenture, financing agreement, security  
3           agreement, or similar agreement or instrument securing  
4           any bond or any ancillary agreement;
- 5           (6) Any costs incurred by the department to obtain any  
6           consent, release, waiver, or approval from any bond  
7           holder or of any party to an ancillary agreement that  
8           are necessary to be incurred for the department to  
9           issue green infrastructure bonds;
- 10          (7) Any costs related to issuing or servicing green  
11          infrastructure bonds or related to obtaining a  
12          financing order, including servicing fees and  
13          expenses, trustee fees and expenses, legal,  
14          accounting, or other professional fees and expenses,  
15          administrative fees, placement fees, underwriting fees  
16          and discounts, capitalized interest and equity, and  
17          rating-agency fees; or
- 18          (8) Any other similar costs incident to the issuance,  
19          administration or servicing of the green  
20          infrastructure bonds that the department finds  
21          appropriate.



1 "Financing order" means an order issued at the request of  
2 the department by the public utilities commission under this  
3 part that has become final as provided by law, and that  
4 authorizes the issuance of green infrastructure bonds and the  
5 imposition, adjustment from time to time, and the collection of  
6 green infrastructure fees. The financing order shall include,  
7 without limitation, a procedure to require the public utilities  
8 commission in accordance with a formula set out in the financing  
9 order and approved by the department to review and approve  
10 expeditiously periodic adjustments to green infrastructure fees  
11 to ensure the payment of the green infrastructure bonds and  
12 related financing costs on a timely basis.

13 "Financing party" means either of the following:

- 14 (1) Any trustee, collateral agent, or other person acting  
15 for the benefit of a bondholder; or
- 16 (2) Any party to an ancillary agreement, the rights and  
17 obligations of which relate to or depend upon the  
18 existence of green infrastructure property and green  
19 infrastructure fees, the enforcement and priority of a  
20 security interest in green infrastructure property,  
21 the timely collection and payment of green



1           infrastructure fees, or a combination of these  
2           factors.

3           "Green infrastructure fee" means the nonbypassable charges  
4 authorized by section 269-121 and in a financing order  
5 authorized under this part to be imposed on and collected from  
6 on all existing and future customers of electric utilities or  
7 their successors. The green infrastructure fee may be a usage  
8 based surcharge, a flat user fee, or a charge based upon  
9 customer revenues as determined by the public utilities  
10 commission for each customer class in any financing order.

11          "Green infrastructure property" means the property, rights,  
12 and interests created by the public utilities commission under a  
13 financing order, including the right to impose, charge, and  
14 collect from electric utility customers the green infrastructure  
15 fee that shall be used to pay and secure the payment of green  
16 infrastructure bonds and financing costs, and the green  
17 infrastructure charge to repay green infrastructure loans, and  
18 including the right to obtain adjustments to those surcharges,  
19 fees or other charges, and any revenues, receipts, collections,  
20 rights to payment, payments, moneys, claims, or other proceeds  
21 arising from the rights and interests created by the public  
22 utilities commission under any financing order.



1 "Successor" means, with respect to any electric utility,  
2 another electric utility, or other entity that succeeds  
3 voluntarily or by operation of law to the rights and obligations  
4 of the first electric utility, or other entity pursuant to any  
5 bankruptcy, reorganization, restructuring, or other insolvency  
6 proceedings, any merger, acquisition, or consolidation, or any  
7 sale or transfer of assets, regardless of how any of these  
8 actions occurred.

9 "Trustee" means any trustee appointed under an indenture or  
10 certificate of the director executed in connection with the  
11 issuance of green infrastructure bonds.

12 **§269-B Applications to issue green infrastructure bonds**  
13 **and authorize green infrastructure fee.** (a) In connection with  
14 the issuance of green infrastructure bonds, the department may  
15 apply to the public utilities commission for one or more  
16 financing orders, each of which financing orders authorizes the  
17 following:

18 (1) The imposition, charging, and collection on behalf of  
19 the department of the green infrastructure fee and the  
20 adjustment of such green infrastructure fee on behalf  
21 of the department in accordance with an adjustment  
22 mechanism requested by the department under this part





1 in amounts sufficient to pay the principal of and  
2 interest on green infrastructure bonds and all related  
3 financing costs on a timely basis;

4 (2) The creation of green infrastructure property under  
5 the financing order; and

6 (3) The contribution of the net proceeds of the green  
7 infrastructure bonds to provide funds for the  
8 financing of green infrastructure costs.

9 (b) The application shall include all of the following:

10 (1) The principal amount of the green infrastructure bonds  
11 proposed to be issued;

12 (2) An estimate of the date each series of green  
13 infrastructure bonds is expected to be issued;

14 (3) The expected term, not to exceed thirty years, during  
15 which term the green infrastructure fee associated  
16 with the issuance of each series of green  
17 infrastructure bonds is expected to be imposed and  
18 collected;

19 (4) An estimate of the financing costs associated with the  
20 issuance of each series of green infrastructure bonds;

21 (5) An estimate of the amount of green infrastructure fee  
22 necessary to pay principal and interest on the green



1 infrastructure bonds and related financing costs as  
2 set forth in the application and the calculation for  
3 that estimate, which calculation shall take into  
4 account the estimated date or dates of issuance and  
5 the estimated principal amount of each series of green  
6 infrastructure bonds;

7 (6) A proposed methodology for allocating the green  
8 infrastructure fee among electric utilities and  
9 customer classes within each electric utility;

10 (7) A description of a proposed formulaic adjustment  
11 mechanism for the adjustment of the green  
12 infrastructure fee to assure the timely payment of  
13 principal and interest on the green infrastructure  
14 bonds and related financing costs; and

15 (8) Any other information required by the public utilities  
16 commission.

17 **§269-C Green infrastructure financing order.** (a) The  
18 public utilities commission shall issue its financing order as  
19 final or in the event that the finding in subsection (b) cannot  
20 be made, its denial of a financing order, as expeditiously as  
21 possible and in any event within ninety days from the date the  
22 completed application is submitted.



1 (b) The public utilities commission may issue a financing  
2 order if the public utilities commission finds that the  
3 imposition of the green infrastructure fee and the issuance of  
4 green infrastructure bonds authorized by the order will  
5 facilitate the provision of alternative low-cost financing, to  
6 be deployed through the Hawaii green infrastructure loan program  
7 administered by the authority pursuant to part , chapter 196,  
8 to enable installations of clean energy technology, demand  
9 response technology, and energy use reduction and demand side  
10 management infrastructure, and to help achieve Hawaii's clean  
11 energy goals.

12 (c) The public utilities commission shall include all of  
13 the following in a financing order:

- 14 (1) A determination of the maximum amount of green  
15 infrastructure bonds that may be issued under the  
16 financing order;
- 17 (2) A description of the green infrastructure property,  
18 the creation of which property is authorized by the  
19 financing order;
- 20 (3) A description of the financing costs that may be  
21 recovered through green infrastructure fees, including



- 1 any reserves required by the department to secure  
2 payment of the green infrastructure bonds;
- 3 (4) A description of the methodology to be applied by the  
4 public utilities commission for calculating the green  
5 infrastructure fee, including the allocation of  
6 financing costs among electric utilities and customer  
7 classes;
- 8 (5) A description of the formulaic adjustment mechanism to  
9 be used by the public utilities commission to adjust  
10 the green infrastructure fee in order to ensure that  
11 the amount of green infrastructure fees projected to  
12 be collected shall be sufficient to pay the principal  
13 and interest on the green infrastructure bonds, and  
14 all related financing costs on a timely basis,  
15 including the funding or maintenance of any reserves  
16 required to be maintained by the department;
- 17 (6) The maximum term of the green infrastructure bonds,  
18 not to exceed thirty years;
- 19 (7) Any provisions necessary to issue from time to time  
20 refunding green infrastructure bonds in such principal  
21 amounts as the department may determine to be  
22 necessary to refund the green infrastructure bonds



1 authorized in the financing order, to the extent  
2 permitted by the financing documents;

3 (8) A requirement that the electric utilities including  
4 their successors serve as collection agents to collect  
5 the green infrastructure fees and transfer those  
6 surcharges to the trustee or other financing party as  
7 required by the financing order and any agreements  
8 with the department;

9 (9) Terms satisfactory to the public utilities commission  
10 that the green infrastructure fee shall be  
11 nonbypassable and will be paid by all existing and  
12 future customers of an electric utility (or any  
13 successor); and

14 (10) Any other provision the public utilities commission  
15 considers appropriate to ensure the full and timely  
16 imposition, charging, collection, and adjustment,  
17 pursuant to an approved adjustment mechanism, of the  
18 green infrastructure fee described in this subsection.

19 (d) The public utilities commission may, in a financing  
20 order, permit the department flexibility in establishing the  
21 terms and conditions for the green infrastructure bonds to  
22 accommodate changes in market conditions, including repayment



1 schedules, interest rates, financing costs, collateral  
2 requirements, required debt service and other reserves, and the  
3 ability of department, at its option, to effect a series of  
4 issuances of green infrastructure bonds and correlated  
5 assignments, sales, pledges, or other transfers of green  
6 infrastructure property. Any changes made under this section to  
7 terms and conditions for the green infrastructure bonds shall be  
8 in conformance with the financing order.

9 (e) At the request of the department, the public utilities  
10 commission shall determine, in accordance with the adjustment  
11 mechanism set forth in the financing order, the initial green  
12 infrastructure fee after the determination of the final terms of  
13 each series of green infrastructure bonds, so that the green  
14 infrastructure fee shall be final and effective upon issuance of  
15 the green infrastructure bonds.

16 (f) An appeal from a financing order issued by the public  
17 utilities commission shall be taken pursuant to section 269-  
18 15.5.

19 (g) Any adjustment to the green infrastructure fee made by  
20 the public utilities commission pursuant to the adjustment  
21 mechanism approved in the financing order shall be a ministerial



1 act of the public utilities commission, and shall not require  
2 any prior public notice or hearing.

3       **§269-D Green infrastructure property.** (a) The green  
4 infrastructure property shall be created simultaneously with the  
5 issuance of the green infrastructure bonds and shall immediately  
6 vest in the department, which shall pledge such property to  
7 secure the payment of green infrastructure bonds, amounts  
8 payable to financing parties and bondholders, amounts payable  
9 under any ancillary agreement, and other financing costs as  
10 provided in the financing documents executed by the department.

11       (b) The electric utility shall have no ownership or  
12 beneficial interest in nor any claim or right to the green  
13 infrastructure fee, green infrastructure property, or green  
14 infrastructure charge other than the obligation to collect the  
15 green infrastructure fee and green infrastructure charge as  
16 agent for the department or any financing party and remit the  
17 same to the department or such financing party entitled to  
18 receive such surcharges in accordance with the financing order.

19       (c) The obligation of any electric utility customer to pay  
20 the green infrastructure fee or green infrastructure charge and  
21 the obligation of the electric utility to collect and remit the  
22 green infrastructure fee or green infrastructure charge shall



1 not be subject to any setoff, counterclaim, surcharge, or  
2 defense by the electric utility or by any electric utility  
3 customer, or in connection with a bankruptcy of any electric  
4 utility or any electric utility customer.

5 **§269-E Green infrastructure bonds financing order.** (a) A  
6 financing order shall remain in effect until the green  
7 infrastructure bonds issued under the financing order and all  
8 financing costs related to the bonds have been paid in full or  
9 defeased by their terms. A financing order shall remain in  
10 effect and unabated notwithstanding the bankruptcy,  
11 reorganization, or insolvency of any electric utility or any  
12 affiliate of the electric utility or the commencement of any  
13 judicial or nonjudicial proceeding on the financing order.

14 (b) Once a financing order has become final as provided by  
15 law, the financing order shall become irrevocable. The public  
16 utilities commission may not directly or indirectly reduce,  
17 impair, postpone, rescind, alter or terminate the green  
18 infrastructure fee authorized in the financing order or impair  
19 the green infrastructure property or the collection of the green  
20 infrastructure fee so long as any green infrastructure bonds are  
21 outstanding or any financing costs remain unpaid.



1 (c) Under a final financing order, the director shall  
2 retain sole discretion to cause green infrastructure bonds to be  
3 issued, including the right to defer or postpone such issuance,  
4 assignment, sale or transfer.

5 **§269-F Green infrastructure fee nonbypassable.** (a) So  
6 long as any green infrastructure bonds are outstanding and any  
7 financing costs have not been paid in full, the green  
8 infrastructure fees authorized under any financing order shall  
9 be nonbypassable. Subject to any exceptions provided in a  
10 financing order, the green infrastructure fee will be paid by  
11 all existing and future customers of electric utilities or their  
12 successors.

13 (b) The green infrastructure fee shall be collected by the  
14 electric utilities or their successors, as collection agents for  
15 the department or the financing parties, in full through a  
16 surcharge, fee or charge that is separate and apart from the  
17 electric utilities' rates. The green infrastructure fee may be  
18 included with the public benefits fee as one line item on the  
19 electric utility bill when the bill contains a public benefits  
20 fee pursuant to section 269-121, but such inclusion shall not  
21 adversely affect the pledge of the green infrastructure fee or



1 the right to adjust the green infrastructure fee as authorized  
2 by this section.

3       **§269-G Reporting; annual report.** The authority shall  
4 submit a report to the legislature on the authority's activities  
5 in administering the green infrastructure loan program under  
6 this part, no later than twenty days prior to the convening of  
7 each regular session beginning with the regular session of 2015.  
8 The report shall include but not be limited to the green  
9 infrastructure loan program description and uses; summary  
10 information and analytical data concerning the green  
11 infrastructure loan program implementation; summary information  
12 and analytical data concerning deployment of clean energy  
13 technology, demand response technology, and energy use reduction  
14 and demand side management infrastructure; and repayments made  
15 or credits provided to electric utility customers under section  
16 196-E(b) and this part.

17       **§269-H Electric utility successor requirements.** Any  
18 successor to an electric utility subject to a financing order  
19 shall be bound by the requirements of this part. The successor  
20 shall perform and satisfy all obligations of the electric  
21 utility under the financing order, in the same manner and to the  
22 same extent as the electric utility, including the obligation to



1 collect and pay the green infrastructure fee to the department  
2 or to any financing party as required by a financing order.

3       **§269-I Green infrastructure security interest.** (a) The  
4 creation, perfection, and enforcement of any security interest  
5 in the green infrastructure fee and green infrastructure  
6 property under a financing order to secure the payment of the  
7 principal and interest on green infrastructure bonds, amounts  
8 payable under any ancillary agreement, and other financing costs  
9 are governed by this section.

10       (b) Upon the issuance of any green infrastructure bonds by  
11 the department, there shall exist a statutory first priority  
12 lien and security interest as provided in this subsection on the  
13 green infrastructure fee and all green infrastructure property  
14 then existing or thereafter arising pursuant to the terms of the  
15 financing order to secure payment of the green infrastructure  
16 bonds, amounts payable under any ancillary agreement and other  
17 financing costs. This lien shall arise by operation of this  
18 subsection automatically without any action on the part of the  
19 department, the electric utilities or any other person. This  
20 lien shall secure all obligations, then existing or subsequently  
21 arising, to the bondholders, the trustee or representative for



1 the bondholders, and any other financing party as authorized by  
2 the financing order.

3 (c) The persons for whose benefit this lien is established  
4 shall, upon the occurrence of any default specified in the  
5 financing order, have all rights and remedies of a secured party  
6 upon default pursuant to article 9 of chapter 490, and shall be  
7 entitled to foreclose or otherwise enforce this statutory lien  
8 in the green infrastructure property. This lien shall be valid,  
9 perfected, and enforceable against the department and all third-  
10 parties upon the effectiveness of the financing order without  
11 any further public notice; provided that any person may file a  
12 financing statement.

13 (d) A perfected statutory lien in the green infrastructure  
14 fee and green infrastructure property shall be a continuously  
15 perfected lien in all revenues and proceeds arising with respect  
16 to the green infrastructure fee and green infrastructure  
17 property, whether or not the revenues or proceeds have accrued.  
18 Conflicting liens shall rank according to priority in time of  
19 perfection. The green infrastructure fee and green  
20 infrastructure property shall constitute property for all  
21 purposes, including for contracts securing green infrastructure



1 bonds, whether or not the revenues and proceeds arising with  
2 respect thereto have accrued.

3 (e) In addition, the public utilities commission may  
4 require, in the financing order creating the green  
5 infrastructure fee and green infrastructure property, that, in  
6 the event of a default by the electric utility in remittance of  
7 the green infrastructure fee arising with respect to green  
8 infrastructure property, the public utilities commission, upon  
9 the application by the beneficiaries of the statutory lien, and  
10 without limiting any other remedies available to the  
11 beneficiaries by reason of the default, shall order the  
12 sequestration and payment to the beneficiaries of the green  
13 infrastructure fee arising with respect to the green  
14 infrastructure property. Any order shall remain in full force  
15 and effect notwithstanding any bankruptcy, reorganization, or  
16 other insolvency proceedings with respect to the electric  
17 utility.

18 **§269-J Treatment of green infrastructure bonds, fees, and**  
19 **property.** (a) The ownership, transfer, and pledge of the green  
20 infrastructure fee and green infrastructure property and the  
21 imposition, charging, collection, and receipt of the green



1 infrastructure fee and green infrastructure charge are exempt  
2 from all taxes and similar surcharges imposed by the State.

3 (b) Green infrastructure bonds issued under a financing  
4 order shall not constitute a debt, a liability or a pledge of  
5 the faith and credit or taxing power of the state, any county,  
6 or of any instrumentality of the State. Bondholders shall have  
7 no right to have taxes levied by the State or the taxing  
8 authority any county, or any other instrumentality of the State  
9 for the payment of the principal of or interest on the bonds.  
10 The issuance of green infrastructure bonds does not, directly,  
11 indirectly, or contingently, obligate the State, any county, or  
12 any instrumentality of the State to levy any tax or make any  
13 appropriation for payment of the principal of or interest on the  
14 bonds.

15 (c) Green infrastructure bonds issued under a financing  
16 order shall not be an obligation of any electric utility.

17 **§269-K Green infrastructure property non-impairment.** (a)  
18 In furtherance of section 39-61, the State pledges to and agrees  
19 with the bondholders and any financing parties under a financing  
20 order that the State will not take or permit any action that  
21 impairs the value of green infrastructure property under the  
22 financing order, or reduce, alter, or impair green



1 infrastructure fees that are imposed, charged, collected, or  
2 remitted for the benefit of the bondholders and any financing  
3 parties, until any principal, interest, and redemption premium  
4 in respect of green infrastructure bonds, all financing costs,  
5 and all amounts to be paid to a financing party under an  
6 ancillary agreement are paid or performed in full or unless  
7 adequate provision has been made by law for the protection of  
8 bondholders and other financing parties.

9 (b) The department in issuing the green infrastructure  
10 bonds is permitted to include the pledge specified in subsection  
11 (a) of this section in the green infrastructure bonds, ancillary  
12 agreements, and documentation related to the issuance and  
13 marketing of the green infrastructure bonds.

14 (c) The law governing the validity, enforceability,  
15 attachment, perfection, priority, and exercise of remedies with  
16 respect to the transfer of green infrastructure property under a  
17 financing order, or creation of a security interest in a green  
18 infrastructure property, green infrastructure fee, green  
19 infrastructure charge or financing order shall be the laws of  
20 this State as set forth in this part.

21 (d) This section shall control in the event of a conflict  
22 in this part and any other law regarding the attachment,



1 assignment, or perfection, the effect of perfection, or priority  
2 of any security interest in or transfer of green infrastructure  
3 property under a financing order.

4 **§269-L Compliance with revenue bond law.** For purposes of  
5 assuring compliance with part III of chapter 39, it is  
6 determined as follows:

7 (1) For purposes of section 39-51, revenues shall include  
8 the green infrastructure fee and the proceeds of green  
9 infrastructure property, including the green  
10 infrastructure charge, and the loan program shall  
11 include the Hawaii green infrastructure loan program  
12 authorized under section 196-B;

13 (2) In addition and supplemental to the powers conferred  
14 by section 39-60, any resolution, certificate or  
15 indenture approved by the department may have such  
16 additional or alternative covenants as may be  
17 consistent with this chapter, and the department may  
18 enter into a trust indenture, servicing agreement or  
19 other financing documents having terms and conditions  
20 consistent with the financing order issued under  
21 section 269-C;





1 (3) In addition and supplemental to the powers conferred  
2 by section 39-61, the green infrastructure fee shall  
3 be imposed, adjusted and collected as provided in  
4 section 269-F and the financing order issued pursuant  
5 thereto;

6 (4) In addition and supplemental to the powers conferred  
7 by section 39-62, the green infrastructure fee and  
8 green infrastructure charge shall be applied as  
9 provided in the financing order, the certificate  
10 issued by the department and any financing documents  
11 executed by the department in connection with the  
12 green infrastructure bonds; and

13 (5) In addition and supplemental to the powers conferred  
14 by section 39-63, the lien and security interest in  
15 the green infrastructure fee, green infrastructure  
16 property, and green infrastructure charge, and the  
17 perfection and priority thereof shall be governed by  
18 section 269-I.

19 **§269-M Severability.** If any provision of this part is  
20 held to be invalid or is superseded, replaced, repealed, or  
21 expires for any reason, that occurrence shall not affect any  
22 action allowed under this part that is taken prior to that



1 occurrence by the public utilities commission, an electric  
2 utility, the department, a collection agent, a financing party,  
3 a bondholder, or a party to an ancillary agreement. Any such  
4 action shall remain in full force and effect.

5 **§269-N Miscellaneous.** Neither the department nor a  
6 financing party shall be considered an electric utility or  
7 person providing electric service by virtue of engaging in the  
8 transactions described in this part."

9 SECTION 4. Section 269-5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§269-5 Annual report and register of orders.** The public  
12 utilities commission shall prepare and present to the governor,  
13 through the director of finance, in the month of January in each  
14 year a report respecting its actions during the preceding fiscal  
15 year. This report shall include summary information and  
16 analytical, comparative, and trend data concerning major  
17 regulatory issues acted upon and pending before the commission;  
18 cases processed by the commission, including their dispositions;  
19 utility company operations, capital improvements, and rates;  
20 utility company performance in terms of efficiency and quality  
21 of services rendered; financing orders issued, adjustments made  
22 to the public benefits fee, and repayments or credits provided



1 to electric utility customers pursuant to the issuance of green  
 2 infrastructure bonds under section 196-E(b) and part ,  
 3 chapter 269; environmental matters having a significant impact  
 4 upon public utilities; actions of the federal government  
 5 affecting the regulation of public utilities in Hawaii; long and  
 6 short-range plans and objectives of the commission; together  
 7 with the commission's recommendations respecting legislation and  
 8 other matters requiring executive and legislative consideration.  
 9 Copies of the annual reports shall be furnished by the governor  
 10 to the legislature. In addition, the commission shall establish  
 11 and maintain a register of all its orders and decisions, which  
 12 shall be open and readily available for public inspection, and  
 13 no order or decision of the commission shall take effect until  
 14 it is filed and recorded in this register."

15 SECTION 5. Section 269-121, Hawaii Revised Statutes, is  
 16 amended to read as follows:

17 "**§269-121 Public benefits fee authorization[-]; green**  
 18 **infrastructure fee.** (a) The public utilities commission, by  
 19 order or rule, may require that all or a portion of the moneys  
 20 collected by Hawaii's electric utilities from its ratepayers  
 21 through a demand-side management surcharge be transferred to a  
 22 third-party administrator contracted by the public utilities



1 commission. The moneys transferred shall be known as the public  
2 benefits fee.

3 (b) The public benefits fee shall be used to support  
4 ~~[energy efficiency]~~ clean energy technology, demand response  
5 technology, and energy use reduction and demand-side management  
6 infrastructure, programs, and services, subject to the review  
7 and approval of the public utilities commission. These moneys  
8 shall not be available to meet any current or past general  
9 obligations of the State; provided that the State may  
10 participate in any ~~[energy efficiency or]~~ clean energy  
11 technology, demand response technology, or energy use reduction  
12 and demand-side management infrastructure, programs, and  
13 services on the same basis as any other electric consumer.

14 (c) The public utilities commission is further authorized  
15 to create, pursuant to a financing order approved pursuant to  
16 part , a utility-wide nonbypassable surcharge, referred to as  
17 the green infrastructure fee, which shall be deposited in the  
18 green infrastructure special fund and pledged and applied to the  
19 repayment of green infrastructure bonds and related financing  
20 costs as described in part . The green infrastructure fee  
21 shall not be considered revenue to any electric utility.



1        (d) The green infrastructure fee may be included with the  
2 public benefits fee as one line item on the electric utility  
3 bill when the bill contains a public benefits fee if so provided  
4 in the financing order authorized in part . The green  
5 infrastructure fee may be applied to reduce the public benefits  
6 fee to be transferred pursuant to subsection (a) if so provided  
7 in a financing order.

8        [~~(e)~~] (e) Nothing in this section shall create or be  
9 construed to cause the public benefits fee to be considered  
10 state or public moneys subject to appropriation by the  
11 legislature or be required to be deposited into the state  
12 treasury."

13        SECTION 6. Section 269-125, Hawaii Revised Statutes, is  
14 amended as follows:

15        1. By amending subsection (a) to read:

16        "(a) The public utilities commission shall investigate an  
17 on-bill financing program that would allow an electric utility  
18 company customer to purchase or otherwise acquire a [~~renewable~~  
19 ~~energy system or energy efficient~~] clean energy technology,  
20 demand response technology, and energy use reduction and demand  
21 side management device, as determined by the public utilities  
22 commission, by providing for billing and payment of such a



1 system or device through an assessment on the electric utility  
2 company customer's electricity bill."

3 2. By amending subsection (c) to read:

4 "(c) If on-bill financing is determined by the public  
5 utilities commission to be viable, the public utilities  
6 commission may implement an on-bill financing program by  
7 decision and order or by rules pursuant to chapter 91[-];  
8 provided that any on-bill financing program implemented by the  
9 public utilities commission shall allow participating electric  
10 utility company customers to purchase, finance for the  
11 installation or purchase of, or otherwise acquire clean energy  
12 technology, demand response technology, or energy use reduction  
13 and demand side management systems or devices by providing for  
14 billing and payment of such systems or devices through an  
15 assessment on the electric utility company customer's  
16 electricity bill. Any on-bill financing program implemented by  
17 the public utilities commission may utilize funds administered  
18 through the green infrastructure loan program authorized under  
19 section 196-B for purposes established therein."

20 SECTION 7. (a) The legislature finds and declares that  
21 the issuance of revenue bonds under this Act is in the public  
22 interest and for the public health, safety, and general welfare.

1           (b) The department of business, economic development, and  
2 tourism is authorized to issue revenue bonds pursuant to part  
3 III of chapter 39, Hawaii Revised Statutes, in a principal  
4 amount not to exceed \$200,000,000 to establish and administer  
5 the Hawaii green infrastructure loan program pursuant to section  
6 196-B, Hawaii Revised Statutes.

7           (c) The department of business, economic development, and  
8 tourism is authorized to issue from time to time refunding green  
9 infrastructure bonds in such principal amounts as the department  
10 shall determine to be necessary to refund the green  
11 infrastructure bonds authorized under this Act, to the extent  
12 permitted by the financing documents.

13           (d) To the extent there is any conflict between this Act  
14 and part III of chapter 39, Hawaii Revised Statutes, this Act  
15 shall prevail.

16           SECTION 8. The department of business, economic  
17 development, and tourism, with the assistance of the Hawaii  
18 green infrastructure authority, shall submit a report on the  
19 status of the Hawaii green infrastructure authority's  
20 activities, including approved loan program description and  
21 uses; summary information and analytical data concerning loan  
22 program implementation; summary information and analytical data



1 concerning the deployment of clean energy technology, demand  
2 response technology, and energy use reduction and demand side  
3 management infrastructure; and repayments made or credits  
4 provided to electric utility customers under section 196- and  
5 Part of chapter 269, no later than twenty days prior to the  
6 convening of the regular session of 2014.

7 SECTION 9. In codifying the new part added to chapter 196,  
8 Hawaii Revised Statutes, by section 2 of this Act and the new  
9 part added to chapter 269, Hawaii Revised Statutes, by section 3  
10 of this Act, the revisor of statutes shall substitute  
11 appropriate section numbers for the letters used in designating  
12 and referring to the new sections in this Act.

13 SECTION 10. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 11. This Act shall take effect January 28, 2100.





**Report Title:**

Green Infrastructure Authority, Bonds, and Loan Program

**Description:**

Establishes a regulatory financing structure that authorizes the Public Utilities Commission and the Department of Business, Economic Development, and Tourism to provide low-cost loans for green infrastructure equipment to achieve measurable cost savings and achieve Hawaii's clean energy goals. Effective January 28, 2100. (HB856 HD1)

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

