
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 fund to finance additional green infrastructure
20 installations, subject to regulatory guidelines and approval;
21 and (3) establishes clearly defined program procedures and
22 targets that encourage effective coordination among state



1 agencies, industry, investors, and other critical energy
2 industry stakeholders in order to help the State achieve its
3 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 department may exercise all powers
20 reserved to the authority.

21 "Department" means the department of business, economic
22 development, and tourism, or any successor by law.



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

3 "Green infrastructure bond" means any bond issued by the
4 State under part .

5 "Green infrastructure bond fund" means the special fund
6 created pursuant to section 269-J.

7 "Green infrastructure charge" means the on-bill charges for
8 the use and services of the green infrastructure loan program,
9 including to repay loans made under the green infrastructure
10 loan program, as authorized by the public utilities commission
11 to be imposed on electric utility customers.

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

19 "Green infrastructure equipment" means infrastructure
20 improvements, equipment, and personal property to be installed
21 to deploy clean energy technology, demand response technology,



1 and energy use reduction and demand side management
2 infrastructure.

3 "Green infrastructure loan program" and "green
4 infrastructure loans" means the program established by this part
5 and loans made to finance the purchase or installation of green
6 infrastructure equipment for clean energy technology, demand
7 response technology, and energy use reduction and demand side
8 management infrastructure, programs, and services as authorized
9 by the public utilities commission using the proceeds of green
10 infrastructure bonds or other proceeds. This loan program may
11 include loans made to private entities, whether corporations,
12 partnerships, limited liability companies or other persons,
13 which entities may lease or provide green infrastructure
14 equipment to electric utility customers, as well as direct loans
15 to electric utility customers, on terms approved by the
16 authority.

17 "Green infrastructure special fund" means the special fund
18 created pursuant to section 196-E.

19 **§196-B Hawaii green infrastructure loan program.** There is
20 established a Hawaii green infrastructure loan program, which
21 shall be a loan program as defined under section 39-51. The
22 green infrastructure loan program shall be administered by the



1 authority on behalf of the department in a manner consistent
2 with chapter 39, part III.

3 **§196-C Hawaii green infrastructure authority.** There is
4 established a Hawaii green infrastructure authority as an
5 instrumentality of the State comprised of five members. The
6 director, the director of finance, and the energy program
7 administrator shall be members of the authority. The governor
8 shall appoint the other two members, pursuant to section 26-34.
9 The director shall be the chairperson of the authority. The
10 authority shall be placed within the department of business,
11 economic development, and tourism for administrative purposes,
12 pursuant to section 26-35.

13 **§196-D Functions, powers, and duties of the authority.** In
14 the performance of, and with respect to the functions, powers,
15 and duties vested in the authority by this part, the authority
16 may, as directed by the director and in accordance with an
17 approved order or orders by the public utilities commission:

- 18 (1) Make loans and expend funds to finance the purchase or
19 installation of green infrastructure equipment for
20 clean energy technology, demand response technology,
21 and energy use reduction and demand side management
22 infrastructure, programs, and services;



- 1 (2) Hold and invest moneys in the green infrastructure
2 special fund in such investments as permitted by law
3 and in accordance with approved investment guidelines
4 established in one or more orders issued by the public
5 utilities commission pursuant to 196-F;
- 6 (3) Hire employees necessary to perform its duties,
7 including an executive director. The executive
8 director shall be appointed by the authority, and the
9 employees' positions, including the executive
10 director's, shall be exempt from chapter 76;
- 11 (4) Enter into contracts for the service of consultants
12 for rendering professional and technical assistance
13 and advice, and any other contracts that are necessary
14 and proper for the implementation of the program;
- 15 (5) Enter into contracts for the administration of the
16 green infrastructure loan program, without the
17 necessity of complying with chapter 103D;
- 18 (6) Establish loan program guidelines to be approved in
19 one or more orders issued by the public utilities
20 commission pursuant to 196-F to carry out this part;
- 21 (7) Be audited at least annually by a firm of independent
22 certified public accountants selected by the



1 authority, and provide the results of this audit to
2 the department; and

3 (8) Perform all functions necessary to effectuate the
4 purposes of this chapter.

5 **§196-E Hawaii green infrastructure special fund. (a)**

6 There is established the Hawaii green infrastructure special
7 fund, into which shall be deposited the:

8 (1) Proceeds of green infrastructure bonds net of issuance
9 costs and reserves or overcollateralization amounts;

10 (2) Green infrastructure charges received for the use and
11 services of the green infrastructure loan program,
12 including to repay loans made under the green
13 infrastructure loan program;

14 (3) All other funds received by the department or the
15 authority and legally available for the purposes of the
16 special fund;

17 (4) Interest earnings on all amounts in the green
18 infrastructure special fund; and

19 (5) Such other moneys as shall be permitted by an order of
20 the public utilities commission.

21 The Hawaii green infrastructure special fund shall not be
22 subject to section 37-53.



1 (b) Moneys in the Hawaii green infrastructure special fund
2 may be used for the purposes of:

3 (1) Making green infrastructure loans;

4 (2) Paying the administrative costs of the Hawaii green
5 infrastructure loan program;

6 (3) Paying any other costs related to the Hawaii green
7 infrastructure loan program; or

8 (4) Paying financing costs, as defined in section 269-A,
9 to the extent permitted by the public utilities
10 commission financing order, pursuant to 269-C.

11 (c) The authority may invest funds held in the Hawaii
12 green infrastructure special fund in such investments as
13 permitted by law, and in accordance with approved investment
14 guidelines established in one or more orders issued by the
15 public utilities commission pursuant to section 196-F. All
16 amounts in the Hawaii green infrastructure special fund shall be
17 exempt from all taxes and similar surcharges imposed by the
18 State. Nothing in this section shall prohibit the authority
19 from using moneys in the Hawaii green infrastructure special
20 fund to credit back electric utility customers at the direction
21 of the public utilities commission. If such funds are
22 transferred back to the electric utility in order to credit



1 electric utility customers, the transfer back to such electric
2 utility shall not be considered revenue of the electric utility
3 and shall not be subject to Hawaii or county taxes.

4 **§196-F Processes and procedures.** (a) The authority shall
5 apply to the public utilities commission for one or more orders
6 to effectuate the Hawaii green infrastructure loan program,
7 pursuant to sections 269-125 and 269-C. In the application, the
8 authority shall identify terms and conditions for the uses of
9 the Hawaii green infrastructure special fund consistent with
10 section 196-E, including but not limited to the:

- 11 (1) Lending criteria;
- 12 (2) Equipment, products and services to be financed;
- 13 (3) Qualifications and criteria of parties providing
14 equipment, products and services;
- 15 (4) Terms and conditions of the on-bill repayment
16 mechanisms; and
- 17 (5) Calculation of the green infrastructure charge.

18 Nothing herein shall preclude the department from applying for a
19 financing order, pursuant to section 269-B, prior to the
20 issuance of an order or orders to effectuate the Hawaii green
21 infrastructure loan program, nor from consolidating the



1 proceedings for a financing order with such a loan program
2 implementation order.

3 (b) The public utilities commission shall issue a final
4 order or orders for the Hawaii green infrastructure loan program
5 as expeditiously as possible.

6 (c) In accordance with an approved order or orders for the
7 Hawaii green infrastructure loan program, the authority shall
8 utilize the proceeds of green infrastructure bonds and other
9 amounts deposited in the green infrastructure special fund
10 pursuant to 196-E, or to the extent permitted by a financing
11 order, to pay financing costs, as defined in section 269-A.

12 (d) Within the order or orders, the authority shall obtain
13 approval from the public utilities commission requiring the
14 electric utilities to serve as agents to bill and to collect the
15 green infrastructure charge imposed to repay green
16 infrastructure costs and transfer all green infrastructure
17 charges collected to the authority on behalf of the department.
18 Notwithstanding anything to the contrary, the utility shall not
19 be obligated to bill, collect or remit green infrastructure
20 charges from non-utility customers.

21 (e) The order shall specify the following, including but
22 not limited to:



1 (1) The procedures to be followed by the electric
2 utilities in the event of non-payment or partial
3 payment of the green infrastructure charge by the
4 electric utilities' customers, which procedures shall
5 be consistent with the public utilities commission
6 approved procedures for non-payment and partial
7 payment of rates, charges and fees under the electric
8 utilities' tariffs; and

9 (2) The distribution of the total amounts collected by the
10 electric utilities for amounts billed to customers for
11 the electric utilities' rates, fees and charges, for
12 the green infrastructure charge, for other public
13 utilities commission approved fees and charges, and
14 for associated taxes, in the event of partial payments
15 of the billed amounts.

16 The electric utilities serving as billing and collecting
17 agents shall be parties to the proceedings in which the order or
18 orders are issued.

19 (f) The green infrastructure charge shall not be
20 considered revenue of the electric utilities and accordingly,
21 shall not be subject to Hawaii or county taxes, including but
22 not limited to the general excise tax under chapter 237, the



1 public service company tax under chapter 239, the public utility
2 fee under section 269-30, and the public utility franchise tax
3 under chapter 240.

4 (g) The commission shall ensure that all reasonable costs
5 incurred by electric utilities to start up and implement the
6 green infrastructure loan program may be recovered as part of
7 the electric utility's revenue requirement, including necessary
8 billing system adjustments, costs arising out of the billing and
9 collection of green infrastructure charges, and any costs for
10 green infrastructure charges that are not recovered via
11 participating customers' green infrastructure bill payments or
12 otherwise.

13 (h) The green infrastructure loan program or the act of
14 serving as an agent to bill and to collect the green
15 infrastructure charge shall not expose any electric utility to
16 financial institution, escrow depository, or collection agency
17 laws. An electric utility shall not be responsible for lending,
18 underwriting, and credit determinations.

19 **§196-G Reporting; annual report.** The authority shall
20 submit a report to the legislature on the authority's activities
21 in administering the green infrastructure loan program under
22 this part, no later than twenty days prior to the convening of



1 each regular session beginning with the regular session of 2015.
 2 The report shall include but not be limited to the green
 3 infrastructure loan program description and uses; summary
 4 information and analytical data concerning the green
 5 infrastructure loan program implementation; summary information
 6 and analytical data concerning deployment of clean energy
 7 technology, demand response technology, and energy use reduction
 8 and demand side management infrastructure; and repayments made
 9 or credits provided to electric utility customers under section
 10 196-E(c) and this part.

11 **§196-H Severability.** If any provision of this part is
 12 held to be invalid or is superseded, replaced, repealed, or
 13 expires for any reason, that occurrence shall not affect any
 14 action allowed under this part that is taken prior to that
 15 occurrence by the public utilities commission, an electric
 16 utility, the department, or the authority. Any such action
 17 shall remain in full force and effect."

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

21 **"PART . GREEN INFRASTRUCTURE BONDS**

22 **§269-A Definitions.** As used in this part:



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

9 "Authority" means the Hawaii green infrastructure authority
10 established under chapter 196-C.

11 "Bond" or "green infrastructure bond" means any bond, note
12 or other evidence of indebtedness that is issued by the State,
13 acting through the department, under a financing order, the
14 proceeds of which are used directly or indirectly to recover,
15 finance, or refinance financing costs of clean energy
16 technology, demand response technology, and energy use reduction
17 and demand side management infrastructure, programs, and
18 services, and that are secured by or payable from green
19 infrastructure property. Green infrastructure bonds are revenue
20 bonds issued under article VII, section 12 of the Hawaii state
21 constitution and chapter 39, part III, as modified by this part,
22 and the department shall ensure that any bonds issued under this



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

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

5 "Department" means the department of business, economic
6 development, and tourism, or any successor by law.

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

11 "Financing costs" means any of the following:

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

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

15 (3) Any amount required to fund or replenish a reserve
16 account or another account established under any
17 indenture, ancillary agreement, or other financing
18 document relating to the issuance of green
19 infrastructure bonds;

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



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



1 infrastructure bonds that the department finds
2 appropriate.

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

15 "Financing party" means either of the following:

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



1 the timely collection and payment of green
2 infrastructure fees, or a combination of these
3 factors.

4 "Green infrastructure bond fund" means the special fund
5 created pursuant to section 269-J.

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

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



1 interests created by the public utilities commission under any
2 financing order.

3 "Green infrastructure special fund" means the special fund
4 created pursuant to section 196-E.

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

13 "Trustee" means any trustee or fiscal agent appointed under
14 an indenture or certificate of the director executed in
15 connection with the issuance of green infrastructure bonds
16 pursuant to section 39-68.

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



- 1 (1) The imposition, charging, and collection on behalf of
- 2 the department of the green infrastructure fee, to
- 3 become effective upon the issuance of the green
- 4 infrastructure bonds, and the adjustment of such green
- 5 infrastructure fee on behalf of the department in
- 6 accordance with an adjustment mechanism requested by
- 7 the department under this part in amounts sufficient
- 8 to pay the principal of and interest on green
- 9 infrastructure bonds and all related financing costs
- 10 on a timely basis;
- 11 (2) The creation of green infrastructure property under
- 12 the financing order; and
- 13 (3) The deposit of the net proceeds of the green
- 14 infrastructure bonds into the green infrastructure
- 15 special fund;
- 16 (b) The application shall include all of the following:
- 17 (1) The principal amount of the green infrastructure bonds
- 18 proposed to be issued;
- 19 (2) An estimate of the date each series of green
- 20 infrastructure bonds is expected to be issued;
- 21 (3) The expected term, not to exceed thirty years, during
- 22 which term the green infrastructure fee associated



- 1 with the issuance of each series of green
2 infrastructure bonds is expected to be imposed and
3 collected;
- 4 (4) An estimate of the financing costs associated with the
5 issuance of each series of green infrastructure bonds;
- 6 (5) An estimate of the amount of the green infrastructure
7 fee revenues necessary to pay principal and interest
8 on the green infrastructure bonds and related
9 financing costs as set forth in the application and
10 the calculation for that estimate, which calculation
11 shall take into account the estimated date or dates of
12 issuance and the estimated principal amount of each
13 series of green infrastructure bonds;
- 14 (6) A proposed methodology for allocating the green
15 infrastructure fee among electric utilities and
16 customer classes within each electric utility;
- 17 (7) A description of a proposed formulaic adjustment
18 mechanism for the adjustment of the green
19 infrastructure fee to assure the timely payment of
20 principal and interest on the green infrastructure
21 bonds and related financing costs; and



1 (8) Any other information required by the public utilities
2 commission.

3 **§269-C Green infrastructure financing order.** (a) The
4 public utilities commission shall issue its financing order as
5 final or in the event that the finding in subsection (b) cannot
6 be made, its denial of a financing order, as expeditiously as
7 possible and in any event within ninety days from the date the
8 completed application is submitted.

9 (b) The public utilities commission may issue a financing
10 order if the public utilities commission finds that the creation
11 of the green infrastructure property to secure the payment of
12 the green infrastructure bonds, including the imposition of the
13 green infrastructure fee, will facilitate the acquisition of
14 low-cost financing, pursuant to an application under 269-B.

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

17 (1) The maximum amount of green infrastructure bonds that
18 the department requested to be issued under the
19 financing order;

20 (2) A description of the green infrastructure property,
21 the creation of which property is authorized by the
22 financing order;



- 1 (3) A description of the financing costs that the
2 department is requesting and which will be recoverable
3 through green infrastructure fees, including any
4 reserves or overcollateralization amounts required by
5 the department to secure payment of the green
6 infrastructure bonds;
- 7 (4) A description of the methodology to be applied by the
8 public utilities commission, on behalf of the
9 department, for calculating the green infrastructure
10 fee, including the allocation of financing costs among
11 electric utilities and customer classes;
- 12 (5) A description of the formulaic adjustment mechanism to
13 be used by the public utilities commission, on behalf
14 of the department, to adjust the green infrastructure
15 fee in order to ensure that the amount of green
16 infrastructure fees projected to be collected shall be
17 sufficient to pay the principal and interest on the
18 green infrastructure bonds, and all related financing
19 costs on a timely basis, including the funding or
20 maintenance of any reserves required to be maintained
21 by the department;



1 (6) The term of the green infrastructure bonds, as
2 proposed by the department, during which term the
3 green infrastructure fee shall continue to be
4 collected and pledged to pay the green infrastructure
5 bonds, which term shall automatically be extended by
6 the term of any refunding green infrastructure bonds
7 issued in such principal amounts as the department may
8 determine to be necessary to refund the green
9 infrastructure bonds that are the subject of the
10 original financing order;

11 (7) A requirement that the electric utilities including
12 their successors serve as agents to collect the green
13 infrastructure fees and transfer those surcharges to
14 the trustee or other financing party as required by
15 the financing order and any agreements with the
16 department;

17 (8) The procedures to be followed by the electric
18 utilities in the event of non-payment or partial
19 payment of the green infrastructure fees by the
20 electric utilities' customers, which procedures shall
21 be consistent with the public utilities commission
22 approved procedures for non-payment and partial



1 payment of rates, charges and fees under the electric
2 utilities' tariffs;

3 (9) The distribution of the total amounts collected by the
4 electric utilities for amounts billed to customers for
5 the electric utilities' rates, fees and charges, for
6 the green infrastructure fees, for other public
7 utilities commission approved fees and charges, and
8 for associated taxes, in the event of partial payments
9 of the billed amounts;

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

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

20 The electric utilities serving as billing and collecting agents
21 shall be parties to the proceedings in which the order or orders
22 are issued.



1 (d) The public utilities commission shall, in a financing
2 order, permit the department flexibility in establishing the
3 terms and conditions for the green infrastructure bonds to
4 accommodate changes in market conditions, including repayment
5 schedules, interest rates, financing costs, collateral
6 requirements, required debt service and other reserves, and the
7 ability of the department, at its option, to effect a series of
8 issuances of green infrastructure bonds and correlated
9 assignments, sales, pledges, or other transfers of green
10 infrastructure property. Any changes made under this section to
11 terms and conditions for the green infrastructure bonds shall be
12 in conformance with the financing order.

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

20 (f) An appeal from a financing order issued by the public
21 utilities commission shall be taken pursuant to section 269-
22 15.5.



1 (g) Any adjustment to the green infrastructure fee made by
2 the public utilities commission pursuant to the adjustment
3 mechanism approved in the financing order shall be a ministerial
4 act of the public utilities commission, and shall not require
5 any prior public notice or hearing.

6 **§269-D Green infrastructure property.** (a) The green
7 infrastructure property shall be created simultaneously with the
8 issuance of the green infrastructure bonds and shall immediately
9 vest in the department, which shall pledge and create a lien on
10 such property, together with all other money in the green
11 infrastructure bond fund, solely and exclusively in favor of
12 bondholders and financing parties to secure the payment of green
13 infrastructure bonds, amounts payable to financing parties and
14 bondholders, amounts payable under any ancillary agreement, and
15 other financing costs as provided in the financing documents
16 executed by the department. Subject to the foregoing, the lien
17 and charge on green infrastructure property and all other moneys
18 in the green infrastructure bond fund for the benefit of any
19 financing party shall be governed by section 39-63.

20 (b) The electric utilities shall have no ownership or
21 beneficial interest in nor any claim or right to the green
22 infrastructure fee, green infrastructure property, green



1 infrastructure equipment, or green infrastructure charge other
2 than the obligation to bill and collect the green infrastructure
3 fee and green infrastructure charge as agent for the department
4 or any financing party and remit the revenue so collected to the
5 department or such financing party entitled to receive such
6 surcharges in accordance with the financing order. The
7 commission shall ensure that all reasonable costs incurred by
8 electric utilities to implement the green infrastructure fees
9 may be recovered as part of the electric utility's revenue
10 requirement, including necessary billing system adjustments,
11 costs arising out of the billing and collection of green
12 infrastructure fees, and any costs for green infrastructure fee
13 that are not recovered otherwise. The green infrastructure fee
14 or green infrastructure property shall not be considered revenue
15 of any electric utility.

16 (c) The obligation of any electric utility customer to
17 pay the green infrastructure fee or green infrastructure charge
18 and, notwithstanding the second sentence of subsection (b) above
19 the obligation of the electric utility to collect and remit the
20 green infrastructure fee or green infrastructure charge shall
21 not be subject to any setoff, counterclaim, surcharge, or
22 defense by the electric utility or by any electric utility



1 customer, or in connection with a bankruptcy of any electric
2 utility or any electric utility customer.

3 **§269-E Green infrastructure bonds financing order.** (a) A
4 financing order shall remain in effect until the green
5 infrastructure bonds issued under the financing order and all
6 financing costs related to the bonds have been paid in full or
7 defeased by their terms. A financing order shall remain in
8 effect and unabated notwithstanding the bankruptcy,
9 reorganization, or insolvency of any electric utility or any
10 affiliate of the electric utility or the commencement of any
11 judicial or nonjudicial proceeding on the financing order.

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

21 (c) Under a final financing order, the department shall
22 retain sole discretion to cause green infrastructure bonds to be

1 issued, including the right to defer or postpone such issuance,
2 assignment, sale or transfer.

3 **§269-F Green infrastructure fee nonbypassable.** (a) So
4 long as any green infrastructure bonds are outstanding and any
5 financing costs have not been paid in full, the green
6 infrastructure fees authorized under any financing order shall
7 be nonbypassable. Subject to any exceptions provided in a
8 financing order, the green infrastructure fee will be paid by
9 all existing and future customers of electric utilities or their
10 successors.

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



1 **§269-G Electric utility successor requirements; Default of**
2 **electric utility.** (a) Any successor to an electric utility
3 subject to a financing order shall be bound by the requirements
4 of this part. The successor shall perform and satisfy all
5 obligations of the electric utility under the financing order,
6 in the same manner and to the same extent as the electric
7 utility, including the obligation to collect and pay the green
8 infrastructure fee to the department or to any financing party
9 as required by a financing order.

10 (b) The public utilities commission may require, in the
11 financing order creating the green infrastructure fee and green
12 infrastructure property, that, in the event of a default by the
13 electric utility in remittance of the green infrastructure fee
14 collected arising with respect to green infrastructure property,
15 the public utilities commission, upon the application by the
16 department, and without limiting any other remedies available to
17 the department or any financing party by reason of the default,
18 shall order the sequestration and payment to the beneficiaries
19 of the green infrastructure fee collected arising with respect
20 to the green infrastructure property. Any order shall remain in
21 full force and effect notwithstanding any bankruptcy,



1 reorganization, or other insolvency proceedings with respect to
2 the electric utility.

3 **§269-H Treatment of green infrastructure bonds, fees, and**
4 **property.** (a) In furtherance of section 39-65, the ownership,
5 transfer and pledge of the green infrastructure fee and green
6 infrastructure property and the imposition, charging,
7 collection, and receipt of the green infrastructure fee and
8 green infrastructure charge are exempt from all taxes and
9 similar surcharges imposed by the State and counties, including
10 but not limited to the general excise tax under chapter 237, the
11 public service company tax under chapter 239, the public utility
12 fee under section 269-30, and the public utility franchise tax
13 under chapter 240.

14 (b) Green infrastructure bonds issued under a financing
15 order shall not be an obligation of any electric utility. The
16 issuance of green infrastructure bonds does not directly,
17 indirectly, or contingently obligate the electric utility for
18 payment of the principal of or interest on the bonds.

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



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

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

16 **§269-J Hawaii green infrastructure bond fund.** (a) There is
17 established the Hawaii green infrastructure bond fund as a
18 special fund into which fund all proceeds of the green
19 infrastructure fees and any other proceeds of the green
20 infrastructure property shall be paid. The green infrastructure
21 bond fund may also receive such other moneys as the department



1 may determine and as provided in the financing order, including,
2 without limitation, green infrastructure charges.

3 (b) Moneys in the green infrastructure bond fund shall be
4 impressed with the lien created by, and shall be used solely for
5 purposes set forth in section 269-D. Upon payment or defeasance
6 of all green infrastructure bonds and financing costs, moneys in
7 such fund, at the direction of the department, may be
8 transferred into the green infrastructure special fund or for
9 such other purpose as the department shall specify.

10 (c) The green infrastructure bond fund shall be audited at
11 least annually by a firm of independent certified public
12 accountants selected by the department, and the results of this
13 audit shall be provided to the department.

14 (d) Pursuant to section 39-68, the department shall
15 appoint a trustee to receive, hold and disburse all amounts
16 required to be held in the green infrastructure bond fund upon
17 such terms and conditions as set forth in a certificate,
18 indenture or trust agreement.

19 The Hawaii green infrastructure bond fund shall not be
20 subject to section 37-53.



1 **§269-K Compliance with revenue bond law.** For purposes of
2 assuring conformity of and compliance with chapter 39, part III,
3 it is determined as follows:

4 (1) For purposes of section 39-51, "revenues" shall
5 include the green infrastructure fee and the proceeds
6 of green infrastructure property; "loan program" shall
7 include the loan program authorized under section 196-
8 B and "undertaking" shall include the financing of the
9 Hawaii green infrastructure loan program through the
10 issuance of green infrastructure revenue bonds;

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

20 (3) In addition and supplemental to the powers conferred
21 by section 39-61, the green infrastructure fee shall
22 be imposed, adjusted and collected as provided in



1 section 269-F and the financing order issued pursuant
2 thereto; and

3 (4) In addition and supplemental to the powers conferred
4 by section 39-62, the green infrastructure fee shall
5 be applied as provided in this chapter, the financing
6 order, the certificate issued by the department and
7 any financing documents executed by the department in
8 connection with the green infrastructure bonds.

9 **§269-L Severability.** If any provision of this part is
10 held to be invalid or is superseded, replaced, repealed, or
11 expires for any reason, that occurrence shall not affect any
12 action allowed under this part that is taken prior to that
13 occurrence by the public utilities commission, an electric
14 utility, the department, a collection agent, a financing party,
15 a bondholder, or a party to an ancillary agreement. Any such
16 action shall remain in full force and effect.

17 **§269-M Miscellaneous.** Neither the department nor a
18 financing party shall be considered an electric utility or
19 person providing electric service by virtue of engaging in the
20 transactions described in this part."

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



1 "§269-5 Annual report and register of orders. The public
2 utilities commission shall prepare and present to the governor,
3 through the director of finance, in the month of January in each
4 year a report respecting its actions during the preceding fiscal
5 year. This report shall include summary information and
6 analytical, comparative, and trend data concerning major
7 regulatory issues acted upon and pending before the commission;
8 cases processed by the commission, including their dispositions;
9 utility company operations, capital improvements, and rates;
10 utility company performance in terms of efficiency and quality
11 of services rendered; financing orders issued, adjustments made
12 to the public benefits fee, and repayments or credits provided
13 to electric utility customers pursuant to the issuance of green
14 infrastructure bonds under section 196-E(b) and chapter 269,
15 part _____; environmental matters having a significant impact upon
16 public utilities; actions of the federal government affecting
17 the regulation of public utilities in Hawaii; long and short-
18 range plans and objectives of the commission; together with the
19 commission's recommendations respecting legislation and other
20 matters requiring executive and legislative consideration.
21 Copies of the annual reports shall be furnished by the governor
22 to the legislature. In addition, the commission shall establish



1 and maintain a register of all its orders and decisions, which
2 shall be open and readily available for public inspection, and
3 no order or decision of the commission shall take effect until
4 it is filed and recorded in this register."

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

7 "**§269-121 Public benefits fee authorization; green**
8 **infrastructure fee.** (a) The public utilities commission, by
9 order or rule, may require that all or a portion of the moneys
10 collected by Hawaii's electric utilities from its ratepayers
11 through a demand-side management surcharge be transferred to a
12 third-party administrator contracted by the public utilities
13 commission. The moneys transferred shall be known as the public
14 benefits fee.

15 (b) The public benefits fee shall be used to support
16 [~~energy efficiency~~] clean energy technology, demand response
17 technology, and energy use reduction and demand-side management
18 infrastructure, programs, and services, subject to the review
19 and approval of the public utilities commission. These moneys
20 shall not be available to meet any current or past general
21 obligations of the State; provided that the State may
22 participate in any [~~energy efficiency~~] clean energy technology,



1 demand response technology, or energy use reduction and demand-
2 side management infrastructure, programs, and services on the
3 same basis as any other electric consumer.

4 (c) The public utilities commission is further authorized
5 to create, pursuant to a financing order approved pursuant to
6 part , a utility-wide nonbypassable surcharge, referred to as
7 the green infrastructure fee, which shall be deposited in the
8 green infrastructure bond fund and be pledged to secure and be
9 applied to the repayment of green infrastructure bonds and
10 related financing costs as described in part .

11 (d) The green infrastructure fee may be included with the
12 public benefits fee as one line item on the electric utility
13 bill when the bill contains a public benefits fee if so provided
14 in the financing order authorized in part . The green
15 infrastructure fee may be applied to reduce the public benefits
16 fee to be transferred pursuant to subsection (a) if so provided
17 in a financing order. Nothing in this subsection shall affect
18 the right to impose, collect and adjust from time to time the
19 green infrastructure fee as provided in the financing order and
20 chapter 269.

21 ~~(+e)~~ (e) Nothing in this section shall create or be
22 construed to cause the public benefits fee to be considered



1 state or public moneys subject to appropriation by the
2 legislature or be required to be deposited into the state
3 treasury."

4 SECTION 6. Section 269-125, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§269-125. On-bill financing for energy efficiency and**
7 **renewable energy.** (a) The public utilities commission shall
8 investigate an on-bill financing program that would allow an
9 electric utility company customer to purchase or otherwise
10 acquire a [~~renewable energy system or energy efficient~~] clean
11 energy technology, demand response technology, and energy use
12 reduction and demand side management device, as determined by
13 the public utilities commission, by providing for billing and
14 payment of such a system or device through an assessment on the
15 electric utility company customer's electricity bill.

16 (b) In investigating an on-bill financing program, the
17 public utilities commission may consider:

- 18 (1) The costs and benefits associated with the
19 establishment and administration of the program;
- 20 (2) The ability of the program to effectively provide
21 lifecycle cost savings to participating electric
22 utility company customers;



- 1 (3) The ability of the program to make renewable energy
2 and energy use reduction more accessible to the rental
3 market and other underserved markets;
- 4 (4) Methods to structure the program to ensure that any
5 public benefits fee funds are spent cost-effectively
6 and in compliance with applicable statutes;
- 7 (5) The use of non-ratepayer funds or private capital to
8 provide financing for renewable energy systems or
9 energy efficient devices acquired through the program;
- 10 (6) Reasonable penalties, which may include fines and
11 disconnection of utility services, for nonpayment of
12 on-bill financing costs;
- 13 (7) The ability of an electric utility company to recover
14 costs incurred due to the program; and
- 15 (8) Other issues the public utilities commission deems
16 appropriate.
- 17 (c) If on-bill financing is determined by the public
18 utilities commission to be viable, the public utilities
19 commission may implement an on-bill financing program by
20 decision and order or by rules pursuant to chapter 91[-];
21 provided that any on-bill financing program implemented by the
22 public utilities commission shall allow participating electric



1 utility company customers to purchase, finance for the
2 installation or purchase of, or otherwise acquire clean energy
3 technology, demand response technology, or energy use reduction
4 and demand side management systems or devices by providing for
5 billing and payment of such systems or devices through an
6 assessment on the electric utility company customer's
7 electricity bill. Any on-bill financing program implemented by
8 the public utilities commission may utilize funds administered
9 through the green infrastructure loan program authorized under
10 section 196-B for purposes established therein."

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

14 (b) The department of business, economic development, and
15 tourism is authorized to issue revenue bonds pursuant to chapter
16 39, part III, Hawaii Revised Statutes, as amended and
17 supplemented by this part, in a principal amount not to exceed
18 \$200,000,000 to establish and administer the Hawaii green
19 infrastructure loan program pursuant to section 196-B.

20 (c) The department of business, economic development, and
21 tourism is authorized to issue from time to time refunding green
22 infrastructure bonds in such principal amounts as the department



1 shall determine to be necessary to refund the green
2 infrastructure bonds authorized under this Act, to the extent
3 permitted by the financing documents.

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

7 SECTION 8. There is appropriated out of the Hawaii green
8 infrastructure special fund, established pursuant to section
9 196-E, the sum of \$100,000,000 or so much thereof as may be
10 necessary for fiscal year 2013-2014, and the same sum or so much
11 thereof as may be necessary for fiscal year 2014-2015.

12 The sum appropriated shall be expended by the department of
13 business, economic development, and tourism for the purposes of
14 this Act.

15 SECTION 9. There is appropriated out of the Hawaii green
16 infrastructure bond fund, established pursuant to section 269-J,
17 the sum of \$10,000,000 or so much thereof as may be necessary
18 for fiscal year 2013-2014, and the same sum or so much thereof
19 as may be necessary for fiscal year 2014-2015.

20 The sum appropriated shall be expended by the department of
21 business, economic development, and tourism for the purposes of
22 this Act.



1 SECTION 10. The department of business, economic
2 development, and tourism, with the assistance of the Hawaii
3 green infrastructure authority, shall submit a report on the
4 status of the Hawaii green infrastructure authority's
5 activities, including approved loan program description and
6 uses; summary information and analytical data concerning loan
7 program implementation; summary information and analytical data
8 concerning the deployment of clean energy technology, demand
9 response technology, and energy use reduction and demand side
10 management infrastructure; and repayments made or credits
11 provided to electric utility customers under section 196-E and
12 Part of chapter 269, no later than twenty days prior to the
13 convening of the regular session of 2014.

14 SECTION 11. In codifying the new part added to chapter
15 196, Hawaii Revised Statutes, by section 2 of this Act and the
16 new part added to chapter 269, Hawaii Revised Statutes, by
17 section 3 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 and referring to the new sections in this Act.



1 SECTION 12. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect January 28, 2100.

4



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 HD2)

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