
A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM.

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

1 SECTION 1. The legislature finds that significant
2 investment in clean energy technology and infrastructure will be
3 required to achieve the State's goals of energy self-
4 sufficiency, energy security, and energy diversification.
5 Additional investment is also needed to meet the renewable
6 portfolio and energy efficiency portfolio standards in
7 chapter 269, Hawaii Revised Statutes, as well as the Hawaii
8 clean energy initiative's target of one hundred sixty-five
9 million gallons of petroleum used per year for ground
10 transportation by 2030. The current aggregate level of green
11 infrastructure investment is in excess of \$15,350,000,000.

12 The legislature also finds that green infrastructure
13 investment supports Hawaii's evolving energy market and provides
14 affordable options for Hawaii's ratepayers. Due to the
15 significant amount of capital required for green infrastructure
16 investment, the State must leverage private investment with
17 limited public funds. A growth in the clean energy market will



1 reduce the cost of clean energy for ratepayers, drive job
2 creation, and save billions of taxpayer dollars currently being
3 spent on importing petroleum oil.

4 The legislature has made various efforts to invest in green
5 technology. Act 155, Session Laws of Hawaii 2009, established
6 the building energy efficiency revolving loan fund to provide
7 low cost financing to eligible public, private, and nonprofit
8 borrowers to make energy efficiency improvements to buildings.
9 Act 211, Session Laws of Hawaii 2013, established the Hawaii
10 green infrastructure authority to make cost-effective green
11 infrastructure financing options accessible and affordable to
12 customers under the green energy market securitization loan
13 program.

14 The legislature further finds that a significant barrier to
15 clean energy adoption has been the unavailability of flexible
16 financing and low-cost capital. Building Hawaii's clean energy
17 infrastructure at the lowest possible cost is vital to reach the
18 State's goal of one hundred per cent clean energy by 2045.
19 Public funds must be used in a sustainable manner to
20 simultaneously spark customer demand for clean energy technology
21 and attract private investment in green technology. It is the



1 State's goal that each public dollar spent will have an
2 investment multiplier effect throughout the green technology
3 industry.

4 The legislature also finds that a variety of financing
5 options must be available to support Hawaii's clean energy
6 investment. Ratepayer-funded programs, such as energy
7 efficiency rebates and the green energy market securitization
8 loan program, have made progress but do not serve all ratepaying
9 customers or the entire clean energy technology market. The
10 green energy market securitization loan program has facilitated
11 over \$110,000,000 in solar photovoltaic and energy efficiency
12 projects, but the program is not able to serve all ratepayers
13 and focuses only on established technology. The green energy
14 market securitization bond was an innovative use of a rate
15 reduction bond, but due to the time lag between the issuance of
16 the bond and expenditures for improvements, using bond financing
17 was inefficient compared to using revolving loan funds, which
18 are expended annually and in a more expedient manner.

19 Further, the coronavirus disease 2019 pandemic has had
20 significant negative impacts on Hawaii's tourism industry and
21 economy, resulting in projections of severe state budgetary



1 shortfalls over the next four years. With only a limited number
2 of financing mechanisms available to install solar photovoltaic
3 systems, state agencies have historically lowered their energy
4 costs by entering into energy performance contracts and power
5 purchase agreements with private partners to install and own
6 energy retrofits and solar systems on their behalf. While
7 individual results are dependent on the negotiated terms of the
8 consummated energy performance contract or power purchase
9 agreement, many of these arrangements have successfully reduced
10 the cost of energy for the State. Additionally, most agreements
11 include an option for state agencies to purchase the installed
12 equipment during the term of the agreement. For example, in
13 examining a power purchase agreement executed on September 30,
14 2016, between a state agency and an investor for a twenty-year
15 term, the agency is estimated to reduce its energy cost by
16 forty-two per cent. If, however, this state agency had access
17 to financing under the green infrastructure loan program to
18 exercise its purchase option, the agency would be projected to
19 reduce its energy cost by sixty-one per cent over the same
20 twenty-year term of the power purchase agreement. This
21 sixty-one per cent reduction in cost, which includes the loan



1 repayment and ongoing equipment maintenance costs, creates a new
2 source of cash flow for the agency.

3 With the number of energy performance contracts and power
4 purchase agreements in existence throughout the State, there is
5 a tremendous opportunity for additional energy savings to be
6 utilized to finance the conversion of the State's retiring
7 internal combustion fleet to short-term leases on electric
8 vehicles as well as install electric vehicle charging systems
9 while remaining budget neutral. Using the aforementioned
10 example of the state agency with reduced energy costs, this
11 agency could install one level three charging system and lease
12 seven electric vehicles with its savings.

13 The purpose of this Act is to strengthen the Hawaii green
14 infrastructure authority's ability to support investment in
15 clean energy technology, including electric vehicles and
16 electric vehicle charging systems and infrastructure, by:

17 (1) Creating a clean energy and energy efficiency
18 revolving loan fund to finance a broad range of clean
19 energy technologies;

20 (2) Repealing the building energy efficiency revolving
21 loan fund;



1 (3) Expanding the objective of the Hawaii green
2 infrastructure special fund \$50,000,000 sub-fund to
3 allow state agencies to finance their purchase option
4 under existing energy performance contracts and power
5 purchase agreements to further reduce and stabilize
6 future energy costs, with the option to utilize
7 savings to finance the installation of electric
8 vehicle charging systems and lease or purchase
9 electric vehicles; and

10 (4) Making an appropriation out of the clean energy and
11 energy efficiency revolving loan fund to provide clean
12 energy investment loans or for other approved uses.

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

16 "§196- Clean energy and energy efficiency revolving
17 loan fund. (a) There is established in the Hawaii green
18 infrastructure special fund established under section 196-65,
19 the clean energy and energy efficiency revolving loan fund,
20 similar to a revolving line of credit, which shall be
21 administered by the authority. Funds deposited into the clean



1 energy and energy efficiency revolving loan fund shall not be
2 under the jurisdiction of, nor be subject to approval by, the
3 commission and shall include:

4 (1) Any amounts, up to a total amount not to exceed
5 \$50,000,000, of moneys borrowed by the authority, with
6 the approval of the governor, from federal, county,
7 private, or other funding sources, pursuant to
8 part III of chapter 39;

9 (2) Funds from federal, state, county, private, or other
10 funding sources;

11 (3) Investments from public or private investors;

12 (4) Moneys received as repayment of loans and interest
13 payments; provided that the repayment of loans and
14 interest payments under this paragraph shall not
15 include repayment of loans and interest collected as a
16 result of funds advanced from proceeds of the green
17 energy market securitization bonds; and

18 (5) Any fees collected by the authority under this
19 section; provided that moneys collected as a result of
20 the funds advanced from proceeds of the green energy
21 market securitization bonds shall be kept separate



1 from fees collected as a result of funds advanced from
2 proceeds of the clean energy and energy efficiency
3 revolving loan fund.

4 (b) Moneys in the clean energy and energy efficiency
5 revolving loan fund shall be used to provide low-cost loans at
6 below-market rates or other authorized financial assistance to
7 eligible public, private, and nonprofit borrowers for clean
8 energy investments or other authorized uses, or both, on terms
9 approved by the authority. Moneys from the fund may be used to
10 cover administrative and legal costs of fund management and
11 management associated with individual loans, which include
12 personnel, services, technical assistance, data collection and
13 reporting, materials, equipment, and travel for the purposes of
14 this section.

15 (c) Funds appropriated or authorized from the clean energy
16 and energy efficiency revolving loan fund shall be expended by
17 the authority. The authority may contract with other public or
18 private entities for the provision of all or a portion of the
19 services necessary for the administration and implementation of
20 the loan fund program. The authority may set fees or charges



1 for fund management and technical site assistance provided under
2 this section.

3 (d) All interest earned on the loans, deposits, or
4 investments of the moneys in the fund shall become part of the
5 fund.

6 (e) The authority may establish subaccounts within the
7 fund as necessary.

8 (f) The authority may adopt rules pursuant to chapter 91
9 to carry out the purposes of this section."

10 SECTION 3. Section 196-61, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By adding fourteen new definitions to be appropriately
13 inserted and to read:

14 "Clean energy investments" means the purchase,
15 installation, or both, of clean energy technology, including
16 energy-efficiency measures, green transportation infrastructure,
17 recycling, and renewable energy technology.

18 "Electric vehicle" has the same meaning as defined in
19 section 291-71.

20 "Electric vehicle charging system" has the same meaning as
21 defined in section 291-71.



1 "Energy performance contract" has the same meaning as
2 defined in section 36-41.

3 "Green energy money saver on-bill program" means the
4 tariff-based on-bill repayment mechanism approved for the
5 exclusive use of the authority by the commission.

6 "Limited liability company" means a limited liability
7 company formed under chapter 428.

8 "Loan fund program" means the clean energy and energy
9 efficiency revolving loan fund program.

10 "Option to purchase" means a legally binding agreement
11 between a buyer and a seller, which gives the buyer the option,
12 but not the obligation, to purchase the solar energy system or
13 other installed equipment at an agreed upon price, prior to the
14 maturity date of the power purchase agreement or energy
15 performance contract.

16 "Power purchase agreement" means a contract between two
17 parties, one that generates electricity, or the seller, and one
18 that seeks to purchase electricity, or the buyer, that defines
19 all of the commercial terms for the sale of electricity between
20 the two parties.



1 "Qualified security" shall have the same meaning as defined
2 in section 227D-1.

3 "Renewable energy" shall have the same meaning as defined
4 in section 269-91.

5 "Renewable energy technology" means the equipment and
6 related accessories required to generate or produce renewable
7 energy.

8 "Special purpose entity" means a legal entity created to
9 fulfill narrow, specific, or temporary objectives and is
10 typically used by companies to isolate the firm from financial
11 risk.

12 "Subaccount" means a fund that is established within, but
13 separate from, another fund and is reserved for a specific
14 purpose."

15 2. By amending the definition of "loan program" and "green
16 infrastructure loans" to read:

17 "[~~"Loan program" and "green"~~] "Green infrastructure [loans]"
18 loan program" and "green infrastructure loans" means the program
19 established by this part under section 196-62 and [~~loans made~~]
20 capitalized by the issuance of green energy market
21 securitization bonds to finance the purchase or installation of



1 green infrastructure equipment for clean energy technology,
2 demand response technology, and energy use reduction and demand
3 side management infrastructure, programs, and services as
4 authorized by the public utilities commission using the proceeds
5 of bonds [~~or other proceeds~~]."

6 SECTION 4. Section 196-62.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~4~~] §196-62.5 [~~1~~] **Financing for state government agencies.**

9 (a) [~~With the approval of the governor, a~~] Any state agency may
10 apply for financing, subject to availability under the revolving
11 line of credit for fiscal year [~~2018-2019,~~] 2021-2022, and
12 annually thereafter, from the green infrastructure loan program
13 pursuant to section 196-65(b)(2), upon terms and conditions as
14 are agreed to between the department or agency and the Hawaii
15 green infrastructure authority; provided that the loans shall be
16 issued at an interest rate of 3.5 per cent a year; provided
17 further that the loans shall not adversely affect the
18 sustainability of the sub-fund or Hawaii green infrastructure
19 special fund such that the replenishment of funds requires a
20 higher interest rate in other financing agreements or an
21 appropriation from the general fund.



1 (b) ~~[An]~~ As may be applicable, an agency shall consult
2 with the public benefits fee administrator of the ~~[public~~
3 ~~utilities]~~ commission prior to planning an energy-efficiency
4 measure subject to this section. The agency's proposed energy-
5 efficiency measures shall meet or exceed the public benefits fee
6 administrator's enhanced efficiency levels and requirements to
7 be eligible for the Hawaii green infrastructure loan program.
8 The agency shall coordinate with the public benefits fee
9 administrator throughout the entire project cycle to ensure that
10 energy efficiency is maximized. All supporting documentation
11 required by the public benefits fee administrator shall be
12 provided by the agency to ensure compliance with the State's
13 energy-efficiency portfolio standard under section 269-96.

14 (c) An agency shall submit an expenditure plan to the
15 executive director of the Hawaii green infrastructure authority,
16 who shall serve as the fiscal administrator for the loans issued
17 pursuant to subsection (a) and shall make payment on behalf of
18 the agency, as appropriate, upon submission of requests for
19 payment from the agency.

20 (d) Beginning with fiscal year ~~[2018-2019,]~~ 2021-2022, and
21 annually thereafter, an agency shall repay a loan issued



1 pursuant to subsection (a) using general revenue savings that
2 result from reduced [utility] energy costs due to
3 ~~[implementation of]~~ financing the purchase of solar energy
4 systems or other clean energy equipment, implementing energy-
5 efficient lighting and other energy-efficiency measures[-], as
6 well as operational and fuel cost savings achieved by the
7 conversion of internal combustion vehicles to electric
8 vehicles."

9 SECTION 5. Section 196-64, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§196-64[+] **Functions, powers, and duties of the**
12 **authority.** (a) In the performance of, and with respect to the
13 functions, powers, and duties vested in the authority by this
14 part, the authority, as directed by the director and in
15 accordance with a green infrastructure loan program order or
16 orders under section 269-171 or an annual plan submitted by the
17 authority pursuant to this section, as approved by the [public
18 ~~utilities~~] commission for the green infrastructure loan program,
19 may:

- 20 (1) Make loans and expend funds to finance the purchase or
21 installation of green infrastructure equipment for



1 clean energy technology, demand response technology,
2 and energy use reduction and demand side management
3 infrastructure, programs, and services;

4 (2) Hold and invest moneys in the green infrastructure
5 special fund in investments as permitted by law and in
6 accordance with approved investment guidelines
7 established in one or more orders issued by the
8 ~~[public utilities]~~ commission pursuant to
9 section 269-171;

10 (3) Hire employees necessary to perform its duties,
11 including an executive director. The executive
12 director shall be appointed by the authority, and the
13 employees' positions, including the executive
14 director's position, shall be exempt from chapter 76;

15 (4) Enter into contracts for the service of consultants
16 for rendering professional and technical assistance
17 and advice, and any other contracts that are necessary
18 and proper for the implementation of the loan program;

19 (5) Enter into contracts for the administration of the
20 loan program, without the necessity of complying with
21 chapter 103D;



1 (6) Establish loan program guidelines to be approved in
2 one or more orders issued by the [~~public utilities~~]
3 commission pursuant to section 269-171 to carry out
4 the purposes of this part;

5 (7) Be audited at least annually by a firm of independent
6 certified public accountants selected by the
7 authority, and provide the results of this audit to
8 the department and the [~~public utilities~~] commission;
9 and

10 (8) Perform all functions necessary to effectuate the
11 purposes of this part.

12 (b) The authority shall submit to the [~~public utilities~~]
13 commission an annual plan for the green infrastructure loan
14 program for review and approval no later than ninety days prior
15 to the start of each fiscal year. The annual plan submitted by
16 the authority shall include the authority's projected
17 operational budget for the succeeding fiscal year.

18 (c) In the performance of the functions, powers, and
19 duties vested in the authority by this part, the authority shall
20 administer the clean energy and energy efficiency revolving loan
21 fund pursuant to section 196- and may:



- 1 (1) Make loans and expend funds to finance the purchase or
2 installation of clean energy technology and services;
- 3 (2) Implement and administer loan programs on behalf of
4 other state departments or agencies through a
5 memorandum of agreement and expend funds appropriated
6 to the department or agency for purposes authorized by
7 the legislature;
- 8 (3) Utilize all repayment mechanisms, including the green
9 energy money saver on-bill program, financing tools,
10 servicing and other arrangements, and sources of
11 capital available to the authority;
- 12 (4) Exercise powers to organize and establish special
13 purpose entities as limited liability companies under
14 the laws of the State;
- 15 (5) Acquire, hold, and sell qualified securities;
- 16 (6) Pledge unencumbered net assets, loans receivable,
17 assigned agreements, and security interests over
18 equipment financed, as collateral for the authority's
19 borrowings from federal, county, or private lenders or
20 agencies;



1 (7) Utilize the employees of the authority, including the
2 executive director;

3 (8) Enter into contracts for the service of consultants
4 for rendering professional and technical assistance
5 and advice and any other contracts that are necessary
6 and proper for the implementation of the loan fund
7 program;

8 (9) Enter into contracts for the administration of the
9 loan fund program exempt from chapter 103D;

10 (10) Establish loan fund program guidelines;

11 (11) Be audited at least annually by a firm of independent
12 certified public accountants selected by the authority
13 and provide the results of the audit to the department
14 and legislature; and

15 (12) Perform all functions necessary to effectuate the
16 purposes of this part.

17 (d) The authority shall submit an annual report for the
18 clean energy and energy efficiency revolving loan fund to the
19 legislature no later than twenty days prior to the convening of
20 each regular session describing the projects funded and the
21 projected energy impacts."



1 SECTION 6. Section 196-65, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Moneys in the Hawaii green infrastructure special
4 fund may be used, subject to the approval of the [~~public~~
5 ~~utilities~~] commission, for the purposes of:

- 6 (1) Making green infrastructure loans, including for
7 installation costs for energy-efficient lighting and
8 other energy-efficiency measures[~~7~~], to finance the
9 option to purchase solar energy systems and other
10 clean energy equipment under existing power purchase
11 agreements and energy performance contracts, finance
12 the purchase or lease of electric vehicles, and to
13 install electric vehicle charging systems;
- 14 (2) Creating a \$50,000,000 sub-fund, as a revolving line
15 of credit within the Hawaii green infrastructure
16 special fund, for any state agency to obtain financing
17 to implement cost-effective energy-efficiency
18 measures[~~7~~], finance the option to purchase solar
19 energy systems and other clean energy equipment under
20 existing power purchase agreements and energy
21 performance contracts, finance the purchase or lease



1 of electric vehicles, and install electric vehicle
2 charging systems;

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

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

7 (5) Paying financing costs, as defined in section 269-161,
8 to the extent permitted by the [~~public utilities~~]
9 commission in a financing order issued pursuant to
10 section 269-163."

11 SECTION 7. Section 201-12.8, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Subject to legislative appropriation, moneys from the
14 fund may be expended by the Hawaii state energy office for the
15 following purposes and used for no other purposes, except for
16 those set forth in this section:

17 (1) To support the Hawaii clean energy initiative program
18 and projects that promote and advance dependable and
19 affordable energy, renewable energy, energy
20 efficiency, energy self-sufficiency, and greater



1 energy security and resiliency for the State and
2 public facilities;

3 (2) To fund, to the extent possible, the climate change
4 mitigation and adaptation commission and the
5 greenhouse gas sequestration task force;

6 (3) To support achieving the zero emissions clean economy
7 target set forth in section 225P-5;

8 ~~[(4) To fund the building energy efficiency revolving loan~~
9 ~~fund established in section 201-20;~~

10 ~~+(5)]~~ (4) To fund projects and incentives to promote the
11 adoption of clean transportation technologies, develop
12 clean vehicle charging infrastructure, and upgrade
13 infrastructure to support the development of clean
14 vehicle charging infrastructure; and

15 ~~[(6)]~~ (5) To fund, to the extent possible, the duties of
16 the state building code council in section 107-24, as
17 they relate to the development of energy conservation
18 codes."

19 SECTION 8. Section 201-20, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§201-20] Building energy efficiency revolving loan~~

2 ~~fund. (a) There is established in the state treasury the~~
3 ~~building energy efficiency revolving loan fund which shall be~~
4 ~~administered by the department, and into which shall be~~
5 ~~deposited.~~

6 ~~(1) Funds from federal, state, county, private, or other~~
7 ~~funding sources;~~

8 ~~(2) Moneys received as repayment of loans and interest~~
9 ~~payments; and~~

10 ~~(3) Any fees collected by the department under this~~
11 ~~section.~~

12 ~~(b) Moneys in the building energy efficiency revolving~~
13 ~~loan fund shall be used to provide low or no interest loans or~~
14 ~~other authorized financial assistance to eligible public,~~
15 ~~private, and nonprofit borrowers to make energy efficiency~~
16 ~~improvements in buildings. Moneys from the fund may be used to~~
17 ~~cover administrative and legal costs of fund management and~~
18 ~~management associated with individual loans, to include~~
19 ~~personnel, services, technical assistance, data collection and~~
20 ~~reporting, materials, equipment, and travel for the purposes of~~
21 ~~this section.~~



1 ~~(c) Appropriations or authorizations from the fund shall~~
2 ~~be expended by the department. The department may contract with~~
3 ~~other public or private entities for the provision of all or a~~
4 ~~portion of the services necessary for the administration and~~
5 ~~implementation of the loan fund program. The department may set~~
6 ~~fees or charges for fund management and technical site~~
7 ~~assistance provided under this section. The department may~~
8 ~~adopt rules pursuant to chapter 91 to carry out the purposes of~~
9 ~~this section.~~

10 ~~(d) All interest earned on the deposit or investment of~~
11 ~~the moneys in the fund shall become a part of the fund.~~

12 ~~(e) The department may establish subaccounts within the~~
13 ~~fund as necessary."]~~

14 SECTION 9. There is appropriated out of the clean energy
15 and energy efficiency revolving loan fund the sum of \$50,000,000
16 or so much thereof as may be necessary for fiscal year 2021-2022
17 to provide loans or other financial assistance to eligible
18 borrowers for clean energy investments or other authorized uses.

19 The sum appropriated shall be expended by the Hawaii green
20 infrastructure authority for the purposes of this Act.



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 11. This Act shall take effect on July 1, 2021.



Report Title:

Clean Energy and Energy Efficiency Revolving Fund; Building Energy Efficiency Revolving Loan Fund; Energy Financing for State Agencies; Hawaii Green Infrastructure Authority; Green Infrastructure Loans; Green Infrastructure Program; Appropriation

Description:

Establishes the clean energy and energy efficiency revolving loan fund. Repeals the building energy efficiency revolving loan fund. Authorizes moneys in the green infrastructure special fund to be used to finance the option to purchase solar energy systems and other clean energy equipment, including the purchase or lease of electric vehicles. Clarifies the definitions of loan program and green infrastructure loans as they relate to the issuance of GEMS bonds. Appropriates an unspecified amount out of the clean energy and energy efficiency revolving loan fund. Appropriates funds to provide loans or other financial assistance to eligible borrowers for clean energy investments. (CD1)

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