

JAN 19 2024

A BILL FOR AN ACT

RELATING TO FINANCING.

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

1 SECTION 1. The legislature finds that the State's streams,
2 groundwater, and ocean are harmed by nonpoint contamination
3 sources that flow directly off the land, rather than through
4 pipes or ditches. Cesspools are a nonpoint contamination source
5 of great concern. These inadequate systems are essentially
6 holes in the ground that do not treat wastewater; rather, they
7 merely dispose of polluted wastewater.

8 It is estimated that there are almost eighty-three thousand
9 cesspools in the State, with nearly fifty thousand, or eighteen
10 per cent, on Hawaii island, approximately fourteen thousand, or
11 eighteen per cent, on Kauai, over eleven thousand, or fourteen
12 per cent on Maui, approximately seven thousand five hundred, or
13 nine per cent, on Oahu, and approximately one thousand four
14 hundred, or two percent, on Molokai. Collectively, the State's
15 cesspools release more than fifty-three million gallons of
16 untreated sewage into the ground each day and Hawaii relies on
17 groundwater for ninety per cent of its drinking water.



1 In response to the State's cesspool pollution problem, in
2 2017 the legislature enacted a measure that required all
3 cesspools not excluded by the director of health to be upgraded
4 or converted to wastewater systems approved by the director of
5 health, or connected to sewage systems by January 1, 2050;
6 however, cesspool conversions, which are estimated to cost
7 \$1,300,000,000, have been lagging.

8 The legislature finds the upfront costs of cesspool
9 conversions to be a barrier that prevents many cesspool owners
10 from addressing systems that daily contribute to the release of
11 untreated sewage into the ground. The legislature further finds
12 that it is in the public interest to reduce risks presented by
13 cesspools and safeguard public sanitation and the environment.
14 It is in the interest of the State to encourage the acceleration
15 of cesspool conversions as doing so would also produce external
16 benefits to public education about cesspools and wastewater,
17 while creating a market to sustain the clean water workforce
18 being developed in training programs, like Work-4-Water, through
19 the university of Hawaii community colleges system.

20 The legislature also finds that while state and federal
21 funding for cesspool conversion loans are limited, the recently



1 approved Inflation Reduction Act and Bipartisan Infrastructure
2 Law generously increase funding to supplement the Hawaii public
3 utilities commission's energy efficiency programs. Under the
4 Inflation Reduction Act Home Energy Rebate program, the state of
5 Hawaii will receive \$68,300,000 in funding for energy efficient
6 water heaters, space heaters and coolers, dryers, cooking
7 appliances, wiring, insulation, and other ENERGY STAR qualified
8 technologies from FY2024 to FY2031. Under the Bipartisan
9 Infrastructure Law, the state will receive \$7,000,000 in funds
10 for grid resilience and weatherization, and \$18,000,000 for
11 electric vehicle charging infrastructure from FY2024 to FY2028.

12 The public utilities commission-approved public benefits
13 fee surcharge is currently used by its contractor, Hawaii
14 Energy, to administer commercial and residential energy
15 efficiency programs. For the program year spanning July 1,
16 2023, to June 30, 2024, it is expected that Hawaii Energy will
17 receive \$44,000,000 from ratepayers to administer its programs
18 with \$26,000,000 allocated for commercial programs and
19 \$18,000,000 allocated for residential programs.

20 On October 26, 2017, the public utilities commission issued
21 Order No. 34930 requiring the Hawaii green infrastructure



1 authority to transfer all green energy market securitization
2 (GEMS) bond-funded principal and interest loan repayments
3 collected to supplement the public benefits fund. The amounts
4 transferred to the public utilities commission are approximately
5 \$3,500,000 to \$4,000,000 annually, and, to date, the authority
6 has transferred over \$17,700,000 to the commission.

7 It is expected that the Maui wildfires will significantly
8 injure the State's economic health, and initial signs already
9 indicate that the actual general fund tax revenue is roughly 1.8
10 per cent less than projected by the council on revenues for the
11 first fiscal month of 2024.

12 The legislature further finds that according to the
13 Indenture of Trust, the GEMS bond was designated a "green bond,"
14 and that the State pledged to commit proceeds to the "financing
15 of environmentally beneficial projects."

16 In lieu of transferring GEMS loan repayments to the public
17 utilities commission, the legislature finds that allowing the
18 Hawaii green infrastructure authority to retain earned interest
19 to cover its operating expenses while repurposing the repaid
20 principal of GEMS funded solar loans to fund a cesspool
21 conversion revolving loan fund would create a long-term source



1 of capital that, when combined with federal funds, serves a
2 necessary public purpose.

3 The purpose of this Act is to:

4 (1) Establish the cesspool conversion revolving loan fund
5 within the Hawaii green infrastructure special fund to
6 provide financing to low- and moderate-income
7 households for cesspool conversions approved by the
8 department of health;

9 (2) Authorize the Hawaii green infrastructure authority to
10 administer the fund and require annual reports to the
11 legislature; and

12 (3) Make an appropriation for one full-time equivalent
13 program management and loan officer position.

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

17 **"§196- Cesspool conversion revolving loan fund. (a)**

18 There is established in the Hawaii green infrastructure special
19 fund established under section 196-65, the cesspool conversion
20 revolving loan fund, that shall be administered by the
21 authority. Funds deposited into the cesspool conversion



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

3 (1) Principal and interest repayments from green
4 infrastructure loans made under section 196-65;

5 (2) Interest repayments from loans made to state
6 government agencies under section 196-62.5;

7 (3) Funds from federal, state, county, private or other
8 funding sources;

9 (4) Moneys received as repayment of loans and interest
10 payments; provided that the repayment of loans and
11 interest payments under this paragraph shall not
12 include repayment of loans and interest collected as a
13 result of funds advanced from proceeds of the clean
14 energy and energy efficiency revolving loan fund or
15 solar photovoltaic and energy storage loan program;
16 and

17 (5) Any fees collected by the authority under this
18 section; provided that moneys collected as a result of
19 the funds advanced from proceeds of the green energy
20 market securitization bonds, clean energy and energy
21 efficiency revolving loan fund, and solar photovoltaic



1 and energy storage loan program shall be kept separate
2 from fees collected as a result of funds advanced from
3 proceeds of the cesspool conversion revolving loan
4 fund.

5 (b) Moneys in the cesspool conversion revolving loan fund
6 shall be used to provide low-cost loans or other authorized
7 financial assistance to eligible low- and moderate-income
8 households to convert existing cesspools in all four counties to
9 septic systems, aerobic treatment unit systems, connect to
10 existing sewer systems, or any other system approved by the
11 department of health for wastewater treatment on terms approved
12 by the authority. Moneys from the fund may be used to cover all
13 administrative and legal costs of fund management and management
14 associated with all loan programs administered by the authority,
15 including personnel, services, technical assistance, data
16 collection and reporting, materials, equipment, and travel for
17 the purposes of this section.

18 (c) Funds appropriated or authorized from the cesspool
19 conversion revolving loan fund shall be expended by the
20 authority. The authority may contract with other public or
21 private entities for the provision of all or a portion of the



1 services necessary for the administration and implementation of
2 the loan fund program. The authority may set fees for fund
3 management and technical site assistance provided under this
4 section.

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

8 (e) The authority may establish subaccounts within the
9 fund as necessary.

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

12 SECTION 3. Section 196-64, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§196-64 Functions, powers, and duties of the authority.**

15 (a) In the performance of, and with respect to the functions,
16 powers, and duties vested in the authority by this part, the
17 authority, as directed by the director and in accordance with a
18 green infrastructure loan program order or orders under section
19 269-171 or an annual plan submitted by the authority pursuant to
20 this section, as approved by the commission for the green
21 infrastructure loan program, may:



- 1 (1) Make loans and expend funds to finance the purchase or
2 installation of green infrastructure equipment for
3 clean energy technology, demand response technology,
4 and energy use reduction and demand side management
5 infrastructure, programs, and services;
- 6 (2) Hold and invest moneys in the green infrastructure
7 special fund in investments as permitted by law and in
8 accordance with approved investment guidelines
9 established in one or more orders issued by the
10 commission pursuant to section 269-171;
- 11 (3) Hire employees necessary to perform its duties,
12 including an executive director. The executive
13 director shall be appointed by the authority, and the
14 employees' positions, including the executive
15 director's position, shall be exempt from chapter 76;
- 16 (4) Enter into contracts for the service of consultants
17 for rendering professional and technical assistance
18 and advice, and any other contracts that are necessary
19 and proper for the implementation of the loan program;



1 (5) Enter into contracts for the administration of the
2 loan program, without the necessity of complying with
3 chapter 103D;

4 (6) Establish loan program guidelines to be approved in
5 one or more orders issued by the commission pursuant
6 to section 269-171 to carry out the purposes of this
7 part;

8 (7) Be audited at least annually by a firm of independent
9 certified public accountants selected by the
10 authority, and provide the results of this audit to
11 the department and the commission; and

12 (8) Perform all functions necessary to effectuate the
13 purposes of this part.

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

20 (c) In the performance of the functions, powers, and
21 duties vested in the authority by this part, the authority shall



1 administer the clean energy and energy efficiency revolving loan
2 fund pursuant to section 196-65.5 and may:

3 (1) Make loans and expend funds to finance the purchase or
4 installation of clean energy technology and services;

5 (2) Implement and administer loan programs on behalf of
6 other state departments or agencies through a
7 memorandum of agreement and expend funds appropriated
8 to the department or agency for purposes authorized by
9 the legislature;

10 (3) Utilize all repayment mechanisms, including the green
11 energy money saver on-bill program, financing tools,
12 servicing and other arrangements, and sources of
13 capital available to the authority;

14 (4) Exercise powers to organize and establish special
15 purpose entities as limited liability companies under
16 the laws of the State;

17 (5) Acquire, hold, and sell qualified securities;

18 (6) Pledge unencumbered net assets, loans receivable,
19 assigned agreements, and security interests over
20 equipment financed, as collateral for the authority's



1 borrowings from federal, county, or private lenders or
2 agencies;

3 (7) Utilize the employees of the authority, including the
4 executive director;

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

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

12 (10) Establish loan fund program guidelines;

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

17 (12) Perform all functions necessary to effectuate the
18 purposes of this part.

19 (d) The authority shall submit an annual report for the
20 clean energy and energy efficiency revolving loan fund to the
21 legislature no later than twenty days prior to the convening of



1 each regular session describing the projects funded and the
2 projected energy impacts.

3 (e) In the performance of the functions, powers, and
4 duties vested in the authority by this part, the authority shall
5 administer the cesspool conversion revolving loan fund pursuant
6 to section 196- and may:

7 (1) Make loans and expend funds to finance the conversion
8 of existing cesspools in all four counties to septic
9 systems, aerobic treatment unit systems, connect to
10 existing sewer systems, or any other system approved
11 by the department of health for wastewater treatment;

12 (2) Implement and administer the loan program with funding
13 available under chapter 342D-83, provided by the
14 department of health on an annual basis through a
15 memorandum of agreement and expend funds appropriated
16 to the department for purposes authorized by the
17 legislature;

18 (3) Utilize all repayment mechanisms, financing tools,
19 servicing and other arrangements, and sources of
20 capital available to the authority;



- 1 (4) Utilize the employees of the authority, including the
2 executive director;
- 3 (5) 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 (6) Enter into contracts for the administration of the
9 loan fund program exempt from chapter 103D;
- 10 (7) Establish loan fund program guidelines;
- 11 (8) 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 of health and legislature; and
- 15 (9) Perform all functions necessary to effectuate the
16 purposes of this part.
- 17 The authority shall submit an annual report for the cesspool
18 conversion revolving loan fund to the legislature no later than
19 twenty days prior to the convening of each regular session
20 describing the projects funded."



1 SECTION 4. In accordance with section 9 of article VII of
2 the Hawaii State Constitution and sections 37-91 and 37-93,
3 Hawaii Revised Statutes, the legislature has determined that the
4 appropriations contained in Act 164, Regular Session of 2023,
5 and this Act will cause the state general fund expenditure
6 ceiling for fiscal year 2024-2025 to be exceeded by
7 \$ or per cent. This current declaration takes
8 into account general fund appropriations authorized for fiscal
9 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
10 only. The reasons for exceeding the general fund expenditure
11 ceiling are that:

- 12 (1) The appropriation made in this Act is necessary to
13 serve the public interest; and
14 (2) The appropriation made in this Act meets the needs
15 addressed by this Act.

16 SECTION 5. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2024-2025 for
19 one full-time equivalent (1.0 FTE) program management and loan
20 officer position and to provide loans or other financial



1 assistance to eligible borrowers for cesspool conversion loans
2 or other authorized uses.

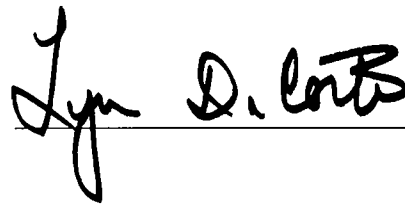
3 The sum appropriated shall be expended by the Hawaii green
4 infrastructure authority for the purposes of this Act.

5 SECTION 6. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 7. This Act shall take effect on July 1, 2024.

8

INTRODUCED BY:





S.B. NO. 2498

Report Title:

Cesspool Conversion Revolving Loan Fund Program; Hawaii Green Energy Infrastructure Authority; Green Energy Market Securitization Bond Funded Loan Proceeds; Report; Expenditure Ceiling; Appropriation

Description:

Establishes the Cesspool Conversion Revolving Loan Fund and directs green energy market securitization loan repayments and interest to be deposited into the Cesspool Conversion Revolving Loan Fund. Requires the Hawaii Green Infrastructure Authority to administer the Cesspool Conversion Revolving Loan Fund. Requires a report to the Legislature. Makes an appropriation.

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

