
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 chapter
7 269, Hawaii Revised Statutes, as well as the Hawaii clean energy
8 initiative's target of one hundred sixty-five million gallons of
9 petroleum used per year for ground transportation by 2030. The
10 current aggregate level of green infrastructure investment is in
11 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



1 limited public funds. A growth in the clean energy market will
2 reduce the cost of clean energy for ratepayers, drive job
3 creation, and save billions of taxpayer dollars currently being
4 spent on importing petroleum oil.

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

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



1 and attract private investment in green technology. It is the
2 State's goal that each public dollar spent will have an
3 investment multiplier effect throughout the green technology
4 industry.

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

20 Further, the coronavirus disease 2019 pandemic has had
21 significant negative impacts on Hawaii's tourism industry and



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



1 reduction in cost, which includes the loan repayment and ongoing
2 equipment maintenance costs, creates a new source of cash flow
3 for the agency.

4 With the number of energy performance contracts and power
5 purchase agreements in existence throughout the State, there is
6 a tremendous opportunity for additional energy savings to be
7 utilized to finance the conversion of the State's retiring
8 internal combustion fleet to short-term leases on electric
9 vehicles as well as install electric vehicle charging systems
10 while remaining budget neutral. Using the example above, 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 loan
 17 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 part
8 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 be kept separate from fees



1 collected as a result of funds advanced from proceeds
2 of the clean energy and energy efficiency revolving
3 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) Appropriations or authorizations 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 by adding fifteen new definitions to be appropriately
12 inserted and to read as follows:

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

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

19 "Electric vehicle charging system" has the same meaning as
20 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 "Green infrastructure loan program" means the loan program
7 established under this part and capitalized by the issuance of
8 the green energy market securitization bonds.

9 "Limited liability company" means a limited liability
10 company formed under chapter 428.

11 "Loan fund program" means the clean energy and energy
12 efficiency revolving loan fund program.

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

19 "Power purchase agreement" means a contract between two
20 parties, one that generates electricity, or the seller, and one
21 that seeks to purchase electricity, or the buyer, that defines



1 all of the commercial terms for the sale of electricity between
2 the two parties.

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

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

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

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

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

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

19 "[+]§196-62.5[+] **Financing for state government agencies.**

20 (a) [~~With the approval of the governor, a~~] Any state agency may
21 apply for financing, subject to availability under the revolving



1 line of credit for fiscal year [~~2018-2019,~~] 2021-2022, and
2 annually thereafter, from the green infrastructure loan program
3 pursuant to section 196-65(b)(2), upon terms and conditions as
4 are agreed to between the department or agency and the Hawaii
5 green infrastructure authority; provided that the loans shall be
6 issued at an interest rate of 3.5 per cent a year; provided
7 further that the loans shall not adversely affect the
8 sustainability of the sub-fund or Hawaii green infrastructure
9 special fund such that the replenishment of funds requires a
10 higher interest rate in other financing agreements or an
11 appropriation from the general fund.

12 (b) [~~An~~] As may be applicable, an agency shall consult
13 with the public benefits fee administrator of the [~~public~~
14 ~~utilities~~] commission prior to planning an energy-efficiency
15 measure subject to this section. The agency's proposed energy-
16 efficiency measures shall meet or exceed the public benefits fee
17 administrator's enhanced efficiency levels and requirements to
18 be eligible for the Hawaii green infrastructure loan program.
19 The agency shall coordinate with the public benefits fee
20 administrator throughout the entire project cycle to ensure that
21 energy efficiency is maximized. All supporting documentation



1 required by the public benefits fee administrator shall be
2 provided by the agency to ensure compliance with the State's
3 energy-efficiency portfolio standard under section 269-96.

4 (c) An agency shall submit an expenditure plan to the
5 executive director of the Hawaii green infrastructure authority,
6 who shall serve as the fiscal administrator for the loans issued
7 pursuant to subsection (a) and shall make payment on behalf of
8 the agency, as appropriate, upon submission of requests for
9 payment from the agency.

10 (d) Beginning with fiscal year [~~2018-2019,~~] 2021-2022, and
11 annually thereafter, an agency shall repay a loan issued
12 pursuant to subsection (a) using general revenue savings that
13 result from reduced [~~utility~~] energy costs due to
14 [~~implementation of~~] financing the purchase of solar energy
15 systems or other clean energy equipment, implementing energy-
16 efficient lighting and other energy-efficiency measures[-], as
17 well as operational and fuel cost savings achieved by the
18 conversion of internal combustion vehicles to electric
19 vehicles."

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



1 " ~~[§196-64]~~ **Functions, powers, and duties of the**
2 **authority.** (a) In the performance of, and with respect to the
3 functions, powers, and duties vested in the authority by this
4 part, the authority, as directed by the director and in
5 accordance with a green infrastructure loan program order or
6 orders under section 269-171 or an annual plan submitted by the
7 authority pursuant to this section, as approved by the ~~[public~~
8 ~~utilities]~~ commission for the green energy market securitization
9 loan program may:

- 10 (1) Make loans and expend funds to finance the purchase or
11 installation of green infrastructure equipment for
12 clean energy technology, demand response technology,
13 and energy use reduction and demand side management
14 infrastructure, programs, and services;
- 15 (2) Hold and invest moneys in the green infrastructure
16 special fund in investments as permitted by law and in
17 accordance with approved investment guidelines
18 established in one or more orders issued by the
19 ~~[public utilities]~~ commission pursuant to section 269-
20 171;



- 1 (3) Hire employees necessary to perform its duties,
2 including an executive director. The executive
3 director shall be appointed by the authority, and the
4 employees' positions, including the executive
5 director's position, shall be exempt from chapter 76;
- 6 (4) Enter into contracts for the service of consultants
7 for rendering professional and technical assistance
8 and advice, and any other contracts that are necessary
9 and proper for the implementation of the loan program;
- 10 (5) Enter into contracts for the administration of the
11 loan program, without the necessity of complying with
12 chapter 103D;
- 13 (6) Establish loan program guidelines to be approved in
14 one or more orders issued by the [~~public utilities~~]
15 commission pursuant to section 269-171 to carry out
16 the purposes of this part;
- 17 (7) Be audited at least annually by a firm of independent
18 certified public accountants selected by the
19 authority, and provide the results of this audit to
20 the department and the [~~public utilities~~] commission;
21 and



1 (8) Perform all functions necessary to effectuate the
2 purposes of this part.

3 (b) The authority shall submit to the [~~public utilities~~]
4 commission an annual plan for the green energy market
5 securitization loan program for review and approval no later
6 than ninety days prior to the start of each fiscal year. The
7 annual plan submitted by the authority shall include the
8 authority's projected operational budget for the succeeding
9 fiscal year.

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

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

16 (2) Implement and administer loan programs on behalf of
17 other state departments or agencies through a
18 memorandum of agreement and expend funds appropriated
19 to the department or agency for purposes authorized by
20 the legislature;



- 1 (3) Utilize all repayment mechanisms, including the green
2 energy money saver on-bill program, financing tools,
3 servicing and other arrangements, and sources of
4 capital available to the authority;
- 5 (4) Exercise powers to organize and establish special
6 purpose entities as limited liability companies under
7 the laws of the State;
- 8 (5) Acquire, hold, and sell qualified securities;
- 9 (6) Pledge unencumbered net assets, loans receivable,
10 assigned agreements, and security interests over
11 equipment financed, as collateral for the authority's
12 borrowings from federal, county, or private lenders or
13 agencies;
- 14 (7) Utilize the employees of the authority, including the
15 executive director;
- 16 (8) 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 fund
20 program;



- 1 (9) Enter into contracts for the administration of the
2 loan fund program exempt from chapter 103D;
- 3 (10) Establish loan fund program guidelines;
- 4 (11) Be audited at least annually by a firm of independent
5 certified public accountants selected by the
6 authority, and provide the results of the audit to the
7 department and the legislature; and
- 8 (12) Perform all functions necessary to effectuate the
9 purposes of this part.
- 10 (d) The authority shall submit an annual report for the
11 clean energy and energy efficiency revolving loan fund to the
12 legislature no later than twenty days prior to the convening of
13 each regular session describing the projects funded and the
14 projected energy impacts."

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

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

- 20 (1) Making green infrastructure loans, including for
21 installation costs for energy-efficient lighting and



1 other energy-efficiency measures[+], to finance the
2 option to purchase solar energy systems and other
3 clean energy equipment under existing power purchase
4 agreements and energy performance contracts, finance
5 the purchase or lease of electric vehicles, and to
6 install electric vehicle charging systems;

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

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

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



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

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

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

11 (1) To support the Hawaii clean energy initiative program
12 and projects that promote and advance dependable and
13 affordable energy, renewable energy, energy
14 efficiency, energy self-sufficiency, and greater
15 energy security and resiliency for the State and
16 public facilities;

17 (2) To fund, to the extent possible, the climate change
18 mitigation and adaptation commission and the
19 greenhouse gas sequestration task force;

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



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

3 ~~(5)]~~ (4) To fund projects and incentives to promote the
4 adoption of clean transportation technologies, develop
5 clean vehicle charging infrastructure, and upgrade
6 infrastructure to support the development of clean
7 vehicle charging infrastructure; and

8 ~~[(6)]~~ (5) To fund, to the extent possible, the duties of
9 the state building code council in section 107-24, as
10 they relate to the development of energy conservation
11 codes."

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

14 ~~["§201-20] Building energy efficiency revolving loan~~
15 ~~fund. (a) There is established in the state treasury the~~
16 ~~building energy efficiency revolving loan fund which shall be~~
17 ~~administered by the department, and into which shall be~~
18 ~~deposited:~~

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



1 ~~(2) Moneys received as repayment of loans and interest~~
2 ~~payments, and~~

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

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

15 ~~(c) Appropriations or authorizations from the fund shall~~
16 ~~be expended by the department. The department may contract with~~
17 ~~other public or private entities for the provision of all or a~~
18 ~~portion of the services necessary for the administration and~~
19 ~~implementation of the loan fund program. The department may set~~
20 ~~fees or charges for fund management and technical site~~
21 ~~assistance provided under this section. The department may~~



1 ~~adopt rules pursuant to chapter 91 to carry out the purposes of~~
2 ~~this section.~~

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

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

7 SECTION 9. There is appropriated out of the clean energy
8 and energy efficiency revolving loan fund the sum of \$
9 or so much thereof as may be necessary for fiscal year 2021-2022
10 to provide loans or other financial assistance to eligible
11 borrowers for clean energy investments or other authorized uses.

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

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

16 SECTION 11. This Act shall take effect on May 6, 2137.



Report Title:

Clean Energy and Energy Efficiency Revolving Fund; Building Energy Efficiency Revolving Loan Fund; Energy Financing for State Agencies; Hawaii Green Infrastructure Authority; 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. Appropriates an unspecified amount out of the clean energy and energy efficiency revolving loan fund. Effective 5/6/2137. (SD2)

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

