

JAN 25 2017

---

---

# A BILL FOR AN ACT

RELATING TO THE GREEN INFRASTRUCTURE LOAN PROGRAM.

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

1           SECTION 1. The legislature finds that the green  
2 infrastructure loan program has not been a success. The factors  
3 contributing to the disappointing performance of the green  
4 infrastructure loan program will likely continue to inhibit  
5 loans for underserved electric utility customers to purchase and  
6 install photovoltaic systems. These factors include the  
7 following: the termination of the net energy metering program,  
8 high availability of competitive commercial loan products,  
9 interconnection issues, and a permitting backlog.

10           Because the program had issued very few loans, a  
11 substantial amount of the green infrastructure bond proceeds  
12 remains available for deployment for renewable energy projects.  
13 As of June 30, 2016, the green infrastructure loan program fund  
14 balance was \$142,800,000.

15           Although the green infrastructure loan program is funded by  
16 the green infrastructure fee imposed on all electric utility  
17 customers of the Hawaiian Electric Companies, the primary



1 beneficiaries are intended to be the electric utility customers  
2 who receive green infrastructure loans and "deployment  
3 partners", such as solar financiers, financial institutions,  
4 solar installers, and other clean energy capital providers.  
5 This seems unfair to ratepayers who pay the green infrastructure  
6 fee but are not the primary program beneficiaries.

7       The green infrastructure fee is the source of payment for  
8 the debt service on the green infrastructure bonds. The green  
9 infrastructure fee is to continue until the debt service is  
10 fully paid or defeased. In practical effect, the green  
11 infrastructure bond debt service payments are dependent  
12 primarily on the imposition and collection of the green  
13 infrastructure fee, and not on the success of issuing green  
14 infrastructure loans to realize loan repayments.

15       Thus, there is no immediate pressure to deploy green  
16 infrastructure loans quickly. Expediting loans to generate  
17 repayments soon to pay the debt service is not absolutely  
18 necessary.

19       Indeed, the State may make the time to deliberate on the  
20 worthiness of loan applications for renewable energy projects  
21 that will be necessary to achieve the aggressive goals of Act



1 97, Session Laws of Hawaii 2015. Among other things, Act 97  
2 requires each electric utility company to set a renewable  
3 portfolio standard under which one hundred per cent of its net  
4 electricity sales are to be generated from renewable energy by  
5 December 31, 2045. Substantial capital will obviously be needed  
6 to reach that goal.

7 To provide some of the necessary capital, a re-direction of  
8 green infrastructure loans towards utility-scale renewable  
9 energy generation or storage projects seems logical. Doing so  
10 may result in the issuance of larger, but fewer, loans and  
11 require less administrative cost for servicing fewer loans.

12 Based on these findings, the legislature concludes that a  
13 strategy should be established under which green infrastructure  
14 loans for utility-scale renewable energy generation or storage  
15 projects that promote the public interest are issued at  
16 relatively low interest rates, optimally on a competitive basis.  
17 The strategy seeks to deploy the remaining green infrastructure  
18 bond proceeds for loans as quickly, but deliberatively, as  
19 possible for utility-scale renewable energy generation or  
20 storage projects that are cost-effective and result in just and  
21 reasonable electricity rates, reduced fossil fuel dependence,



1 and other public benefits. Loan repayments would then be  
2 dedicated to the payment of debt service on the green  
3 infrastructure bonds, resulting in a corresponding reduction of  
4 the green infrastructure fee imposed on ratepayers. All  
5 ratepayers who pay the green infrastructure fee would benefit  
6 from the utility-scale renewable energy generation or storage  
7 projects and reduced green infrastructure fee.

8 The purpose of this Act is to re-direct the green  
9 infrastructure loan program by implementing the following  
10 strategy:

11 (1) Expressly designating "all ratepayers" who pay the  
12 green infrastructure fee as the primary beneficiaries  
13 of the green infrastructure loan program;

14 (2) With respect to future green infrastructure loans:

15 (A) Requiring \$ in green infrastructure  
16 loans to be issued for financing utility-scale  
17 renewable energy generation projects or utility-  
18 scale renewable energy storage projects;

19 (B) Authorizing the green infrastructure authority to  
20 determine the process for soliciting and issuing  
21 green infrastructure loans to utility-scale



# S.B. NO. 1310

1 renewable energy generation or storage projects,  
2 preferably on a competitive basis; and

3 (C) Allowing, if unavoidable for the deployment of  
4 all green infrastructure bond proceeds, flexible  
5 terms and conditions on green infrastructure  
6 loans, as long as the principal of the loan is  
7 repaid;

8 (3) Requiring, before any expenditure of the green  
9 infrastructure loan by the borrower, the public  
10 utilities commission to approve the utility-scale  
11 renewable energy generation or storage project through  
12 a power purchase agreement or capital expenditure  
13 order. The legislature intends that any utility-scale  
14 renewable energy generation or storage projects  
15 financed with green infrastructure loans:

16 (A) Contribute towards achieving the Hawaii renewable  
17 energy portfolio; and

18 (B) Comply with applicable requirements of chapter  
19 269, Hawaii Revised Statutes, and relevant orders  
20 of the public utilities commission;



# S.B. NO. 1310

- 1           (4) Requiring, until the green infrastructure bonds are  
2           fully paid or defeased, any annual green  
3           infrastructure loan repayments to be applied to green  
4           infrastructure bond debt service payments, with a  
5           corresponding reduction of the green infrastructure  
6           fee;
- 7           (5) Terminating the green infrastructure fee upon the full  
8           payment or defeasance of the green infrastructure  
9           bonds;
- 10          (6) Terminating the green infrastructure loan program and  
11          Hawaii green infrastructure authority shortly after  
12          the full payment or defeasance of the green  
13          infrastructure bonds; and
- 14          (7) Including the following miscellaneous provisions:
- 15                (A) Prohibiting green infrastructure loans for  
16                undersea cable energy transmission projects; and
- 17                (B) Prohibiting green infrastructure loans for  
18                liquified natural gas projects.

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



1           "§196-       Green infrastructure loans from the effective  
2 date of this Act. (a) From the effective date of this Act,  
3 green infrastructure loans in principal amount of at least  
4 \$                   shall be made to the eligible borrowers for financing  
5 the purchase or installation of utility-scale renewable energy  
6 generation projects or utility-scale renewable energy storage  
7 projects. The eligible borrowers are private entities, whether  
8 corporations, partnerships, limited liability companies, or  
9 other persons.

10           The green infrastructure authority shall apply for a  
11 modification of the green infrastructure loan financing order  
12 (Decision and Order No. 32281, Docket No. 2014-0134) and green  
13 infrastructure loan program order (Decision and Order No. 32318,  
14 Docket No. 2014-0135) to comply with this section.

15           (b) The authority shall not issue a green infrastructure  
16 loan for the purchase or installation of any:

- 17           (1) Undersea cable energy transmission project; or
- 18           (2) Liquified natural gas generation, storage, or  
19           transmission project.

20           (c) The authority may establish one or more processes to  
21 solicit applications for green infrastructure loans for utility-

1 scale renewable energy generation projects or utility-scale  
2 renewable energy storage projects; provided that competitive  
3 solicitation shall be the preferred process.

4 (d) The authority shall establish the:

5 (1) Criteria for determining whether applicants qualify  
6 for and should be issued green infrastructure loans  
7 for utility-scale renewable energy generation projects  
8 or utility-scale renewable energy storage projects;  
9 and

10 (2) Terms and conditions of the green infrastructure  
11 loans; provided that the terms and conditions shall be  
12 in compliance with this chapter, the green  
13 infrastructure financing and program orders, and the  
14 green infrastructure bond indenture.

15 (e) If the authority deems that incentives are necessary  
16 to deploy all green infrastructure bond proceeds, the authority  
17 may establish terms and conditions for a green infrastructure  
18 loan for a utility-scale renewable energy generation project or  
19 utility-scale renewable energy storage project that includes  
20 either or both of the following:



1       (1) An interest rate less than the interest rate on the  
2           green infrastructure bonds; or

3       (2) A repayment period extending beyond the final maturity  
4           date of the bonds.

5       If the authority issues a green infrastructure loan with  
6       either or both terms specified under paragraphs (1) and (2), the  
7       authority shall require the borrower to repay the entire  
8       principal of the loan within twenty-five years of execution of  
9       the loan. The authority shall require the repayment to the  
10       authority or, if the authority is terminated before the last  
11       repayment, to the department.

12       Loan repayments collected by the department after the  
13       termination of the green infrastructure loan program shall be  
14       credited to electric utility ratepayers, as directed by the  
15       public utilities commission in the green infrastructure loan  
16       program order. Loan repayments transferred to an electric  
17       utility, in order to credit ratepayers, shall not be considered  
18       revenue of the electric utility and shall not be subject to  
19       state or county taxes.

20       (f) After the authority approves a green infrastructure  
21       loan for a utility-scale renewable energy generation project or



1 utility-scale renewable energy storage project, the authority  
2 shall transmit the loan proceeds to the borrower, contingent  
3 upon the approval of the public utilities commission of a:

4 (1) Power purchase agreement for the project if the  
5 borrower is not an electric utility; or

6 (2) Capital expenditure for the project if the borrower is  
7 an electric utility.

8 The approval of the public utilities commission of the  
9 power purchase agreement or capital expenditure for the project  
10 shall be required within three hundred sixty-five calendar days  
11 of the approval of the loan by the authority.

12 Upon the approval of the public utilities commission by the  
13 deadline, the authority shall transmit the loan proceeds to the  
14 borrower.

15 If the public utilities commission rejects or fails to  
16 approve the power purchase agreement or capital expenditure for  
17 the project by the deadline, the green infrastructure loan shall  
18 be deemed invalid on the day after the deadline without  
19 necessity of further action by the authority. If the loan is  
20 invalid, the proceeds shall not be transmitted to the borrower."



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

3 1. By adding three new definitions to be appropriately  
4 inserted and to read:

5 "Green infrastructure loan financing order" or "financing  
6 order" means the same as defined in section 269-161.

7 "Utility-scale renewable energy generation project" means a  
8 project with the capacity to generate at least ten megawatts of  
9 electricity using renewable energy, including a component that  
10 interconnects the project to the electricity grid or stores  
11 energy generated by the project.

12 "Utility-scale renewable energy storage project" means a  
13 project that:

14 (1) Has the capacity to store at one time at least ten  
15 megawatts of electricity generated from renewable  
16 energy;

17 (2) Is capable of dispatching the stored electricity; and

18 (3) Is not a component of a utility-scale renewable energy  
19 generation project."

20 2. By amending the definitions of "green infrastructure  
21 costs", "green infrastructure equipment", "green infrastructure



1 loan program order", and "loan program" and "green  
2 infrastructure loans" to read:

3 "Green infrastructure costs" means costs incurred or to be  
4 incurred by [~~the electric~~]:

5 (1) Electric utility customers to pay for clean energy  
6 technology, demand response technology, and energy use  
7 reduction and demand side management infrastructure  
8 including, without limitation, the purchase or  
9 installation of green infrastructure equipment,  
10 programs, and services authorized by the loan  
11 program[-]; and

12 (2) Eligible borrowers of green infrastructure loans to  
13 pay for the purchase or installation of utility-scale  
14 renewable energy generation projects or utility-scale  
15 renewable energy storage projects.

16 "Green infrastructure equipment" means infrastructure  
17 improvements, equipment, and personal property to be installed  
18 to deploy clean energy technology, demand response technology,  
19 and energy use reduction and demand side management  
20 infrastructure. The term also means infrastructure  
21 improvements, equipment, and personal property for the purchase



1 or installation of utility-scale renewable energy generation  
2 projects or utility-scale renewable energy storage projects.

3 "Green infrastructure loan program order" or "program  
4 order" means the same as defined in section 269-161.

5 "Loan program" and "green infrastructure loans" means the  
6 program established by this part and loans made to finance the  
7 purchase or installation of [green]:

- 8 (1) Green infrastructure equipment for clean energy  
9 technology, demand response technology, and energy use  
10 reduction and demand side management infrastructure,  
11 programs, and services as authorized by the public  
12 utilities commission using the proceeds of bonds or  
13 other proceeds[-]; and
- 14 (2) Utility-scale renewable energy generation projects or  
15 utility-scale renewable energy storage projects."

16 3. By deleting the definitions of "financing order" and  
17 "green infrastructure charge".

18 [~~"Financing order" means the same as defined in section~~  
19 ~~269-161.~~

20 [~~"Green infrastructure charge" means the on bill charges for~~  
21 ~~the use and services of the loan program, including the~~



1 ~~repayment of loans made under the loan program, as authorized by~~  
2 ~~the public utilities commission to be imposed on electric~~  
3 ~~utility customers." ]~~

4 SECTION 4. Section 196-62, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 " ~~[+]§196-62[+]~~ **Hawaii green infrastructure loan**

7 **program[-]; loans, primary beneficiaries, termination of**

8 **program.** (a) There is established a Hawaii green

9 infrastructure loan program, which shall be a loan program as  
10 defined under section 39-51. The program shall be administered  
11 by the authority on behalf of the department in a manner  
12 consistent with chapter 39, part III. ~~[This]~~

13 (b) Prior to the effective date of this Act, the green  
14 infrastructure loan program may include loans made to private  
15 entities, whether corporations, partnerships, limited liability  
16 companies, or other persons, which entities may lease or provide  
17 green infrastructure equipment to electric utility customers, as  
18 well as direct loans to electric utility customers, on terms  
19 approved by the authority[-]; provided that this Act shall not  
20 affect the validity or terms and conditions of any loan executed  
21 before the effective date of this Act.



1        From the effective date of this Act, green infrastructure  
2 loans shall be made only as specified under section 196- .

3        (c) The primary beneficiaries of the green infrastructure  
4 loan program shall be the electric utility ratepayers who pay  
5 the green infrastructure fee.

6        (d) The green infrastructure loan program shall terminate  
7 thirty days after the green infrastructure bonds issued for the  
8 program have been fully paid or defeased.

9        After the termination of the green infrastructure loan  
10 program, the right to all moneys due and owing for green  
11 infrastructure loan repayments shall be transferred to and  
12 collected by the department."

13        SECTION 5. This Act shall not be applied so as to impair  
14 any contract existing as of the effective date of this Act in a  
15 manner violative of either the Hawaii State Constitution or  
16 Article I, section 10, of the United States Constitution.

17        SECTION 6. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun before its effective date.

20        SECTION 7. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# S.B. NO. 1310

1 SECTION 8. This Act shall take effect upon its approval.

2

INTRODUCED BY:  \_\_\_\_\_



# S.B. NO. 1310

**Report Title:**

Green Infrastructure Loan Program; Re-direction

**Description:**

Re-directs the Green Infrastructure Loan Program. Designates "all ratepayers" who pay the green infrastructure fee as the primary beneficiaries of the program. Requires \$ of green infrastructure loans to be issued for utility-scale renewable energy generation or storage projects. Requires proceeds of the loan repayments, as well as the green infrastructure fee, to be applied to green infrastructure bond debt service payments. Terminates the green infrastructure fee upon the full payment or defeasance of the green infrastructure bonds. Terminates the Green Infrastructure Loan Program and Green Infrastructure Authority shortly thereafter.

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

