
A BILL FOR AN ACT

RELATING TO CLEAN ENERGY FINANCING.

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 2030 target of 165,000,000 gallons of petroleum
9 used per year for ground transportation. The current aggregate
10 level of green infrastructure investment is in excess of
11 \$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 the State'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. 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 program.

13 The legislature further finds that a significant barrier to
14 clean energy adoption has been the unavailability of flexible
15 financing and low-cost capital. Building Hawaii's clean energy
16 infrastructure at the lowest possible cost is vital to reach the
17 State's goal of one hundred per cent clean energy by 2045.

18 Public funds must be used in a sustainable manner to
19 simultaneously spark customer demand for clean energy technology
20 and attract private investment in green technology. It is the
21 State's goal that each public dollar spent will have an



1 investment multiplier effect throughout the green technology
2 industry.

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

19 Furthermore, the COVID-19 pandemic has had significant
20 negative impacts on Hawaii's tourist industry and economy,
21 resulting in projections of severe state budgetary shortfalls



1 over the next four years. With only a limited number of
2 financing mechanisms available for state agencies to install
3 solar photovoltaic systems, state agencies have historically
4 lowered their energy costs by entering into energy performance
5 contracts and power purchase agreements with private partners to
6 install and own energy retrofits and solar photovoltaic systems
7 on their behalf. While individual results are dependent on the
8 negotiated terms of the consummated energy performance contract
9 or power purchase agreement, many of these arrangements have
10 successfully reduced the cost of energy for the State.

11 Additionally, most agreements include an option for state
12 agencies to purchase the installed equipment during the term of
13 the agreement. For example, an actual power purchase agreement
14 executed on September 30, 2016, between a state agency and an
15 investor is estimated to reduce the agency's energy cost by
16 forty-two per cent over the twenty-year term of the agreement.
17 However, if this state agency had access to financing under
18 section 196-62.5, Hawaii Revised Statutes, to exercise its
19 purchase option over the same twenty-year term of the power
20 purchase agreement, it is estimated the agency would reduce its
21 energy cost by sixty-one per cent. This sixty-one per cent,



1 which includes the loan repayment and ongoing equipment
2 maintenance costs, would create a new source of cash flow for
3 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 --
7 savings that can be utilized to finance the conversion of the
8 State's retiring internal combustion fleet to short-term leases
9 on electric vehicles and install electric vehicle charging
10 systems, while remaining budget neutral. Using the example
11 above, this agency could install one Level 3 Charging System and
12 lease 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) Expanding the objective of the \$50,000,000 sub-fund to
21 allow state agencies to finance their purchase options



1 under existing energy performance contracts and power
 2 purchase agreements to further reduce and stabilize
 3 future energy costs, with the option to utilize
 4 savings to finance the installation of electric
 5 vehicle charging systems and lease or purchase
 6 electric vehicles;

7 (3) Repealing the building energy efficiency revolving
 8 loan fund; and

9 (4) Appropriating funds out of the clean energy and energy
 10 efficiency revolving loan fund to make clean energy
 11 investment loans or for other approved uses.

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

15 **"§196- Clean energy and energy efficiency revolving**
 16 **loan fund.** (a) There is created within the Hawaii green
 17 infrastructure special fund created in section 196-65 the clean
 18 energy and energy efficiency revolving loan fund, similar to a
 19 revolving line of credit, which shall be administered by the
 20 authority. Funds deposited into the clean energy and energy
 21 efficiency revolving loan fund shall not be under the



1 jurisdiction of, nor be subject to approval by, the public
2 utilities commission and shall include:

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

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

10 (3) Investments from public or private investors;

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



1 proceeds of the clean energy and energy efficiency
2 revolving loan fund.

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

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



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

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

6 (e) The authority may establish subaccounts within the
7 clean energy and energy efficiency revolving loan fund as
8 necessary."

9 SECTION 3. Section 196-61, Hawaii Revised Statutes, is
10 amended by adding fifteen new definitions to be appropriately
11 inserted and to read as follows:

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

16 "Electric vehicle" has the same definition as in section
17 291-71.

18 "Electric vehicle charging system" has the same definition
19 as in section 291-71.

20 "Energy performance contract" has the same meaning as in
21 section 36-41.



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

5 "Green infrastructure loan program", "green energy market
6 securitization loan program", or "GEMS loan program" means the
7 loan program established under section 196-62 and capitalized by
8 the issuance of green energy market securitization bonds.

9 "Limited liability company" shall have the same meaning as
10 in section 428-101.

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 that gives the buyer the option,
15 but not the obligation, to purchase the solar photovoltaic
16 system or other installed equipment at an agreed upon price,
17 prior to the maturity date of the power purchase agreement or
18 energy performance contract.

19 "Power purchase agreement" means a contract between two
20 parties, one which generates electricity (the seller) and one
21 which is looking to purchase electricity (the buyer). The power



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

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

5 "Renewable energy" shall have the same meaning as in
6 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 typically
12 used by companies to isolate the firm from financial risk.

13 "Subaccount" means an account under the clean energy and
14 energy efficiency revolving loan fund that is created within
15 another separately established fund and which is reserved for a
16 specific 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) [~~As~~] 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 photovoltaic
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 public
19 utilities commission pursuant to section 269-171;
- 20 (3) Hire employees necessary to perform its duties,
21 including an executive director. The executive



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



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

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

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

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

20 (3) Utilize all repayment mechanisms, including the green
21 energy money saver on-bill program, financing tools,



- 1 servicing and other arrangements, and sources of
2 capital available to the authority;
- 3 (4) Exercise powers to organize and establish special
4 purpose entities as limited liability companies under
5 the laws of the State;
- 6 (5) Acquire, hold, and sell qualified securities;
- 7 (6) Pledge unencumbered net assets, loan receivables,
8 assigned agreements, and security interests over
9 equipment financed, as collateral for the authority's
10 borrowings from federal, county, or private lenders or
11 agencies;
- 12 (7) Utilize the employees of the authority, including the
13 executive director;
- 14 (8) Enter into contracts for the service of consultants
15 for rendering professional and technical assistance
16 and advice, and any other contracts that are necessary
17 and proper for the implementation of the loan fund
18 program;
- 19 (9) Enter into contracts for the administration of the
20 loan fund program, without the necessity of complying
21 with chapter 103D;



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

13 SECTION 6. Section 196-65, Hawaii Revised Statutes, is

14 amended by amending subsection (b) to read as follows:

15 "(b) Moneys in the Hawaii green infrastructure special

16 fund may be used, subject to the approval of the public

17 utilities commission, for the purposes of:

- 18 (1) Making green infrastructure loans, including for
- 19 installation costs for energy-efficient lighting and
- 20 other energy-efficiency measures[+], to finance the
- 21 option to purchase solar photovoltaic systems and



- 1 other clean energy equipment under existing power
2 purchase agreements and energy performance contracts,
3 finance the purchase or lease of electric vehicles,
4 and install electric vehicle charging systems;
- 5 (2) Creating a \$50,000,000 sub-fund, as a revolving line
6 of credit within the Hawaii green infrastructure
7 special fund, for any state agency to obtain financing
8 to implement cost-effective energy-efficiency
9 measures[+], finance the option to purchase solar
10 photovoltaic systems and other clean energy equipment
11 under existing power purchase agreements and energy
12 performance contracts, finance the purchase or lease
13 of electric vehicles, and install electric vehicle
14 charging systems;
- 15 (3) Paying administrative costs of the Hawaii green
16 infrastructure loan program;
- 17 (4) Paying any other costs related to the Hawaii green
18 infrastructure loan program; or
- 19 (5) Paying financing costs, as defined in section 269-161,
20 to the extent permitted by the public utilities



1 commission in a financing order issued pursuant to
2 section 269-163."

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

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

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

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

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

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



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

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

13 ~~(c) Appropriations or authorizations from the fund shall~~
14 ~~be expended by the department. The department may contract with~~
15 ~~other public or private entities for the provision of all or a~~
16 ~~portion of the services necessary for the administration and~~
17 ~~implementation of the loan fund program. The department may set~~
18 ~~fees or charges for fund management and technical site~~
19 ~~assistance provided under this section. The department may~~
20 ~~adopt rules pursuant to chapter 91 to carry out the purposes of~~
21 ~~this section.~~



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

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

5 SECTION 9. There is appropriated out of the clean energy
6 and energy efficiency revolving loan fund the sum of \$50,000,000
7 or so much thereof as may be necessary for fiscal year 2021-2022
8 and the same sum or so much thereof as may be necessary for
9 fiscal year 2022-2023 to provide loans or other financial
10 assistance to eligible borrowers for clean energy investments or
11 other authorized uses.

12 The sums 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 July 1, 2021.

17

INTRODUCED BY: *Micole E. Lowen*
JAN 22 2021



H.B. NO. 558

Report Title:

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

Description:

Creates the clean energy and energy efficiency revolving loan fund in the Hawaii green infrastructure special fund, to be administered by the Hawaii green infrastructure authority. Amends and expands the purpose of the \$50,000,000 revolving sub-fund for state agencies and also includes the electrification of fleet vehicles. Repeals the building energy efficiency revolving loan fund. Appropriates loan ceiling.

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

