
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 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 this bond
18 financing was inefficient compared to using revolving loan
19 funds, which are expended annually and in a more expedient
20 manner.



1 Further, the coronavirus disease 2019 pandemic has had
2 significant negative impacts on Hawaii's tourist industry and
3 economy, resulting in projections of severe state budgetary
4 shortfalls over the next four years. With only a limited number
5 of financing mechanisms available for state agencies to install
6 solar photovoltaic systems, state agencies have historically
7 lowered their energy costs by entering into energy performance
8 contracts and power purchase agreements with private partners to
9 install and own energy retrofits and solar systems on their
10 behalf. While individual results are dependent on the
11 negotiated terms of the consummated energy performance contract
12 or power purchase agreement, many of these arrangements have
13 successfully reduced the cost of energy for the State.
14 Additionally, most agreements include an option for state
15 agencies to purchase the installed equipment during the term of
16 the agreement. Using an actual power purchase agreement between
17 a state agency and an investor executed on September 30, 2016,
18 as an example, over the twenty-year term of the power purchase
19 agreement, the agency is estimated to reduce its energy cost by
20 forty-two per cent. If, however, this state agency had access
21 to financing under the green infrastructure loan program to



1 exercise its purchase option, over the same twenty-year term of
2 the power purchase agreement, the agency is projected to reduce
3 its energy cost by sixty-one per cent. This sixty-one per cent,
4 which includes the loan repayment and ongoing equipment
5 maintenance costs, creates a new source of cash flow for the
6 agency.

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

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



- 1 (1) Creating a clean energy and energy efficiency
2 revolving loan fund to finance a broad range of clean
3 energy technologies;
- 4 (2) Repealing the building energy efficiency revolving
5 loan fund;
- 6 (3) Expanding the objective of the Hawaii green
7 infrastructure special fund \$50,000,000 sub-fund to
8 allow state agencies to finance their purchase option
9 under existing energy performance contracts and power
10 purchase agreements to further reduce and stabilize
11 future energy costs, with the option to utilize
12 savings to finance the installation of electric
13 vehicle charging systems and lease or purchase
14 electric vehicles; and
- 15 (4) Making an appropriation out of the clean energy and
16 energy efficiency revolving loan fund to provide clean
17 energy investment loans or for other approved uses.

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



1 "§196- Clean energy and energy efficiency revolving loan
2 fund. (a) There is established in the Hawaii green
3 infrastructure special fund established under section 196-65,
4 the clean energy and energy efficiency revolving loan fund,
5 similar to a revolving line of credit, which shall be
6 administered by the authority. Funds deposited into the clean
7 energy and energy efficiency revolving loan fund shall not be
8 under the jurisdiction of, nor be subject to approval by, the
9 Hawaii public utilities commission, and shall include:

- 10 (1) Any amounts, up to a total amount not to exceed
11 \$50,000,000, of moneys borrowed by the Hawaii green
12 infrastructure authority, with the approval of the
13 governor, from federal, county, private, or other
14 funding sources, pursuant to part III of chapter 39;
15 (2) Funds from federal, state, county, private, or other
16 funding sources;
17 (3) Investments from public or private investors;
18 (4) Moneys received as repayment of loans and interest
19 payments; provided that the repayment of loans and
20 interest payments under this paragraph shall not
21 include repayment of loans and interest collected as a



1 result of funds advanced from proceeds of the green
2 energy market securitization bonds; and

3 (5) Any fees collected by the authority under this
4 section; provided that moneys collected as a result of
5 the funds advanced from proceeds of the green energy
6 market securitization bonds be kept separate from fees
7 collected as a result of funds advanced from proceeds
8 of this clean energy and energy efficiency revolving
9 loan fund.

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



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

10 (d) All interest earned on the loans, deposits, or
11 investments of the moneys in the fund shall become part of the
12 fund.

13 (e) The authority may establish subaccounts within the
14 fund as necessary."

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

18 "Clean energy investments" means the purchase or
19 installation, or both, of clean energy technology, including
20 energy efficiency measures, green transportation infrastructure,
21 recycling, and renewable energy technology.



1 "Electric vehicle" has the same meaning as defined in
2 section 291-71.

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

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

7 "Green energy money saver on-bill program" means the
8 tariff-based on-bill repayment mechanism approved for the
9 exclusive use of the authority by the public utilities
10 commission.

11 "Green infrastructure loan program" means the loan program
12 established under part IV and capitalized by the issuance of the
13 green energy market securitization bonds.

14 "Limited liability company" means a limited liability
15 company formed under chapter 428.

16 "Loan fund program" means the clean energy and energy
17 efficiency revolving loan fund program.

18 "Option to purchase" means a legally binding agreement
19 between a buyer and a seller, which gives the buyer the option,
20 but not the obligation, to purchase the solar system or other
21 installed equipment at an agreed upon price, prior to the



1 maturity date of the power purchase agreement or energy
2 performance contract.

3 "Power purchase agreement" means a contract between two
4 parties, one that generates electricity, or the seller; and one
5 that seeks to purchase electricity, or the buyer. The power
6 purchase agreement defines all of the commercial terms for the
7 sale of electricity between the two parties.

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

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

12 "Renewable energy technology" means the equipment and
13 related accessories required to generate or produce renewable
14 energy.

15 "Special purpose entity" means a legal entity created to
16 fulfill narrow, specific, or temporary objectives and is
17 typically used by companies to isolate the firm from financial
18 risk.

19 "Subaccount" means a fund that is established within, but
20 separate from, another fund and is reserved for a specific
21 purpose."



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

3 " ~~[f]~~ §196-62.5 ~~[f]~~ **Financing for state government agencies.**

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

17 (b) ~~[An]~~ As may be applicable, an agency shall consult
18 with the public benefits fee administrator of the public
19 utilities commission prior to planning an energy-efficiency
20 measure subject to this section. The agency's proposed energy-
21 efficiency measures shall meet or exceed the public benefits fee



1 administrator's enhanced efficiency levels and requirements to
2 be eligible for the Hawaii green infrastructure loan program.
3 The agency shall coordinate with the public benefits fee
4 administrator throughout the entire project cycle to ensure that
5 energy efficiency is maximized. All supporting documentation
6 required by the public benefits fee administrator shall be
7 provided by the agency to ensure compliance with the State's
8 energy-efficiency portfolio standard under section 269-96.

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

15 (d) Beginning with fiscal year [~~2018-2019~~], 2021-2022, and
16 annually thereafter, an agency shall repay a loan issued
17 pursuant to subsection (a) using general revenue savings that
18 result from reduced [~~utility~~] energy costs due to
19 [~~implementation of~~] financing the purchase of solar systems or
20 other clean energy equipment, implementing energy-efficient
21 lighting and other energy-efficiency measures[-], as well as



1 operational and fuel cost savings achieved by the conversion of
2 internal combustion vehicles to electric vehicles."

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

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

- 14 (1) Make loans and expend funds to finance the purchase or
15 installation of green infrastructure equipment for
16 clean energy technology, demand response technology,
17 and energy use reduction and demand side management
18 infrastructure, programs, and services;
- 19 (2) Hold and invest moneys in the green infrastructure
20 special fund in investments as permitted by law and in
21 accordance with approved investment guidelines



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



1 the department and the public utilities commission;
2 and

3 (8) Perform all functions necessary to effectuate the
4 purposes of this part.

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

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

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

18 (2) Implement and administer loan programs on behalf of
19 other state departments or agencies through a
20 memorandum of agreement and expend funds appropriated



- 1 to the department or agency for purposes authorized by
2 the legislature;
- 3 (3) Utilize all repayment mechanisms, including the green
4 energy money saver on-bill program, financing tools,
5 servicing and other arrangements, and sources of
6 capital available to the authority;
- 7 (4) Exercise powers to organize and establish special
8 purpose entities as limited liability companies under
9 the laws of the State;
- 10 (5) Acquire, hold, and sell qualified securities;
- 11 (6) Pledge unencumbered net assets, loan receivable,
12 assigned agreements, and security interests over
13 equipment financed, as collateral for the authority's
14 borrowings from federal, county, or private lenders or
15 agencies;
- 16 (7) Utilize the employees of the authority, including the
17 executive director;
- 18 (8) Enter into contracts for the service of consultants
19 for rendering professional and technical assistance
20 and advice, and any other contracts that are necessary



- 1 and proper for the implementation of the loan fund
2 program;
- 3 (9) Enter into contracts for the administration of the
4 loan fund program, without the necessity of complying
5 with chapter 103D;
- 6 (10) Establish loan fund program guidelines;
- 7 (11) Be audited at least annually by a firm of independent
8 certified public accountants selected by the
9 authority, and provide the results of this audit to
10 the department and the legislature; and
- 11 (12) Perform all functions necessary to effectuate the
12 purposes of this part.
- 13 (d) The authority shall submit an annual report for the
14 clean energy and energy efficiency revolving loan fund to the
15 legislature no later than twenty days prior to the convening of
16 each regular session describing the projects funded and the
17 projected energy impacts."

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



1 "(b) Moneys in the Hawaii green infrastructure special
2 fund may be used, subject to the approval of the public
3 utilities commission, for the purposes of:

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



- 1 (3) Paying administrative costs of the Hawaii green
2 infrastructure loan program;
- 3 (4) Paying any other costs related to the Hawaii green
4 infrastructure loan program; or
- 5 (5) Paying financing costs, as defined in section 269-161,
6 to the extent permitted by the public utilities
7 commission in a financing order issued pursuant to
8 section 269-163."

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

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

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



- 1 (2) To fund, to the extent possible, the climate change
2 mitigation and adaptation commission and the
3 greenhouse gas sequestration task force;
- 4 (3) To support achieving the zero emissions clean economy
5 target set forth in section 225P-5;
- 6 ~~[(4) To fund the building energy efficiency revolving loan~~
7 ~~fund established in section 201-20;~~
- 8 ~~-(5)]~~ (4) To fund projects and incentives to promote the
9 adoption of clean transportation technologies, develop
10 clean vehicle charging infrastructure, and upgrade
11 infrastructure to support the development of clean
12 vehicle charging infrastructure; and
- 13 ~~[(6)]~~ (5) To fund, to the extent possible, the duties of
14 the state building code council in section 107-24, as
15 they relate to the development of energy conservation
16 codes."

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

19 ~~["~~§201-20~~ Building energy efficiency revolving loan~~
20 ~~fund.~~ (a) ~~There is established in the state treasury the~~
21 ~~building energy efficiency revolving loan fund which shall be~~



1 ~~administered by the department, and into which shall be~~
2 ~~deposited:~~

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

5 ~~(2) Moneys received as repayment of loans and interest~~
6 ~~payments; and~~

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

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

19 ~~(c) Appropriations or authorizations from the fund shall~~
20 ~~be expended by the department. The department may contract with~~
21 ~~other public or private entities for the provision of all or a~~



1 ~~portion of the services necessary for the administration and~~
2 ~~implementation of the loan fund program. The department may set~~
3 ~~fees or charges for fund management and technical site~~
4 ~~assistance provided under this section. The department may~~
5 ~~adopt rules pursuant to chapter 91 to carry out the purposes of~~
6 ~~this section.~~

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

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

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

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

18 SECTION 10. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 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; 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 systems and other clean energy equipment, including the purchase or lease of electric vehicles. Appropriates funds out of the clean energy and energy efficiency revolving loan fund. (SD1)

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

