163 S.B. NO. S.D. 1 H.D. 1

C.D. 1

A BILL FOR AN ACT

RELATING TO STATE BONDS.

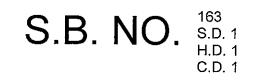
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to 2 the clause in article VII, section 13 of the state constitution 3 which states: 4 "Effective July 1, 1980, the legislature shall 5 include a declaration of findings in every general law 6 authorizing the issuance of general obligation bonds that the 7 total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all 8 9 bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance", the legislature finds and 10 11 declares as follows:

12 (1)Limitation on general obligation debt. The debt limit 13 of the state is set forth in article VII, section 13 14 of the state constitution, which states in part: 15 "General obligation bonds may be issued by the State; 16 provided that such bonds at the time of issuance would not cause the total amount of principal and interest 17 18 payable in the current or any future fiscal year. SB163 CD1 LRB 11-3212.doc

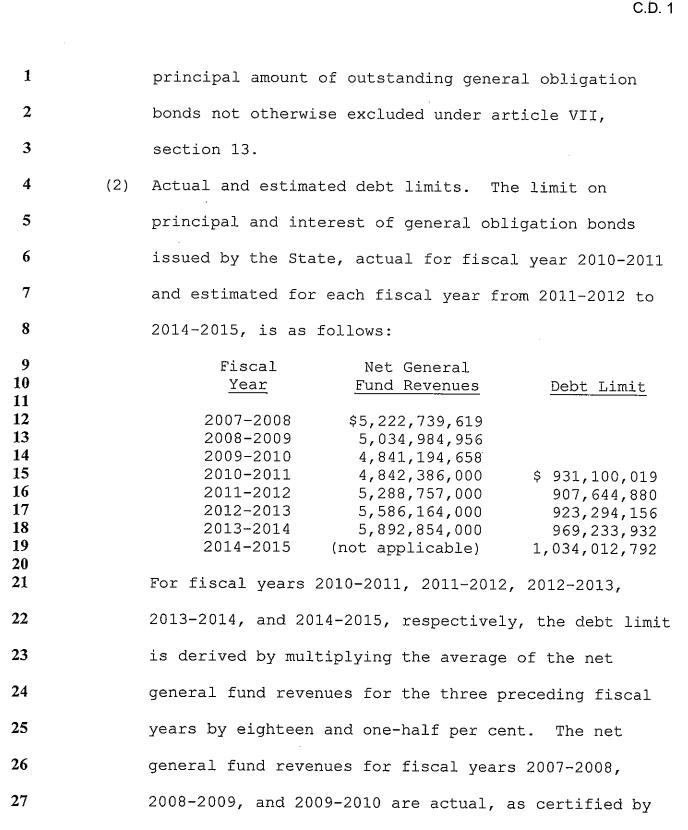


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1 whichever is higher, on such bonds and on all 2 outstanding general obligation bonds to exceed: a sum 3 equal to twenty percent of the average of the general 4 fund revenues of the State in the three fiscal years 5 immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-6 7 half percent of the average of the general fund 8 revenues of the State in the three fiscal years 9 immediately preceding such issuance." Article VII, 10 section 13 also provides that in determining the power 11 of the State to issue general obligation bonds, 12 certain bonds are excludable, including "reimbursable 13 general obligation bonds issued for a public 14 undertaking, improvement or system but only to the 15 extent that reimbursements to the general fund are in 16 fact made from the net revenue, or net user tax 17 receipts, or combination of both, as determined for 18 the immediately preceding fiscal year" and bonds 19 constituting instruments of indebtedness under which 20 the State incurs a contingent liability as a 21 guarantor, but only to the extent the principal amount 22 of such bonds does not exceed seven per cent of the





the director of finance in the Statement of the Debt

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1 Limit of the State of Hawaii as of July 1, 2010, dated 2 November 23, 2010. The net general fund revenues for 3 fiscal years 2010-2011 to 2013-2014 are estimates, 4 based on general fund revenue estimates made as of March 15, 2011 and April 8, 2011, by the council on 5 6 revenues, the body assigned by article VII, section 7 7 of the state constitution to make such estimates, and 8 based on estimates made by the department of budget 9 and finance of those receipts which cannot be included 10 as general fund revenues for the purpose of 11 calculating the debt limit, all of which estimates the 12 legislature finds to be reasonable. 13 Principal and interest on outstanding bonds applicable (3) 14 to the debt limit. 15 (A) According to the department of budget and 16 finance, the total amount of principal and 17 interest on outstanding general obligation bonds, 18 after the exclusions permitted by article VII, 19 section 13 of the state constitution, for 20 determining the power of the State to issue 21 general obligation bonds within the debt limit as



| 1 | of April 1, 203 | 1, is as follows for fiscal year |
|------------------------------------|---|---|
| 2 | 2011-2012 to f | scal year 2017-2018: |
| 3 4 5 | Fiscal <u>Year</u> | Principal and Interest |
| 6 7 8 9 10 11 12 | 2011-2012 2012-2013 2013-2014 2014-2015 2015-2016 2016-2017 2017-2018 | \$507,066,146 579,212,955 578,018,611 610,254,531 563,610,553 576,315,435 504,933,484 |
| 13 | The department | of budget and finance further |
| 14 | reports that th | e amount of principal and interest |
| 15 | on outstanding | bonds applicable to the debt limit |
| 16 | generally conti | nues to decline each year from |
| 17 | fiscal year 201 | 8-2019 to fiscal year 2029-2030 |
| 18 | when the final | installment of \$45,711,073 shall |
| 19 | be due and paya | ble. |
| 20 (| B) The department | of budget and finance further |
| 21 | reports that th | e outstanding principal amount of |
| 22 | bonds constitut | ing instruments of indebtedness |
| 23 | under which the | State may incur a contingent |
| 24 | liability as a | guarantor is \$183,500,000, all or |
| 25 | part of which i | s excludable in determining the |
| 26 | power of the St | ate to issue general obligation |



| 1 | | bonc | is, pursuant to article VII, section 13 of the |
|----|-----|-----------|--|
| 2 | | stat | ce constitution. |
| 3 | (4) | Amount of | authorized and unissued general obligation |
| 4 | | bonds and | guaranties and proposed bonds and |
| 5 | | guarantie | 25. |
| 6 | | (A) As c | alculated from the state comptroller's bond |
| 7 | | fund | report as of February 28, 2011, adjusted |
| 8 | | for: | |
| 9 | | · (i) | Appropriations to be funded by general |
| 10 | | | obligation bonds or reimbursable general |
| 11 | | | obligation bonds as provided in House Bill |
| 12 | | | No. 200, H.D. 1, S.D. 1, C.D. 1 (the General |
| 13 | | | Appropriations Act of 2011); |
| 14 | | (ii) | Lapses as provided in House Bill No. 200, |
| 15 | | | H.D. 1, S.D. 1, C.D. 1 (the General |
| 16 | | | Appropriations Act of 2011); |
| 17 | | (iii) | Appropriations to be funded by general |
| 18 | | | obligation bonds or reimbursable general |
| 19 | | | obligation bonds as provided in House Bill |
| 20 | | | No. 300, H.D. 2, S.D. 2, C.D. 1 (the |
| 21 | | | Judiciary Appropriations Act of 2011); and |



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| 1 | | (iv) Lapses as provided in House Bill No. 300, |
|-----------------|-----|---|
| 2 | | H.D. 2, S.D. 2, C.D. 1 (the Judiciary |
| 3 | | Appropriations Act of 2011); |
| 4 | | the total amount of authorized but unissued |
| 5 | | general obligation bonds is \$1,394,633,973. The |
| 6 | | total amount of general obligation bonds |
| 7 | | authorized in this Act is \$1,476,137,000. The |
| 8 | · | total amount of general obligation bonds |
| 9 | | previously authorized and unissued, as adjusted, |
| 10 | | and the general obligation bonds authorized in |
| 11 [·] | | this Act is \$2,870,770,973. |
| 12 | | (B) As reported by the department of budget and |
| 13 | | finance the outstanding principal amount of bonds |
| 14 | | constituting instruments of indebtedness under |
| 15 | | which the State may incur a contingent liability |
| 16 | | as a guarantor is \$183,500,000, all or part of |
| 17 | | which is excludable in determining the power of |
| 18 | | the State to issue general obligation bonds, |
| 19 | | pursuant to article VII, section 13 of the state |
| 20 | | constitution. |
| 21 | (5) | Proposed general obligation bond issuance. As |

(5) Proposed general obligation bond issuance. As
reported therein for the fiscal years 2011-2012,



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| 1 | 2012-2013, 2013-2014, and 2014-2015 the State proposed |
|-----|--|
| 2 | to issue \$375,000,000 in general obligation bonds |
| 3 | during the first half of fiscal year 2011-2012, |
| . 4 | \$375,000,000 in general obligation bonds during the |
| 5 | second half of fiscal year 2011-2012, \$375,000,000 in |
| 6 | general obligation bonds during the first half of |
| 7 | fiscal year 2012-2013, \$375,000,000 in general |
| 8 | obligation bonds during the second half of fiscal year |
| 9 | 2012-2013, \$350,000,000 in general obligation bonds |
| 10 | during the first half of fiscal year 2013-2014, |
| 11 | \$350,000,000 in general obligation bonds during the |
| 12 | second half of fiscal year 2013-2014, \$350,000,000 in |
| 13 | general obligation bonds during the first half of |
| 14 | fiscal year 2014-2015, and \$325,000,000 in general |
| 15 | obligation bonds during the second half of fiscal year |
| 16 | 2014-2015. It has been the practice of the State to |
| 17 | issue twenty-year serial bonds with principal |
| 18 | repayments beginning the fifth year, the bonds payable |
| 19 | in substantially equal annual installments of |
| 20 | principal and interest payment with interest payments |
| 21 | commencing six months from the date of issuance and |
| 22 | being paid semi-annually thereafter. It is assumed |
| | |



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1 that this practice will continue to be applied to the 2 bonds that are proposed to be issued. 3 (6) Sufficiency of proposed general obligation bond 4 issuance to meet the requirements of authorized and 5 unissued bonds, as adjusted, and bonds authorized by 6 this Act. From the schedule reported in paragraph 7 (5), the total amount of general obligation bonds that 8 the State proposes to issue during the fiscal years 9 2011-2012 to 2013-2014 is \$2,200,000,000. An 10 additional \$675,000,000 is proposed to be issued in 11 fiscal year 2014-2015. The total amount of \$2,200,000,000 which is proposed to be issued through 12 13 fiscal year 2013-2014 is sufficient to meet the 14 requirements of the authorized and unissued bonds, as 15 adjusted, the total amount of which is \$2,870,770,973 16 reported in paragraph (4), except for \$670,770,973. 17 It is assumed that the appropriations to which an 18 additional \$670,770,973 in bond issuance needs to be 19 applied will have been encumbered as of June 30, 2014. 20 The \$675,000,000 which is proposed to be issued in 21 fiscal year 2014-2015 will be sufficient to meet the 22 requirements of the June 30, 2014, encumbrances in the



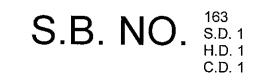
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| 1 | | amount of \$670,770,973. The amount of assumed |
|----|-----|--|
| 2 | | encumbrances as of June 30, 2014, is reasonable and |
| 3 | | conservative, based upon an inspection of June 30 |
| 4 | | encumbrances of the general obligation bond fund as |
| 5 | | reported by the state comptroller. Thus, taking into |
| 6 | | A account the amount of authorized and unissued bonds, |
| 7 | | as adjusted, and the bonds authorized by this Act |
| 8 | | versus the amount of bonds proposed to be issued by |
| 9 | | June 30, 2014, and the amount of June 30, 2014, |
| 10 | | encumbrances versus the amount of bonds proposed to be |
| 11 | | issued in fiscal year 2014-2015, the legislature finds |
| 12 | | that in the aggregate, the amount of bonds proposed to |
| 13 | | be issued is sufficient to meet the requirements of |
| 14 | | all authorized and unissued bonds and the bonds |
| 15 | | authorized by this Act. |
| 16 | (7) | Bonds excludable in determining the power of the State |
| 17 | | to issue bonds. As noted in paragraph (1), certain |
| 18 | | bonds are excludable in determining the power of the |
| 19 | | State to issue general obligation bonds. |
| 20 | | (A) General obligation reimbursable bonds can be |
| 21 | | excluded under certain conditions. It is not |

possible to make a conclusive determination as to

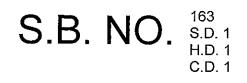
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| 1 | the amount of reimbursable bonds which are | | |
|----|---|--|--|
| 2 | excludable from the amount of each proposed bond | | |
| 3 | issued because: | | |
| 4 | (i) It is not known exactly when projects for | | |
| 5 | which reimbursable bonds have been | | |
| 6 | authorized in prior acts and in this Act | | |
| 7 | will be implemented and will require the | | |
| 8 | application of proceeds from a particular | | |
| 9 | bond issue; and | | |
| 10 | (ii) Not all reimbursable general obligation | | |
| 11 | bonds may qualify for exclusion. | | |
| 12 | However, the legislature notes that with respect | | |
| 13 | to the principal and interest on outstanding | | |
| 14 | general obligation bonds, according to the | | |
| 15 | department of budget and finance, the average | | |
| 16 | proportion of principal and interest which is | | |
| 17 | excludable each year from the calculation against | | |
| 18 | the debt limit is 1.41 per cent for the ten years | | |
| 19 | from fiscal year 2010-2011 to fiscal year 2019- | | |
| 20 | 2020. For the purpose of this declaration, the | | |
| 21 | assumption is made that one per cent of each bond | | |
| 22 | issue shall be excludable from the debt limit, an | | |
| | | | |





| 1 | | assumption which the legislature finds to be |
|----|-----|---|
| 2 | | reasonable and conservative. |
| 3 | (B) | Bonds constituting instruments of indebtedness |
| 4 | | under which the State incurs a contingent |
| 5 | | liability as a guarantor may be excluded but only |
| 6 | | to the extent the principal amount of such |
| 7 | | guaranties does not exceed seven per cent of the |
| 8 | | principal amount of outstanding general |
| 9 | | obligation bonds not otherwise excluded under |
| 10 | | subparagraph (A) of this paragraph (7); provided |
| 11 | | that the State shall establish and maintain a |
| 12 | | reserve in an amount in reasonable proportion to |
| 13 | | the outstanding loans guaranteed by the State as |
| 14 | | provided by law. According to the department of |
| 15 | | budget and finance and the assumptions presented |
| 16 | | herein, the total principal amount of outstanding |
| 17 | | general obligation bonds and general obligation |
| 18 | | bonds proposed to be issued, which are not |
| 19 | | otherwise excluded under article VII, section 13 |
| 20 | | of the state constitution for the fiscal years |
| 21 | | 2011-2012, 2012-2013, 2013-2014, and 2014-2015 |
| 22 | | are as follows: |



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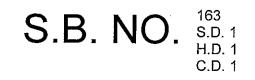
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| 1 2 3 | | Total amount of General Obligation Bonds not otherwise excluded by |
|-------------|----------------------|--|
| 4 5 | | Article VII, Section 13 |
| 5 | Fiscal year | of the State Constitution |
| 6 7 | 2010-2011 | \$5,126,030,000 |
| 8 9 | 2011-2012 | 5,868,530,000 |
| 9 | 2012-2013 | 6,611,030,000 |
| 10 | 2013-2014 | 7,304,030,000 |
| 11 | 2014-2015 | 7,972,280,000 |
| 12 | | |
| 13 | Based on the fo | regoing and based on the |
| 14 | assumption that the | full amount of a guaranty is |
| 15 | immediately due and | payable when such guaranty changes |
| 16 | from a contingent li | ability to an actual liability, |
| 17 | the aggregate princi | pal amount of the portion of the |
| 18 | outstanding guaranti | es and the guaranties proposed to |

be incurred, which does not exceed seven per cent of 19 the average amount set forth in the last column of the 20 above table and for which reserve funds have been or 21 shall have been established as heretofore provided, 22 may be excluded in determining the power of the State 23 24 to issue general obligation bonds. As it is not possible to predict with a reasonable degree of 25 certainty when a guaranty will change from a 26 contingent liability to an actual liability, it is 27





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1 assumed in conformity with fiscal conservatism and 2 prudence, that all guaranties not otherwise excluded 3 pursuant to article VII, section 13 of the state 4 constitution shall become due and payable in the same 5 fiscal year in which the greatest amount of principal 6 and interest on general obligation bonds, after 7 exclusions, occurs. Thus, based on such assumptions 8 and on the determination in paragraph (8), all of the 9 outstanding guaranties can be excluded.

10 (8) Determination whether the debt limit will be exceeded 11 at the time of issuance. From the foregoing and on 12 the assumption that all of the bonds identified in 13 paragraph (5) will be issued at a net average interest 14 rate, after giving effect to federal subsidy payments, 15 if any, received by the State under and pursuant to 16 federal laws as may from time to time be in effect, 17 not to exceed 5.25 per cent, it can be determined from 18 the following schedule that the bonds which are 19 proposed to be issued, which include all authorized 20 and unissued bonds previously authorized, as adjusted, 21 general obligation bonds, and instruments of 22 indebtedness under which the State incurs a contingent



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1 liability as a guarantor authorized in this Act, will 2 not cause the debt limit to be exceeded at the time of 3 such issuance: 4 Greatest Amount 5 Time of Issuance and Year of 6 and Amount to be Debt Limit Highest Principal 7 Counted Against at Time of and Interest 8 Debt Limit Issuance on Bonds and Guaranties 9 1st half FY 2011-2012 10 \$371,250,000 907,644,880 637,124,450 (2014-2015) 2nd half FY 2011-2012 11 12 \$371,250,000 907,644,880 656,615,075 (2014-2015) 13 1st half FY 2012-2013 14 \$371,250,000 923,294,156 682,509,330 (2016-2017) 15 2nd half FY 2012-2013 16 \$371,250,000 923,294,156 716,054,955 (2016-2017) 17 1st half FY 2013-2014 18 \$346,500,000 969,233,932 734,246,205 (2016-2017) 2nd half FY 2013-2014 19 20 \$346,500,000 969,233,932 752,437,455 (2016-2017) 21 1st half FY 2014-2015 22 \$346,500,000 1,034,012,792 770,628,705 (2016-2017) 2nd half FY 2014-2015 23 24 \$321,750,000 1,034,012,792 787,520,580 (2016-2017) 25 26 27 (9) Overall and concluding finding. From the facts, 28 estimates, and assumptions stated in this declaration 29 of findings, the conclusion is reached that the total 30 amount of principal and interest estimated for the 31 general obligation bonds authorized in this Act, and 32 for all bonds authorized and unissued, and calculated 33 for all bonds issued and outstanding, and all



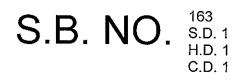
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1 quaranties, will not cause the debt limit to be 2 exceeded at the time of issuance. 3 SECTION 2. The legislature finds the bases for the 4 declaration of findings set forth in this Act reasonable. The 5 assumptions set forth in this Act with respect to the principal 6 amount of general obligation bonds which will be issued, the 7 amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the 8 9 assumed maturity structure shall not be deemed to be binding, it 10 being the understanding of the legislature that such matters 11 must remain subject to substantial flexibility. 12 SECTION 3. Authorization for issuance of general 13 obligation bonds. General obligation bonds may be issued as 14 provided by law in an amount that may be necessary to finance 15 projects authorized in House Bill No. 200, H.D. 1, S.D. 1, C.D. 16 1 (the General Appropriations Act of 2011) and House Bill No. 17 300, H.D. 2, S.D. 2, C.D. 1 (the Judiciary Appropriations Act of 18 2011), passed by this regular session of 2011, and designated to 19 be financed from the general obligation bond fund and from the 20 general obligation bond fund with debt service cost to be paid 21 from special funds; provided that the sum total of general 22 obligation bonds so issued shall not exceed \$1,476,137,000. SB163 CD1 LRB 11-3212.doc 16

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Any law to the contrary notwithstanding, general obligation 1 2 bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may 3 be required to refund any general obligation bonds of the State 4 5 of Hawaii heretofore or hereafter issued pursuant to law. 6 SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for 7 any reason, the validity of the remainder of this Act shall not 8 9 be affected. SECTION 5. In printing this Act, the revisor of statutes 10 shall substitute in section 1 and section 3 the corresponding 11 12 act numbers for bills identified therein. SECTION 6. This Act shall take effect upon its approval. 13





Report Title: General Obligation Bond Declaration

Description:

Authorizes issuance of general obligation bonds. Makes findings required by article VII, section 13 of the state constitution to declare that the issuance of authorized bonds will not cause the debt limit to be exceeded. (SB163 CD1)

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