

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 1039

March 1, 2011

RELATING TO TRANSPORTATION

House Bill No. 1039 provides for the issuance of grant anticipation revenue notes and bonds or "GARVEE" bonds, as provided for by the Federal National Highway System Designation Act of 1955 and the Safe, Accountable, Flexible, Efficient Transportation Equity Act.

The Department of Budget and Finance strongly supports this administration measure.

The authorization of GARVEE bonds will provide the Department of Transportation (DOT) with an additional financing tool to improve the transportation infrastructure in the State. If authorized, the DOT would be able to issue GARVEE bonds that will generate up-front funding for highway improvements which could result in the completion of transportation projects earlier than would otherwise be possible. The source of repayment for the GARVEE bonds will be the future annual receipts of federal-aid highway program reimbursements and grants. Should authorization of GARVEE bonds be enacted, a subsequent ratification of a constitutional amendment to Article VII, Section 12, of the Hawaii State Constitution, to allow the issuance of GARVEE bonds will be required in the 2012 Legislature.

The Department also has technical or housekeeping comments on House Bill No. 1039 which have been attached for the Committee's consideration. (New language is double underlined; deleted language is lined out.)

Thank you for the opportunity to provide our testimony on this bill.

BUDGET AND FINANCE REQUESTED LANGUAGE

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

H.B. NO. 1039

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

SECTION 1. The legislature hereby finds and declares that:

(1) The United States Congress has authorized states under the federal National Highway System Designation Act of 1995 and the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) to issue "GARVEE Bonds," which are tax-exempt revenue anticipation notes or bonds backed by annual federal appropriations for federal-aid highway program transportation projects.

(2) Utilizing revenue anticipation notes and bonds to finance federal transportation projects can greatly accelerate projects and can result in significant cost savings to the State, since those transportation projects can be completed at present-day costs.

(3) Funding transportation projects with revenue anticipation notes or bonds can also deliver projects to the public significantly sooner than traditional funding mechanisms.

(4) Therefore, it is in the best interest of the State of Hawaii to develop these new and innovative methods for funding and accelerating critical transportation infrastructure projects.

SECTION 2. Chapter 264, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART FEDERAL HIGHWAY REVENUE

ANTICIPATION NOTES AND BONDS

§ 264-A Definitions. Whenever used in this part, unless a different meaning clearly appears from the context:

"Department" means the department of transportation.

"Director" means the director of transportation.

"Federal transportation funds" means any funds apportioned or allocated to the state by the United States Department of Transportation, including, but not limited to, funds paid pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) and any successor federal-aid highway program authorization act or acts, and includes federal

reimbursements and grants with respect to qualified federal-aid highway program transportation projects.

"Qualified federal-aid highway program transportation project" means any project that may be financed, in whole or in part, with federal transportation funds.

"Revenue anticipation notes" or "notes" means revenue anticipation notes or bonds authorized by and issued by the department in accordance with this part.

"State matching funds" means revenues other than federal transportation funds that are credited to the state highway ~~special~~ fund in accordance with section 248-8 and Section 264-D and that may be used by the department to pay the costs of any qualified federal-aid highway program transportation projects.

§ 264-B Transportation financing account. There is hereby created ~~as a special trust fund~~ in the state highway fund the transportation financing account, which shall be administered by the department. The proceeds of the sale of revenue anticipation notes shall be deposited into the transportation financing account. The funds in the transportation financing Account shall be available for use with respect to qualified federal-aid highway program transportation projects, subject to appropriation by the legislature, to pay the principal of and interest on notes, to fund reserve funds, to pay costs associated with the

issuance or further security of the notes or for capitalized interest of up to thirty-six months.

§ 264-C Selection of qualified federal-aid highway program transportation projects. (a) The director may from time to time select and designate qualified federal-aid highway program transportation projects to be funded from the proceeds of notes, if financing of the project from the proceeds of notes has been approved by the federal highway administration and the regional transportation planning agency, and the project has completed environmental clearance and project design, and shall submit the list of such projects, together with the anticipated cost thereof, to the legislature as part of the department's annual budget, together with the request that the legislature authorize the issuance of notes and appropriate the proceeds thereof to such projects in accordance with part III of chapter 39.

(b) On or before April 1 of each year, the department, in conjunction with the department of budget and finance, shall prepare an annual analysis of the bonding capacity of federal transportation funds deposited in the state highway fund.

(c) The department shall establish guidelines for eligibility for funding allocations under this part. The guidelines shall be nondiscriminatory and shall be designed to allow as many counties as possible to establish

eligibility for funding allocations under this part, regardless of the population or geographic location of the county.

§ 264-D Issuance of revenue anticipation notes. (a)

The department, in order to provide for the financing of selected qualified federal-aid highway program transportation projects, may issue revenue anticipation notes. The payment of the principal of, premium, if any, and interest on such revenue anticipation notes shall be secured by a pledge of future receipts of federal transportation funds, in accordance with part III of chapter 39, relating to revenue bonds. Revenue anticipation notes are hereby determined to be revenue bonds, and receipts of federal transportation funds are hereby determined to be revenues within the meaning of part III of chapter 39. The department:

- (1) Shall comply with title 23, section 122, United States Code, when issuing revenue anticipation notes under this part;
- (2) May issue tax-exempt or taxable revenue anticipation notes within the department's allowable debt to projected revenue ratio and within the State's debt limit, as approved by the director of finance; provided that the director of finance may not authorize the issuance of revenue anticipation notes if the annual repayment

obligations of all outstanding revenue anticipation notes in any fiscal year, determined as of the date of issuance of each series of notes, would exceed fifty percent of the total amount of federal highway funds apportioned to the State by the United States department of transportation during the fiscal year next preceding the fiscal year in which such series of notes is issued;

- (3) Shall ensure that all qualified federal-aid highway program transportation projects to be funded by revenue anticipation notes are subject to legislative appropriation;
- (4) Shall study the costs and risks associated with the proposed use of revenue anticipation notes before issuance in comparison to other funding mechanisms, including, but not limited to, pay-as-you-go, federal advance construction, federal incremental advance construction or other funding mechanisms authorized under federal law to achieve maximum efficiency from the State's federal allocation of transportation funds;
- (5) May use alternative funding sources, including state matching funds, for revenue stream or insurance to back up potential shortfall in federal authorization or obligation; and

(6) Shall deposit the proceeds of the sale of revenue anticipation notes issued under this part and apply such proceeds as provided by section 264-B.

(b) The department may use proceeds of revenue anticipation notes to accelerate construction of qualified federal-aid highway program transportation projects by:

- (1) Using the federal moneys to pay the debt service for revenue anticipation notes; and
- (2) Using the federal moneys received in connection with other federal-aid projects to pay debt service on the revenue anticipation notes, provided that, as permitted by title 23, United ~~s~~States Code, the debt-financed transportation projects for which federal reimbursements are used need not themselves be federal-aid projects.

§ 264-E Annual reports. On or before December 1 of each year, the director shall prepare and submit an annual report regarding the preceding fiscal year to the governor and the legislature. Each report shall compile and detail

- (1) the total amount of outstanding revenue anticipation notes issued pursuant to this part;
- (2) the qualified federal-aid highway program transportation projects funded by those outstanding revenue anticipation notes;
- (3) the amount of note proceeds expended on each project;
- (4) the status of each project;
- (5) the estimated date of completion for such

projects not yet completed; (6) the total amount of federal transportation funds paid to the department since such revenue anticipation notes have been issued; and (7) the total amount of proceeds from the issuance of revenue anticipation notes, state matching funds and federal transportation funds applied by the department in each state fiscal year for the payment of such revenue anticipation notes and the costs associated with the issuance and administration of such notes."

SECTION 3. Section 39-51, Hawaii Revised Statutes, is amended by amending the definitions of "revenue" and "revenue bonds" to read as follows:

"Revenue" means the moneys collected, including any moneys collected from the State or any department, or any county or board, agency or instrumentality thereof, from the rates, rentals, fees, and charges prescribed for the use and services of, and the facilities and commodities furnished by, an undertaking or the use and services and benefits of a loan program; provided that the term shall include all insurance premium payments, assessments, surcharges, investment earnings and all other income of the Hawaii hurricane relief fund[-], and all reimbursements and grants received from the federal United States Department of Transportation with respect to federal-aid highway program transportation projects.

"Revenue bonds" means all bonds payable solely from and secured by the revenue, or user taxes, or any combination of both, of an undertaking or loan program or any loan made thereunder for which bonds are issued and as otherwise provided in this part; provided that the term shall include all bonds issued by the director of finance under the authority of section 10(a), Act 339, Session Laws of Hawaii 1993, as amended, for the purposes of the hurricane bond loan fund[-], and all revenue anticipation notes or bonds issued by the director of transportation under authority of section , Act , Session Laws of Hawaii , as amended, for the purposes of the transportation financing account of the state highway ~~special~~ fund."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval and upon ratification of the constitutional amendment to article VII, section 12, of the Hawaii State Constitution, authorizing the State to issue federal-aid highway transportation program revenue anticipation notes or bonds payable from and secured in whole or in part by rates, rentals and charges consisting of payments, reimbursements and grants from the United States government and use the

proceeds from the notes or bonds to finance federal-aid
highway program transportation projects.

INTRODUCED BY: _____
BY REQUEST

Report Title:

Transportation

Description:

Provide for the issuance of grant revenue anticipation revenue notes and bonds or "GARVEE Bonds," as provided for by the federal National Highway System Designation Act of 1995 (the "NHS Act") and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU") for legislatively appropriated transportation projects in the State

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