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# A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE VII, SECTIONS 12 AND 13, OF THE HAWAII CONSTITUTION TO EXPRESSLY PROVIDE THAT THE LEGISLATURE MAY AUTHORIZE THE COUNTIES TO ISSUE TAX INCREMENT BONDS AND TO EXCLUDE TAX INCREMENT BONDS FROM DETERMINATIONS OF THE FUNDED DEBT OF THE COUNTIES.

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

1           SECTION 1. The purpose of this Act is to propose  
2 amendments to article VII, sections 12 and 13, of the  
3 Constitution of the State of Hawaii to:

4           (1) Expressly provide that the legislature may authorize  
5           political subdivisions, such as the counties, to issue  
6           tax increment bonds; and

7           (2) Exclude tax increment bonds from determinations of the  
8           funded debt of the political subdivisions.

9           SECTION 2. Article VII, section 12, of the Constitution of  
10 the State of Hawaii is amended to read as follows:

11                           **"DEFINITIONS; ISSUANCE OF INDEBTEDNESS**

12           **Section 12.** For the purposes of this article:

13           1. The term "bonds" shall include bonds, notes and other  
14 instruments of indebtedness.



1        2. The term "dam and reservoir owner" means any person who  
2 has a right to, title to, or an interest in, a dam, a reservoir,  
3 or the property upon which a dam, a reservoir, or appurtenant  
4 work is located or proposed to be located.

5        [~~2.~~] 3. The term "general obligation bonds" means all  
6 bonds for the payment of the principal and interest of which the  
7 full faith and credit of the State or a political subdivision  
8 are pledged and, unless otherwise indicated, includes  
9 reimbursable general obligation bonds.

10        [~~3.~~] 4. The term "net revenues" or "net user tax receipts"  
11 means the revenues or receipts derived from:

12        a. A public undertaking, improvement or system remaining  
13            after the costs of operation, maintenance and repair  
14            of the public undertaking, improvement or system, and  
15            the required payments of the principal of and interest  
16            on all revenue bonds issued therefor, have been made;

17            or

18        b. Any payments or return on security under a loan  
19            program or a loan thereunder, after the costs of  
20            operation and administration of the loan program, and



1 the required payments of the principal of and interest  
2 on all revenue bonds issued therefor, have been made.

3 ~~[4. The term "dam and reservoir owner" means any person  
4 who has a right to, title to, or an interest in, a dam, a  
5 reservoir, or the property upon which a dam, a reservoir, or  
6 appurtenant work is located or proposed to be located.]~~

7 5. The term "person" means an individual, firm,  
8 partnership, corporation, association, cooperative or other  
9 legal entity, governmental body or agency, board, bureau or  
10 other instrumentality thereof, or any combination of the  
11 foregoing.

12 6. The term "rates, rentals and charges" means all  
13 revenues and other moneys derived from the operation or lease of  
14 a public undertaking, improvement or system, or derived from any  
15 payments or return on security under a loan program or a loan  
16 thereunder; provided that insurance premium payments,  
17 assessments and surcharges, shall constitute rates, rentals and  
18 charges of a state property insurance program.

19 7. The term "reimbursable general obligation bonds" means  
20 general obligation bonds issued for a public undertaking,  
21 improvement or system from which revenues, or user taxes, or a



1 combination of both, may be derived for the payment of the  
2 principal and interest as reimbursement to the general fund and  
3 for which reimbursement is required by law, and, in the case of  
4 general obligation bonds issued by the State for a political  
5 subdivision, general obligation bonds for which the payment of  
6 the principal and interest as reimbursement to the general fund  
7 is required by law to be made from the revenue of the political  
8 subdivision.

9       8. The term "revenue bonds" means all bonds payable from  
10 the revenues, or user taxes, or any combination of both, of a  
11 public undertaking, improvement, system or loan program and any  
12 loan made thereunder and secured as may be provided by law,  
13 including a loan program to provide loans to a state property  
14 insurance program providing hurricane insurance coverage to the  
15 general public.

16       9. The term "special purpose revenue bonds" means all  
17 bonds payable from rental or other payments made to an issuer by  
18 a person pursuant to contract and secured as may be provided by  
19 law.

20       10. The term "tax increment bonds" means all bonds, the  
21 principal of and interest on which are payable from and secured



1 solely by all real property taxes levied by a political  
2 subdivision, such as a county, on the assessed valuation of the  
3 real property in a tax increment district established by the  
4 political subdivision that is in excess of the assessed  
5 valuation of the real property for the fiscal year before the  
6 effective date specified by resolution of the political  
7 subdivision of the specified public works, public improvements  
8 or other actions by the political subdivision within the tax  
9 increment district.

10       ~~[10.]~~ 11. The term "user tax" means a tax on goods or  
11 services or on the consumption thereof, the receipts of which  
12 are substantially derived from the consumption, use or sale of  
13 goods and services in the utilization of the functions or  
14 services furnished by a public undertaking, improvement or  
15 system; provided that mortgage recording taxes shall constitute  
16 user taxes of a state property insurance program.

17       The legislature, by a majority vote of the members to which  
18 each house is entitled, shall authorize the issuance of all  
19 general obligation bonds, bonds issued under special improvement  
20 statutes and revenue bonds issued by or on behalf of the State  
21 and shall prescribe by general law the manner and procedure for



1 such issuance. The legislature by general law shall authorize  
2 political subdivisions to issue general obligation bonds, bonds  
3 issued under special improvement statutes [~~and~~], revenue bonds  
4 and tax increment bonds and shall prescribe the manner and  
5 procedure for such issuance. All such bonds issued by or on  
6 behalf of a political subdivision shall be authorized by the  
7 governing body of such political subdivision.

8 Special purpose revenue bonds shall only be authorized or  
9 issued to finance facilities of or for, or to loan the proceeds  
10 of such bonds to assist:

- 11 1. Manufacturing, processing or industrial enterprises;
- 12 2. Utilities serving the general public;
- 13 3. Health care facilities provided to the general public  
14 by not-for-profit corporations;
- 15 4. Early childhood education and care facilities provided  
16 to the general public by not-for-profit corporations;
- 17 5. Low and moderate income government housing programs;
- 18 6. Not-for-profit private nonsectarian and sectarian  
19 elementary schools, secondary schools, colleges and  
20 universities;
- 21 7. Agricultural enterprises; or



1           8. Dam and reservoir owners; provided that the bonds are  
2           issued for and the proceeds are used to offer loans to  
3           assist dam and reservoir owners to improve their  
4           facilities to protect public safety and provide  
5           significant benefits to the general public as  
6           important water sources,  
7 each of which is hereinafter referred to in this paragraph as a  
8 special purpose entity.

9           The legislature, by a two-thirds vote of the members to  
10 which each house is entitled, may enact enabling legislation for  
11 the issuance of special purpose revenue bonds separately for  
12 each special purpose entity, and, by a two-thirds vote of the  
13 members to which each house is entitled and by separate  
14 legislative bill, may authorize the State to issue special  
15 purpose revenue bonds for each single project or multi-project  
16 program of each special purpose entity; provided that the  
17 issuance of such special purpose revenue bonds is found to be in  
18 the public interest by the legislature; [~~and~~] provided further  
19 that the State may combine into a single issue of special  
20 purpose revenue bonds two or more proposed issues of special  
21 purpose revenue bonds to assist:



1 (1) Not-for-profit private nonsectarian and sectarian  
2 elementary schools, secondary schools, colleges[7] and  
3 universities;

4 (2) Dam and reservoir owners; or

5 (3) Agricultural enterprises,  
6 separately authorized as aforesaid, in the total amount not  
7 exceeding the aggregate of the proposed separate issues of  
8 special purpose revenue bonds. The legislature may enact  
9 enabling legislation to authorize political subdivisions to  
10 issue special purpose revenue bonds. If so authorized, a  
11 political subdivision by a two-thirds vote of the members to  
12 which its governing body is entitled and by separate ordinance  
13 may authorize the issuance of special purpose revenue bonds for  
14 each single project or multi-project program of each special  
15 purpose entity; provided that the issuance of such special  
16 purpose revenue bonds is found to be in the public interest by  
17 the governing body of the political subdivision. No special  
18 purpose revenue bonds shall be secured directly or indirectly by  
19 the general credit of the issuer or by any revenues or taxes of  
20 the issuer other than receipts derived from payments by a person  
21 or persons under contract or from any security for such contract



1 or contracts or special purpose revenue bonds and no moneys  
2 other than such receipts shall be applied to the payment  
3 thereof. The governor shall provide the legislature in November  
4 of each year with a report on the cumulative amount of all  
5 special purpose revenue bonds authorized and issued, and such  
6 other information as may be necessary."

7 SECTION 3. Article VII, section 13, of the Constitution of  
8 the State of Hawaii is amended to read as follows:

9 **"DEBT LIMIT; EXCLUSIONS**

10 **Section 13.** General obligation bonds may be issued by the  
11 State; provided that such bonds at the time of issuance would  
12 not cause the total amount of principal and interest payable in  
13 the current or any future fiscal year, whichever is higher, on  
14 such bonds and on all outstanding general obligation bonds to  
15 exceed: a sum equal to twenty percent of the average of the  
16 general fund revenues of the State in the three fiscal years  
17 immediately preceding such issuance until June 30, 1982; and  
18 thereafter, a sum equal to eighteen and one-half percent of the  
19 average of the general fund revenues of the State in the three  
20 fiscal years immediately preceding such issuance. Effective  
21 July 1, 1980, the legislature shall include a declaration of



1 findings in every general law authorizing the issuance of  
2 general obligation bonds that the total amount of principal and  
3 interest, estimated for such bonds and for all bonds authorized  
4 and unissued and calculated for all bonds issued and  
5 outstanding, will not cause the debt limit to be exceeded at the  
6 time of issuance. Any bond issue by or on behalf of the State  
7 may exceed the debt limit if an emergency condition is declared  
8 to exist by the governor and concurred to by a two-thirds vote  
9 of the members to which each house of the legislature is  
10 entitled. For the purpose of this paragraph, general fund  
11 revenues of the State shall not include moneys received as  
12 grants from the federal government and receipts in reimbursement  
13 of any reimbursable general obligation bonds [~~which~~] that are  
14 excluded as permitted by this section.

15 A sum equal to fifteen percent of the total of the assessed  
16 values for tax rate purposes of real property in each political  
17 subdivision, as determined by the last tax assessment rolls  
18 pursuant to law, is established as the limit of the funded debt  
19 of such political subdivision that is outstanding and unpaid at  
20 any time.



1 All general obligation bonds for a term exceeding two years  
2 shall be in serial form maturing in substantially equal  
3 installments of principal, or maturing in substantially equal  
4 installments of both principal and interest. The first  
5 installment of principal of general obligation bonds and of  
6 reimbursable general obligation bonds shall mature not later  
7 than five years from the date of issue of such series. The last  
8 installment on general obligation bonds shall mature [~~not~~] no  
9 later than twenty-five years from the date of such issue and the  
10 last installment on general obligation bonds sold to the federal  
11 government, on reimbursable general obligation bonds and on  
12 bonds constituting instruments of indebtedness under which the  
13 State or a political subdivision incurs a contingent liability  
14 as a guarantor shall mature [~~not~~] no later than thirty-five  
15 years from the date of such issue. The interest and principal  
16 payments of general obligation bonds shall be a first charge on  
17 the general fund of the State or political subdivision, as the  
18 case may be.

19 In determining the power of the State to issue general  
20 obligation bonds or the funded debt of any political subdivision



1 under section 12[7] of this article, the following shall be  
2 excluded:

3 1. Bonds that have matured, or that mature in the then  
4 current fiscal year, or that have been irrevocably called for  
5 redemption and the redemption date has occurred or will occur in  
6 the then fiscal year, or for the full payment of which moneys or  
7 securities have been irrevocably set aside.

8 2. Revenue bonds, if the issuer thereof is obligated by  
9 law to impose rates, rentals and charges for the use and  
10 services of the public undertaking, improvement or system or the  
11 benefits of a loan program or a loan thereunder or to impose a  
12 user tax, or to impose a combination of rates, rentals and  
13 charges and user tax, as the case may be, sufficient to pay the  
14 cost of operation, maintenance and repair, if any, of the public  
15 undertaking, improvement or system or the cost of maintaining a  
16 loan program or a loan thereunder and the required payments of  
17 the principal of and interest on all revenue bonds issued for  
18 the public undertaking, improvement or system or loan program,  
19 and if the issuer is obligated to deposit such revenues or tax  
20 or a combination of both into a special fund and to apply the  
21 same to such payments in the amount necessary therefor.



1           3. Special purpose revenue bonds, if the issuer thereof is  
2 required by law to contract with a person obligating such person  
3 to make rental or other payments to the issuer in an amount at  
4 least sufficient to make the required payment of the principal  
5 of and interest on such special purpose revenue bonds.

6           4. Bonds issued under special improvement statutes when  
7 the only security for such bonds is the properties benefited or  
8 improved or the assessments thereon.

9           5. General obligation bonds issued for assessable  
10 improvements, but only to the extent that reimbursements to the  
11 general fund for the principal and interest on such bonds are in  
12 fact made from assessment collections available therefor.

13           6. Reimbursable general obligation bonds issued for a  
14 public undertaking, improvement or system but only to the extent  
15 that reimbursements to the general fund are in fact made from  
16 the net revenue, or net user tax receipts, or combination of  
17 both, as determined for the immediately preceding fiscal year.

18           7. Reimbursable general obligation bonds issued by the  
19 State for any political subdivision, whether issued before or  
20 after the effective date of this section, but only for as long  
21 as reimbursement by the political subdivision to the State for



1 the payment of principal and interest on such bonds is required  
2 by law; provided that in the case of bonds issued after the  
3 effective date of this section, the consent of the governing  
4 body of the political subdivision has first been obtained; ~~and~~  
5 provided further that during the period that such bonds are  
6 excluded by the State, the principal amount then outstanding  
7 shall be included within the funded debt of such political  
8 subdivision.

9       8. Bonds constituting instruments of indebtedness under  
10 which the State or any political subdivision incurs a contingent  
11 liability as a guarantor, but only to the extent the principal  
12 amount of such bonds does not exceed seven percent of the  
13 principal amount of outstanding general obligation bonds not  
14 otherwise excluded under this section; provided that the State  
15 or political subdivision shall establish and maintain a reserve  
16 in an amount in reasonable proportion to the outstanding loans  
17 guaranteed by the State or political subdivision as provided by  
18 law.

19       9. Bonds issued by or on behalf of the State or by any  
20 political subdivision to meet appropriations for any fiscal  
21 period in anticipation of the collection of revenues for such



1 period or to meet casual deficits or failures of revenue, if  
2 required to be paid within one year, and bonds issued by or on  
3 behalf of the State to suppress insurrection, to repel invasion,  
4 to defend the State in war or to meet emergencies caused by  
5 disaster or act of God.

6 10. Tax increment bonds, but only to the extent that the  
7 principal of and interest on the bonds are in fact paid from the  
8 real property taxes levied by a political subdivision, such as a  
9 county, on the assessed valuation of the real property in a tax  
10 increment district established by the political subdivision that  
11 is in excess of the assessed valuation of the real property for  
12 the fiscal year before the effective date specified by  
13 resolution of the political subdivision of the specified public  
14 works, public improvements or other actions by the political  
15 subdivision within the tax increment district.

16 The total outstanding indebtedness of the State or funded  
17 debt of any political subdivision and the exclusions therefrom  
18 permitted by this section shall be made annually and certified  
19 by law or as provided by law. For the purposes of section 12 of  
20 this article and this section, amounts received from on-street



1 parking may be considered and treated as revenues of a parking  
2 undertaking.

3 Nothing in section 12 of this article or in this section  
4 shall prevent the refunding of any bond at any time."

5 SECTION 4. The question to be printed on the ballot shall  
6 be as follows:

7 "Shall the Constitution of the State of Hawaii be amended  
8 to expressly provide that the legislature may, by general law,  
9 authorize political subdivisions, such as the counties, to issue  
10 tax increment bonds, which are payable from and secured solely  
11 by all real property taxes levied by the political subdivisions,  
12 to pay for specified public works, public improvements or other  
13 actions by the political subdivision within the tax increment  
14 district and also be amended to exclude tax increment bonds in  
15 determining the funded debt of the political subdivisions, such  
16 as the counties?"

17 SECTION 5. Constitutional material to be repealed is  
18 bracketed and stricken. New constitutional material is  
19 underscored.



1 SECTION 6. This amendment shall take effect upon  
2 compliance with article XVII, section 3, of the Constitution of  
3 the State of Hawaii.



**Report Title:**

Tax Increment Bonds; Constitutional Amendment

**Description:**

Proposes amendments to the Constitution of the State of Hawaii to expressly provide that the legislature may authorize political subdivisions, such as counties, to issue tax increment bonds and to exclude tax increment bonds in calculating the debt limit of the political subdivisions. (HD1)

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