
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 of
14 the public undertaking, improvement or system, and the
15 required payments of the principal of and interest on
16 all revenue bonds issued therefor, have been made; or

17 b. Any payments or return on security under a loan program
18 or a loan thereunder, after the costs of operation and
19 administration of the loan program, and the required
20 payments of the principal of and interest on all revenue
21 bonds issued therefor, have been made.



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

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

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

17 7. The term "reimbursable general obligation bonds" means
18 general obligation bonds issued for a public undertaking,
19 improvement or system from which revenues, or user taxes, or a
20 combination of both, may be derived for the payment of the
21 principal and interest as reimbursement to the general fund and



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

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

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

18 10. The term "tax increment bonds" means all bonds, the
19 principal of and interest on which are payable from and secured
20 solely by the amount of real property taxes levied and collected
21 by a political subdivision, such as a county, on the difference



1 between the assessed value of the taxable real property located
2 within the boundaries of a tax increment district established by
3 a political subdivision in a given year and the assessed value
4 of the taxable real property in the tax increment district
5 during the year of creation of that tax increment district.

6 [10.] 11. The term "user tax" means a tax on goods or
7 services or on the consumption thereof, the receipts of which
8 are substantially derived from the consumption, use or sale of
9 goods and services in the utilization of the functions or
10 services furnished by a public undertaking, improvement or
11 system; provided that mortgage recording taxes shall constitute
12 user taxes of a state property insurance program.

13 The legislature, by a majority vote of the members to which
14 each house is entitled, shall authorize the issuance of all
15 general obligation bonds, bonds issued under special improvement
16 statutes and revenue bonds issued by or on behalf of the State
17 and shall prescribe by general law the manner and procedure for
18 [~~such~~] the issuance. The legislature by general law shall
19 authorize political subdivisions to issue general obligation
20 bonds, bonds issued under special improvement statutes [~~and~~],
21 revenue bonds and tax increment bonds and shall prescribe the



1 manner and procedure for [~~such~~] the issuance. All [~~such~~] bonds
2 issued by or on behalf of a political subdivision shall be
3 authorized by the governing body of [~~such~~] that political
4 subdivision.

5 Special purpose revenue bonds shall only be authorized or
6 issued to finance facilities of or for, or to loan the proceeds
7 of [~~such~~] the bonds to assist:

- 8 1. Manufacturing, processing or industrial enterprises;
- 9 2. Utilities serving the general public;
- 10 3. Health care facilities provided to the general public
11 by not-for-profit corporations;
- 12 4. Early childhood education and care facilities provided
13 to the general public by not-for-profit corporations;
- 14 5. Low and moderate income government housing programs;
- 15 6. Not-for-profit private nonsectarian and sectarian
16 elementary schools, secondary schools, colleges and
17 universities;
- 18 7. Agricultural enterprises; or
- 19 8. Dam and reservoir owners; provided that the bonds are
20 issued for and the proceeds are used to offer loans to
21 assist dam and reservoir owners to improve their



1 facilities to protect public safety and provide
2 significant benefits to the general public as
3 important water sources,
4 each of which is hereinafter referred to in this paragraph as a
5 special purpose entity.

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

19 (1) Not-for-profit private nonsectarian and sectarian
20 elementary schools, secondary schools, colleges[~~r~~] and
21 universities;



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



1 of each year with a report on the cumulative amount of all
2 special purpose revenue bonds authorized and issued, and [~~such~~]
3 other information as may be necessary."

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

6 "DEBT LIMIT; EXCLUSIONS

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



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

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

18 All general obligation bonds for a term exceeding two years
19 shall be in serial form maturing in substantially equal
20 installments of principal, or maturing in substantially equal
21 installments of both principal and interest. The first



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

15 In determining the power of the State to issue general
16 obligation bonds or the funded debt of any political subdivision
17 under section 12[7] of this article, the following shall be
18 excluded:

19 1. Bonds that have matured, or that mature in the then
20 current fiscal year, or that have been irrevocably called for
21 redemption and the redemption date has occurred or will occur in



1 the then fiscal year, or for the full payment of which moneys or
2 securities have been irrevocably set aside.

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

18 3. Special purpose revenue bonds, if the issuer thereof is
19 required by law to contract with a person obligating [~~such~~] the
20 person to make rental or other payments to the issuer in an
21 amount at least sufficient to make the required payment of the



1 principal of and interest on [~~such~~] the special purpose revenue
2 bonds.

3 4. Bonds issued under special improvement statutes when
4 the only security for [~~such~~] the bonds is the properties
5 benefited or improved or the assessments thereon.

6 5. General obligation bonds issued for assessable
7 improvements, but only to the extent that reimbursements to the
8 general fund for the principal and interest on [~~such~~] the bonds
9 are in fact made from assessment collections available therefor.

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

15 7. Reimbursable general obligation bonds issued by the
16 State for any political subdivision, whether issued before or
17 after the effective date of this section, but only for as long
18 as reimbursement by the political subdivision to the State for
19 the payment of principal and interest on [~~such~~] the bonds is
20 required by law; provided that in the case of bonds issued after
21 the effective date of this section, the consent of the governing



1 body of the political subdivision has first been obtained; [~~and~~]
2 provided further that during the period that [~~such~~] the bonds
3 are excluded by the State, the principal amount then outstanding
4 shall be included within the funded debt of [~~such~~] the political
5 subdivision.

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

16 9. Bonds issued by or on behalf of the State or by any
17 political subdivision to meet appropriations for any fiscal
18 period in anticipation of the collection of revenues for [~~such~~]
19 that period or to meet casual deficits or failures of revenue,
20 if required to be paid within one year, and bonds issued by or
21 on behalf of the State to suppress insurrection, to repel



1 invasion, to defend the State in war or to meet emergencies
2 caused by disaster or act of God.

3 10. Tax increment bonds issued by a political subdivision,
4 such as a county.

5 The total outstanding indebtedness of the State or funded
6 debt of any political subdivision and the exclusions therefrom
7 permitted by this section shall be made annually and certified
8 by law or as provided by law. For the purposes of section 12 of
9 this article and this section, amounts received from on-street
10 parking may be considered and treated as revenues of a parking
11 undertaking.

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

14 SECTION 4. The question to be printed on the ballot shall
15 be as follows:

16 "Shall the Constitution of the State of Hawaii be
17 amended to:

18 (1) Expressly provide that the legislature may, by
19 general law, authorize political subdivisions,
20 such as the counties, to issue tax increment
21 bonds, which are payable from and secured solely



1 by the amount of real property taxes levied and
2 collected by a political subdivision, to pay for
3 specified public works, public improvements or
4 other actions by the political subdivision within
5 the tax increment district established by the
6 political subdivision; and

7 (2) Exclude tax increment bonds in determining the
8 funded debt of the political subdivisions?"

9 SECTION 5. Constitutional material to be repealed is
10 bracketed and stricken. New constitutional material is
11 underscored.

12 SECTION 6. This amendment shall take effect upon
13 compliance with article XVII, section 3, of the Constitution of
14 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, by general law, 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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