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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 "general obligation bonds" means all bonds for  
2 the payment of the principal and interest of which the full  
3 faith and credit of the State or a political subdivision are  
4 pledged and, unless otherwise indicated, includes reimbursable  
5 general obligation bonds.

6           3. The term "net revenues" or "net user tax receipts"  
7 means the revenues or receipts derived from:

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

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

19           4. The term "dam and reservoir owner" means any person who  
20 has a right to, title to, or an interest in, a dam, a reservoir,



1 or the property upon which a dam, a reservoir, or appurtenant  
2 work is located or proposed to be located.

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

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

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



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

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

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

16 10. The term "tax increment bonds" means all bonds, the  
17 principal of and interest on which are payable from and secured  
18 solely by the amount of real property taxes levied and collected  
19 by a political subdivision, such as a county, on the difference  
20 between the assessed value of the taxable real property located  
21 within the boundaries of a tax increment district established by



1 a political subdivision in a given year and the assessed value  
2 of the taxable real property in the tax increment district  
3 during the year of creation of that tax increment district.

4 [10.] 11. The term "user tax" means a tax on goods or  
5 services or on the consumption thereof, the receipts of which  
6 are substantially derived from the consumption, use or sale of  
7 goods and services in the utilization of the functions or  
8 services furnished by a public undertaking, improvement or  
9 system; provided that mortgage recording taxes shall constitute  
10 user taxes of a state property insurance program.

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



1 behalf of a political subdivision shall be authorized by the  
2 governing body of such political subdivision.

3 Special purpose revenue bonds shall only be authorized or  
4 issued to finance facilities of or for, or to loan the proceeds  
5 of such bonds to assist:

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



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

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

- 18           (1) Not-for-profit private nonsectarian and sectarian  
19           elementary schools, secondary schools, colleges, and  
20           universities;
- 21           (2) Dam and reservoir owners; or



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





1 special purpose revenue bonds authorized and issued, and such  
2 other information as may be necessary."

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

5 **"DEBT LIMIT; EXCLUSIONS**

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



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

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

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



1 reimbursable general obligation bonds shall mature not later  
2 than five years from the date of issue of such series. The last  
3 installment on general obligation bonds shall mature not later  
4 than twenty-five years from the date of such issue and the last  
5 installment on general obligation bonds sold to the federal  
6 government, on reimbursable general obligation bonds and on  
7 bonds constituting instruments of indebtedness under which the  
8 State or a political subdivision incurs a contingent liability  
9 as a guarantor shall mature not later than thirty-five years  
10 from the date of such issue. The interest and principal  
11 payments of general obligation bonds shall be a first charge on  
12 the general fund of the State or political subdivision, as the  
13 case may be.

14 In determining the power of the State to issue general  
15 obligation bonds or the funded debt of any political subdivision  
16 under section 12, the following shall be excluded:

17 1. Bonds that have matured, or that mature in the then  
18 current fiscal year, or that have been irrevocably called for  
19 redemption and the redemption date has occurred or will occur in  
20 the then fiscal year, or for the full payment of which moneys or  
21 securities have been irrevocably set aside.



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

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



1           4. Bonds issued under special improvement statutes when  
2 the only security for such bonds is the properties benefited or  
3 improved or the assessments thereon.

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

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

13           7. Reimbursable general obligation bonds issued by the  
14 State for any political subdivision, whether issued before or  
15 after the effective date of this section, but only for as long  
16 as reimbursement by the political subdivision to the State for  
17 the payment of principal and interest on such bonds is required  
18 by law; provided that in the case of bonds issued after the  
19 effective date of this section, the consent of the governing  
20 body of the political subdivision has first been obtained; and  
21 provided further that during the period that such bonds are



1 excluded by the State, the principal amount then outstanding  
2 shall be included within the funded debt of such political  
3 subdivision.

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

14 9. Bonds issued by or on behalf of the State or by any  
15 political subdivision to meet appropriations for any fiscal  
16 period in anticipation of the collection of revenues for such  
17 period or to meet casual deficits or failures of revenue, if  
18 required to be paid within one year, and bonds issued by or on  
19 behalf of the State to suppress insurrection, to repel invasion,  
20 to defend the State in war or to meet emergencies caused by  
21 disaster or act of God.



1       10. Tax increment bonds, but only to the extent that the  
2 principal of and interest on the bonds are in fact paid from and  
3 secured solely by the amount of real property taxes levied and  
4 collected by a political subdivision, such as a county, on the  
5 difference between the assessed value of the taxable real  
6 property located within the boundaries of a tax increment  
7 district established by a political subdivision in a given year  
8 and the assessed value of the taxable real property in the tax  
9 increment district during the year of creation of that tax  
10 increment district.

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

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

19       SECTION 4. The question to be printed on the ballot shall  
20 be as follows:



1 "Shall the Constitution be amended to expressly provide  
2 that the legislature may authorize political subdivisions,  
3 such as the counties, to issue tax increment bonds to pay  
4 for specified public works, public improvements or other  
5 actions by the political subdivision within the tax  
6 increment district, and also be amended to exclude tax  
7 increment bonds in determining the funded debt of the  
8 political subdivisions, such as the counties?"

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:**

Constitutional Amendment; Tax Increment Bonds; Debt Limit;  
Counties

**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. (SD1)

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