



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 1101, RELATING TO TAX INCREMENT BONDS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Friday, February 3, 2023

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

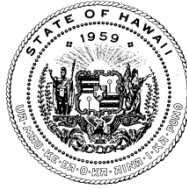
Chair Rhoads and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill amends section 39-92, Hawaii Revised Statutes (HRS), to conform the state debt limit statement laws to include tax increment bonds if the constitutional amendments authorizing the counties to issue tax increment bonds are authorized by the Legislature and ratified by the electorate. Tax increment bonds can be used to finance public improvements for redevelopment and for economic development within a designated tax increment area.

While this bill proposes to amend the statutes pertaining to the state debt limit ceiling to exclude tax increment bonds issued by the counties, we note that the state debt limit ceiling applies only to state debt issuances. Because the proposed constitutional amendments seek to authorize the issuance of tax increment bonds by the counties, this bill should be amending chapter 47C, HRS, Indebtedness of the Counties, Exclusions from the Funded Debt, and Certification Thereof, the governing statutory framework for the debt limit statement for the counties, and not section 39-92, HRS.

We respectfully ask the Committee to consider our comments.



LATE

TESTIMONY BY:
EDWIN H. SNIFFEN
DIRECTOR

Deputy Directors
DREANALEE K. KALILI
TAMMY L. LEE
ROBIN K. SHISHIDO
JAMES KUNANE TOKIOKA

**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION**
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 3, 2023
9:30 A.M.

State Capitol Conference Room 016 & Videoconference

**S.B. 1101
RELATING TO TAX INCREMENT BONDS**

Senate Committee on Judiciary

The Hawaii Department of Transportation (DOT) **supports** this measure that proposes to conform the state debt limit statements law to include tax increment bonds if a constitutional amendment authorizing the use of such bonds and excluding such bonds from determinations of the Counties' funded debt is ratified.

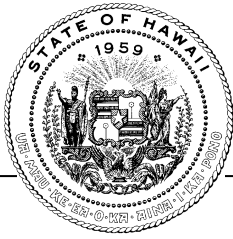
This testimony follows the DOT testimony in SB1100. The DOT issues Revenue Bonds under the authority of Hawaii Revised Statutes (HRS) § 39 Part III and is supportive of tax increment bonds as a complement to Revenue Bonds as an innovative financing tool.

And while the DOT understands that implementing Tax Increment Financing (TIF) and Tax Increment Bonds is complicated, this evolved way of thinking about financing may provide the potential for infrastructure improvements under the purview of the DOT as FHWA provides this on the subject of TIF, "Although TIF has not been used extensively to fund transportation infrastructure, some state laws specifically authorize the use of TIF for transportation purposes."¹

The DOT supports housing and have been working with developers to fulfill our infrastructure requirements and see TIF as an opportunity for the State and Counties to collaborate on areas that have been historically difficult to develop.

Thank you for the opportunity to provide testimony.

¹ https://www.fhwa.dot.gov/ipd/value_capture/defined/tax_increment_financing.aspx



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

JOSH GREEN, M.D.
GOVERNOR

SCOTT J. GLENN
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Statement of
SCOTT GLENN, Director

before the
SENATE COMMITTEE ON JUDICIARY

Friday, February 3, 2023, 9:30 AM
State Capitol, Conference Room 016

in consideration of
SB 1101
RELATING TO TAX INCREMENT BONDS.

Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary, the Office of Planning and Sustainable Development (OPSD) **supports** SB 1101, which conforms state debt limit statements law to include tax increment bonds if a constitutional amendment authorizing the use of such bonds and excluding such bonds from determinations of the Counties' funded debt is ratified.

Tax increment financing (TIF) is a useful tool to help finance regional public infrastructure to facilitate transit-oriented development on state and private lands. It allows a portion of property taxes in excess of a base assessed value to be dedicated to finance costs of a project through issuance of bonds.

While HRS §46-103 permits a county council to provide for tax increment financing, and HRS §46-104(2) grants a county the power to issue tax increment bonds, tax increment bonds do not fit neatly within the types of bonds that counties may issue under Hawaii's Constitution. If a separate bill is passed to introduce a constitutional amendment authorizing TIF use, and the amendment is ratified, this bill would conform state debt limit statements law to include tax increment bonds, and exclude tax increment bonds in calculating the debt limit of the counties.

Thank you for the opportunity to testify on this measure.

TAX FOUNDATION OF HAWAII

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SUBJECT: MISCELLANEOUS, Amend State Debt Limit Statements if Tax Increment Bonds Are Authorized

BILL NUMBER: SB 1101, HB 1456

INTRODUCED BY: SB by KEITH-AGARAN, AQUINO, MCKELVEY, Keohokalole, Kidani; HB by SAIKI

EXECUTIVE SUMMARY: Conforms state debt limit statements law to include tax increment bonds if a constitutional amendment authorizing the use of such bonds and excluding such bonds from determinations of the Counties' funded debt is ratified.

SYNOPSIS: Amends section 39-92, HRS, to conform the statutory language to accommodate a new clause in Article VII, section 13 of the Hawaii Constitution.

EFFECTIVE DATE: Upon its approval and upon ratification of a constitutional amendment expressly providing that the legislature may authorize the counties to issue tax increment bonds and excluding tax increment bonds from determinations of the funded debt of the counties.

STAFF COMMENTS: Apparently, this legislation was intended to pair with SB 1100 / HB 1457 which proposes a constitutional amendment to authorize the counties to issue tax increment bonds. However, SB 1100 / HB 1457 as currently drafted amends only Article VII, section 12 of the Hawaii Constitution. It does not touch section 13, and therefore does not exclude tax increment bonds from determinations of the funded debt of the counties. Thus, there is a mismatch with its intended companion bill. If SB 1100 / HB 1457 were to be approved by the electorate, this bill would not become effective because part of the predicate for effectiveness would not have been met.

Digested: 1/30/2023