
A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE VII, SECTIONS 12 AND 13, OF THE
HAWAII STATE CONSTITUTION.

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

1 SECTION 1. The legislature finds that Hawaii faces a
2 severe and ongoing shortage of housing for local residents and
3 that this crisis cannot be solved without large, sustained
4 investments in the infrastructure needed to produce new homes.
5 In particular, there is a shortage of infrastructure in
6 transit-oriented development areas and other priority growth
7 areas across all counties. State-funded planning efforts and
8 the *Hawaii TOD Infrastructure Financing and Delivery Strategy*
9 *Study* documented that four transit-oriented-development pilot
10 areas alone will require hundreds of millions of dollars in new
11 water, wastewater, drainage, road, and sea-level-rise mitigation
12 projects to support thousands of new homes. Existing funding
13 mechanisms--individual project-by-project contributions and
14 irregular capital improvement program appropriations--are
15 fragmented, inequitable, and insufficient to provide the scale
16 and timing of revenue needed for these infrastructure



1 investments. Without adequate funding for housing
2 infrastructure, Hawaii will not be able to solve its dire
3 shortage of housing.

4 The legislature further finds that counties have limited
5 tools to raise the revenues necessary to support
6 housing-enabling infrastructure. The *Hawaii TOD Infrastructure*
7 *Financing and Delivery Strategy Study*, funded by the legislature
8 pursuant to Act 88, Session Laws of Hawaii 2021, concluded that
9 additional tools, especially value capture mechanisms, are
10 needed to supplement existing county and state resources and to
11 provide access to regular, large sources of funds and financing
12 that do not interfere with counties' normal bonding activities.

13 The legislature also finds that resilient infrastructure
14 for shelter and equity bonds are a proven value capture tool
15 used in many other jurisdictions to help fund housing-enabling
16 infrastructure. Through this form of financing, commonly
17 implemented through tax increment financing, a county may
18 establish a district and use a portion of the future growth in
19 real property tax revenues--generated by new development and
20 appreciation of existing properties within that district--to pay
21 for present-day infrastructure. Resilient infrastructure for



1 shelter and equity bonds do not require creating a new tax or
2 increasing property tax rates. Instead, they designate a
3 portion of the natural growth in property tax revenues, which is
4 generated by new development and rising property values within a
5 designated area, and allow those revenues to be pledged to bonds
6 that provide upfront capital for infrastructure.

7 In addition, the legislature finds that the *Hawaii TOD*
8 *Infrastructure Financing and Delivery Strategy Study*
9 specifically recommended that the State first authorize a ballot
10 measure for a constitutional amendment to clearly permit
11 counties to issue tax increment bonds and exclude such bonds
12 from county debt limits and then amend the tax increment
13 financing statutes to allow additional flexibility, including
14 non-contiguous districts; the use of tax increment from
15 higher-value areas to support infrastructure in areas of need;
16 and, where appropriate, the capture of certain state-level tax
17 increments.

18 Therefore, the purpose of this Act is to propose amendments
19 to article VII, sections 12 and 13, of the Hawaii State
20 Constitution to:



- 1 (1) Expressly authorize the legislature to empower the
2 counties and other political subdivisions of the State
3 to issue resilient infrastructure for shelter and
4 equity bonds, a form of financing payable solely from
5 incremental real property tax revenues generated
6 within designated districts;
- 7 (2) Clarify that these bonds are payable solely from those
8 incremental real property tax revenues and need not be
9 supported by countywide tax increases; and
- 10 (3) Exclude such bonds from county debt limit calculations
11 to the extent they are in fact repaid from those
12 incremental revenues.

13 It is the intent of the legislature that if the proposed
14 constitutional amendments are approved by the electorate,
15 subsequent implementing legislation and county ordinances will
16 establish resilient infrastructure for shelter and equity bond
17 programs consistent with these findings and the best-practice
18 recommendations of the *Hawaii TOD Infrastructure Financing and*
19 *Delivery Strategy Study* so that new development helps pay for
20 the housing-enabling infrastructure it requires while



1 safeguarding county fiscal health and advancing affordable
2 housing goals statewide.

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

5 "DEFINITIONS; ISSUANCE OF INDEBTEDNESS

6 Section 12. For the purposes of this article:

7 1. The term "bonds" shall include bonds, notes and other
8 instruments of indebtedness.

9 2. The term "community development" means the planning,
10 acquisition, ownership, construction, reconstruction,
11 rehabilitation or improvement of capital projects or
12 improvements, including real or personal property, or any
13 interest therein, that advances a community's values, culture,
14 and vision. "Community development" shall be limited to capital
15 assets and shall not include operating expenses.

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

20 [~~2.~~] 4. The term "general obligation bonds" means all
21 bonds for the payment of the principal and interest of which the



1 full faith and credit of the State or a political subdivision
2 are pledged and, unless otherwise indicated, includes
3 reimbursable general obligation bonds.

4 5. The term "resilient infrastructure for shelter and
5 equity bonds" means all bonds, the principal of and interest on
6 which are payable from and secured solely by all real property
7 taxes levied by a political subdivision, such as a county, on
8 the assessed valuation of the real property in a designated
9 district established by the political subdivision that is in
10 excess of the assessed valuation of the real property for the
11 fiscal year before the effective date specified by resolution of
12 the political subdivision of the specified public works, public
13 improvements or other actions necessary for housing and
14 community development by the political subdivision within the
15 designated district.

16 [~~3.~~] 6. The term "net revenues" or "net user tax receipts"
17 means the revenues or receipts derived from:

18 a. A public undertaking, improvement or system remaining
19 after the costs of operation, maintenance and repair of
20 the public undertaking, improvement or system, and the



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

3 b. Any payments or return on security under a loan program
4 or a loan thereunder, after the costs of operation and
5 administration of the loan program, and the required
6 payments of the principal of and interest on all
7 revenue bonds issued therefor, have been made.

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

12 ~~5.]~~ 7. The term "person" means an individual, firm,
13 partnership, corporation, association, cooperative or other
14 legal entity, governmental body or agency, board, bureau or
15 other instrumentality thereof, or any combination of the
16 foregoing.

17 ~~[6.]~~ 8. The term "rates, rentals and charges" means all
18 revenues and other moneys derived from the operation or lease of
19 a public undertaking, improvement or system, or derived from any
20 payments or return on security under a loan program or a loan
21 thereunder; provided that insurance premium payments,



1 assessments and surcharges, shall constitute rates, rentals and
2 charges of a state property insurance program.

3 ~~[7.]~~ 9. The term "reimbursable general obligation bonds"
4 means general obligation bonds issued for a public undertaking,
5 improvement or system from which revenues, or user taxes, or a
6 combination of both, may be derived for the payment of the
7 principal and interest as reimbursement to the general fund and
8 for which reimbursement is required by law, and, in the case of
9 general obligation bonds issued by the State for a political
10 subdivision, general obligation bonds for which the payment of
11 the principal and interest as reimbursement to the general fund
12 is required by law to be made from the revenue of the political
13 subdivision.

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



1 ~~[9.]~~ 11. The term "special purpose revenue bonds" means
2 all bonds payable from rental or other payments made to an
3 issuer by a person pursuant to contract and secured as may be
4 provided by law.

5 ~~[10.]~~ 12. The term "user tax" means a tax on goods or
6 services or on the consumption thereof, the receipts of which
7 are substantially derived from the consumption, use or sale of
8 goods and services in the utilization of the functions or
9 services furnished by a public undertaking, improvement or
10 system; provided that mortgage recording taxes shall constitute
11 user taxes of a state property insurance program.

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



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

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

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



1 significant benefits to the general public as important
2 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~~] the special purpose revenue bonds is found to
14 be in the public interest by the legislature; [~~and~~] provided
15 further that the State may combine into a single issue of
16 special purpose revenue bonds two or more proposed issues of
17 special purpose revenue bonds to assist:

- 18 (1) Not-for-profit private nonsectarian and sectarian
19 elementary schools, secondary schools, colleges[~~r~~] 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~~] the 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~~] the
18 contract or contracts or special purpose revenue bonds and no
19 moneys other than [~~such~~] the receipts shall be applied to the
20 payment thereof. The governor shall provide the legislature in
21 November of each year with a report on the cumulative amount of



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



1 for all bonds issued and outstanding, will not cause the debt
2 limit to be exceeded at the time of issuance. Any bond issue by
3 or on behalf of the State may exceed the debt limit if an
4 emergency condition is declared to exist by the governor and
5 concurred to by a two-thirds vote of the members to which each
6 house of the legislature is entitled. For the purpose of this
7 paragraph, general fund revenues of the State shall not include
8 moneys received as grants from the federal government and
9 receipts in reimbursement of any reimbursable general obligation
10 bonds [~~which~~] that are excluded 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~~] the political subdivision that is outstanding and
16 unpaid at 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~~] the series.
3 The last installment on general obligation bonds shall mature
4 not later than twenty-five years from the date of [~~such~~] its
5 issue and the last installment on general obligation bonds sold
6 to the federal government, on reimbursable general obligation
7 bonds and on bonds constituting instruments of indebtedness
8 under which the State or a political subdivision incurs a
9 contingent liability as a guarantor shall mature not later than
10 thirty-five years from the date of [~~such~~] its issue. The
11 interest and principal payments of general obligation bonds
12 shall be a first charge on the general fund of the State or
13 political subdivision, as the 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~~] the revenues or
13 tax or a combination of both into a special fund and to apply
14 the same to [~~such~~] the payments in the amount necessary
15 therefor.

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



1 4. Bonds issued under special improvement statutes when
2 the only security for [~~such~~] the bonds is the properties
3 benefited or 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~~] the bonds
7 are in 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~~] the bonds is
18 required by law; provided that in the case of bonds issued after
19 the 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~~] the bonds



1 are excluded by the State, the principal amount then outstanding
2 shall be included within the funded debt of [~~such~~] the 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~~] the 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 the 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. Resilient infrastructure for shelter and equity bonds
2 issued pursuant to section 12.

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

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

11 SECTION 4. The question to be printed on the ballot shall
12 be as follows:

13 "Shall the Hawaii State Constitution be amended to direct
14 the legislature to authorize the counties to issue
15 resilient infrastructure for shelter and equity bonds to
16 fund public improvements in designated districts, repaid
17 solely by future growth in property tax revenues within
18 those districts, not by increasing real property tax rates,
19 where such bonds are excluded from the counties' debt limit
20 and are subject to accountability and oversight
21 requirements as may be provided by law?"



1 SECTION 5. Constitutional material to be repealed is
2 bracketed and stricken. New constitutional material is
3 underscored.

4 SECTION 6. This Act shall take effect upon compliance with
5 article XVII, section 3, of the Constitution of the State of
6 Hawaii.



Report Title:

Constitutional Amendments; Counties; Resilient Infrastructure for Shelter and Equity Bonds

Description:

Proposes constitutional amendments to expressly provide that the Legislature may authorize political subdivisions, such as the counties, to issue resilient infrastructure for shelter and equity bonds for specified public works, public improvements, or other actions necessary for housing and community development, and exclude these bonds from determinations of the funded debt of the political subdivisions. (CD1)

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