
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 transit-
6 oriented development areas and other priority growth areas
7 across all counties. State-funded planning efforts and the
8 *Hawaii TOD Infrastructure Financing and Delivery Strategy Study*
9 documented that four transit-oriented-development pilot areas
10 alone will require hundreds of millions of dollars in new water,
11 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 housing-
6 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 housing infrastructure
14 growth bonds are a proven value capture tool used in many other
15 jurisdictions to help fund housing-enabling infrastructure.
16 Through this form of financing, commonly implemented through tax
17 increment financing, a county may establish a district and use a
18 portion of the future growth in real property tax revenues--
19 generated by new development and appreciation of existing
20 properties within that district--to pay for present-day
21 infrastructure. Housing infrastructure growth bonds do not



1 require creating a new tax or increasing property tax rates.
2 Instead, they designate a portion of the natural growth in
3 property tax revenues, which is generated by new development and
4 rising property values within a designated area, and allow those
5 revenues to be pledged to bonds that provide upfront capital for
6 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 housing infrastructure growth bonds and
12 exclude such bonds from county debt limits and then amend the
13 tax increment financing statutes to allow additional
14 flexibility, including non-contiguous districts; the use of tax
15 increment from higher-value areas to support infrastructure in
16 areas of need; and, where appropriate, the capture of certain
17 state-level tax 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 housing infrastructure growth bonds, a form
4 of financing payable solely from incremental real
5 property tax revenues generated within designated
6 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 housing infrastructure growth bond programs consistent
17 with these findings and the best-practice recommendations of the
18 *Hawaii TOD Infrastructure Financing and Delivery Strategy Study*
19 so that new development helps pay for the housing-enabling
20 infrastructure it requires while safeguarding county fiscal
21 health and advancing affordable housing goals statewide.



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

3 "DEFINITIONS; ISSUANCE OF INDEBTEDNESS

4 Section 12. For the purposes of this article:

5 1. The term "bonds" shall include bonds, notes and other
6 instruments of indebtedness.

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

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

18 [2.] 4. The term "general obligation bonds" means all
19 bonds for the payment of the principal and interest of which the
20 full faith and credit of the State or a political subdivision



1 are pledged and, unless otherwise indicated, includes
2 reimbursable general obligation bonds.

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

15 [~~3.~~] 6. The term "net revenues" or "net user tax receipts"
16 means the revenues or receipts derived from:

17 a. A public undertaking, improvement or system remaining
18 after the costs of operation, maintenance and repair of
19 the public undertaking, improvement or system, and the
20 required payments of the principal of and interest on
21 all revenue bonds issued therefor, have been made; or



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

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

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

15 ~~[6.]~~ 8. The term "rates, rentals and charges" means all
16 revenues and other moneys derived from the operation or lease of
17 a public undertaking, improvement or system, or derived from any
18 payments or return on security under a loan program or a loan
19 thereunder; provided that insurance premium payments,
20 assessments and surcharges, shall constitute rates, rentals and
21 charges of a state property insurance program.



1 ~~[7.]~~ 9. The term "reimbursable general obligation bonds"
2 means general obligation bonds issued for a public undertaking,
3 improvement or system from which revenues, or user taxes, or a
4 combination of both, may be derived for the payment of the
5 principal and interest as reimbursement to the general fund and
6 for which reimbursement is required by law, and, in the case of
7 general obligation bonds issued by the State for a political
8 subdivision, general obligation bonds for which the payment of
9 the principal and interest as reimbursement to the general fund
10 is required by law to be made from the revenue of the political
11 subdivision.

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

19 ~~[9.]~~ 11. The term "special purpose revenue bonds" means
20 all bonds payable from rental or other payments made to an



1 issuer by a person pursuant to contract and secured as may be
2 provided by law.

3 ~~[10.]~~ 12. The term "user tax" means a tax on goods or
4 services or on the consumption thereof, the receipts of which
5 are substantially derived from the consumption, use or sale of
6 goods and services in the utilization of the functions or
7 services furnished by a public undertaking, improvement or
8 system; provided that mortgage recording taxes shall constitute
9 user taxes of a state property insurance program.

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



1 shall be authorized by the governing body of [~~such~~] the
2 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~~] the 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 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[7] 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
8 to which its governing body is entitled and by separate
9 ordinance, may authorize the issuance of special purpose
10 revenue bonds for each single project or multi-project
11 program of each special purpose entity; provided that the
12 issuance of [~~such~~] the special purpose revenue bonds is
13 found to be in the public interest by the governing body of
14 the political subdivision. No special purpose revenue
15 bonds shall be secured directly or indirectly by the
16 general credit of the issuer or by any revenues or taxes of
17 the issuer other than receipts derived from payments by a
18 person or persons under contract or from any security for
19 [~~such~~] the contract or contracts or special purpose revenue
20 bonds and no moneys other than [~~such~~] the receipts shall be
21 applied to the payment thereof. The governor shall provide



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

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

7 "DEBT LIMIT; EXCLUSIONS

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



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

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

19 All general obligation bonds for a term exceeding two years
20 shall be in serial form maturing in substantially equal
21 installments of principal, or maturing in substantially equal



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

16 In determining the power of the State to issue general
17 obligation bonds or the funded debt of any political subdivision
18 under section 12, the following shall be 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 the period or to meet casual deficits or failures of revenue, if
20 required to be paid within one year, and bonds issued by or on
21 behalf of the State to suppress insurrection, to repel invasion,



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

3 10. Housing infrastructure growth bonds issued pursuant to
4 section 12.

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
9 and this section, amounts received from on-street parking may be
10 considered and treated as revenues of a parking undertaking.

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

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

15 "Shall the Hawaii State Constitution be amended to allow
16 the Legislature to authorize counties to issue housing
17 infrastructure growth bonds to fund housing-related public
18 improvements in designated districts, which are excluded
19 from the counties' debt limit and, rather than by
20 increasing real property tax rates, are paid back only from



1 future increases in real property tax revenues that come
2 from rising property values within these districts?"

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

6 SECTION 6. This Act shall take effect on July 1, 3000;
7 provided that these amendments shall take effect upon compliance
8 with article XVII, section 3, of the Constitution of the State
9 of Hawaii.



Report Title:

Constitutional Amendments; Counties; Housing Infrastructure
Growth Bonds

Description:

Proposes constitutional amendments to expressly provide that the Legislature may authorize political subdivisions, such as the counties, to issue housing infrastructure growth 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. Effective 7/1/3000. (HD2)

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