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# A BILL FOR AN ACT

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



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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  
21                revenue 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



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1 facilities to protect public safety and provide  
2 significant benefits to the general public as important  
3 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[7] and  
21 universities;



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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 later than thirty-five years from the date of [~~such~~] the issue.  
12 The interest and principal payments of general obligation bonds  
13 shall be a first charge on the general fund of the State or  
14 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 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. 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 amended  
17 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

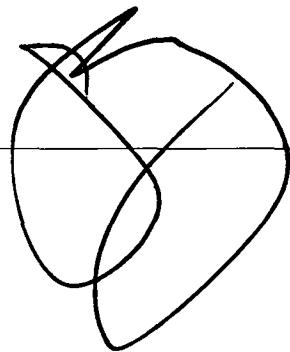
7 (2) Exclude tax increment bonds in determining the  
8 funded debt of the political subdivisions?"

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.

15

INTRODUCED BY:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, positioned over a horizontal line.

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**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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

