ACT 155

H.B. NO. 2407

A Bill for an Act Making an Emergency Appropriation for the Department of Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. The Hawaii community development authority in its redevelopment of Kakaako will be displacing the measurement standards and plant quarantine programs of the department of agriculture. The measurement standards program of the quality assurance division will be the first program displaced to accommodate the widening of Ilalo street from Ward avenue to South and Punchbowl streets. The widening project includes improvements to the roadway, drainage, sewer, water, electrical, telephone, and cable systems and is part of the overall plan to create a waterfront that stimulates economic and educational uses.

The purpose of this Act is to provide the necessary statutory authorization and appropriations to relocate the measurement standards program and to construct a new building to accommodate both the measurement standards and commodities programs of the quality assurance division.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of $200,000, or so much thereof as may be necessary for fiscal year 1999-2000, to cover all expenses related to temporarily relocating the measurement standards program and its personnel.

SECTION 4. The director of finance is authorized to issue general obligation bonds in the sum of $3,800,000, or so much thereof as may be necessary, and the same sum or so much thereof as may be necessary is appropriated for fiscal year 1999-2000, to finance the cost of plans, design, construction, and equipment of a new building for the measurement standards and commodities programs on Oahu.

SECTION 5. Any unexpended or unencumbered balances of the appropriation made by section 3 of this Act as of the close of business on June 30, 2000, shall not lapse and shall be carried over and may be expended during fiscal year 2000-2001; provided that on June 30, 2001, all unexpended and unencumbered balances shall lapse into the general fund of the State.

Any unexpended and unencumbered balances of the appropriation under section 4 of this Act as of the close of business on June 30, 2002, shall lapse.

SECTION 6. The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 7. With approval of the governor, the designated expending agencies for capital improvement projects authorized in this Act may delegate to another state agency the implementation of such projects when it is determined by all involved agencies and parties that it is advantageous to do so.

SECTION 8. Any law to the contrary notwithstanding, the appropriation under Act 328, Session Laws of Hawaii 1997, section 140A, as amended by Act 116, Session Laws of Hawaii 1998, section 5, in the amount indicated or balance thereof, unallotted, allotted, encumbered, and unrequired is hereby lapsed:

Item No.	Amount (MOF)
H-17	$280,000 C

SECTION 9. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in section 13 of article VII of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance," the legislature finds and declares as follows:

(1) Limitation on general obligation debt. The debt limit of the State is set forth in section 13 of article VII of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year" and bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not

exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under article VII, section 13.

(2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1999-2000 and estimated for each fiscal year from 2000-2001 to 2002-2003, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1996-1997	3,115,264,737	
1997-1998	3,195,967,036	
1998-1999	3,254,256,686	
1999-2000	3,141,743,000	$589,871,788
2000-2001	3,228,232,000	$591,304,615
2001-2002	3,285,586,000	$593,494,287
2002-2003	(Not Applicable)	$595,426,262

For fiscal years 1999-2000, 2000-2001, 2001-2002, and 2002-2003, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1996-1997, 1997-1998, and 1998-1999 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1999, dated November 24, 1999. The net general fund revenues for fiscal years 1999-2000 to 2001-2002 are estimates, based on general fund revenue estimates made March 10, 2000, by the council on revenues, the body assigned by section 7 of article VII of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

(3) Principal and interest on outstanding bonds applicable to the debt limit. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by section 13 of article VII of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of December 1, 1999 is as follows for fiscal year 2000-2001 to fiscal year 2006-2007:

Fiscal Year	Principal and Interest
2000-2001	$352,508,780
2001-2002	$367,994,493
2002-2003	$411,701,970
2003-2004	$378,223,219
2004-2005	$373,053,164
2005-2006	$347,383,328
2006-2007	$344,154,560

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2007-2008 to fiscal year 2019-2020 when the final installment of $27,612,984 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is $191,000,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to section 13 of article VII of the State Constitution.

(4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties. (A) As calculated from the state comptroller's bond fund report as of October 31, 1999, adjusted for (i) appropriations to be funded with general obligation bonds and reimbursable general obligation bonds as provided in Act 91, Session Laws of Hawaii 1999 (General Appropriations Act of 1999), to be expended in the fiscal year 2000-2001; (ii) Appropriations to be funded by reimbursable general obligation bonds as provided in Act 151, Session Laws of Hawaii 1999 (Relating to Hawaii Hurricane Relief Fund Bonds) to be expended in the fiscal year 2000-2001; (iii) Act 156, Session Laws of Hawaii 1999, (the Judiciary Appropriations Act of 1999) to be expended in the fiscal year 2000-2001; and (iv) Lapses totaling $280,000 proposed in this Act, the total amount of authorized but unissued general obligation bonds, is $1,396,114,543. The total amount of general obligation bonds authorized in this Act is $3,800,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized in this Act is $1,399,914,543. (B) As reported by the department of budget and finance, the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is $191,000,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to section 13 of article VII of the State Constitution. The total amount of guaranties authorized by S.B. No. 2873[1] (Relating to Hawaii Health Systems Corporation) is $47,500,000 and are herein validated. The total amount of guaranties previously authorized and validated by this Act is $238,500,000.

(5) Proposed general obligation bond issuance. As reported therein for fiscal years 1998-1999, 1999-2000, 2000-2001, 2001-2002 and 2002-2003, the State proposes to issue $200,000,000 during the remainder of fiscal year 1999-2000, $350,000,000 during the first half of fiscal year 2000-2001, $150,000,000 during the second half of fiscal year 2000-2001, $150,000,000 during the first half of fiscal year 2001-2002, $150,000,000 during the second half of fiscal year 2001-2002, $100,000,000 during the first half of fiscal year 2002-2003, and $300,000,000 during the second half of fiscal year 2002-2003. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds being payable in substantially equal annual installments of principal and interest payment, and with interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will be applied to the bonds which are proposed to be issued except that principal repayments will begin in the fourth year.

(6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1999-2000 to 2002-2003 is $1,000,000,000. An additional $400,000,000 is proposed to be issued

in fiscal year 2002-2003. The total amount of $1,000,000,000 which is proposed to be issued through fiscal year 2001-2002 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is $1,399,914,543, as reported in paragraph (4), except for $399,914,543. It is assumed that the appropriations to which an additional $399,914,543 in bond issuance needs to be applied will have been encumbered as of June 30, 2002. The $400,000,000 which is proposed to be issued in fiscal year 2002-2003 will be sufficient to meet the requirements of the June 30, 2002 encumbrances in the amount of $399,914,543. The amount of assumed encumbrances as of June 30, 2002 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of previously authorized and unissued bonds and bonds proposed in this Act versus the amount of bonds which is proposed to be issued by June 30, 2002, and the amount of June 30, 2002 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 2002-2003, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

(7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:

(i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and

(ii) Not all reimbursable general obligation bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from the calculation against the debt limit is 6.97 percent for the ten years from fiscal year 2000-2001 to fiscal year 2009-2010. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under section

13 of article VII of the State Constitution for the fiscal years 1999-2000, 2000-2001, 2001-2002 and 2002-2003 are as follows:

Fiscal year	Total amount of general obligation bonds not otherwise excluded by article VII, section 13 of the State constitution
1999-2000	$3,309,433,537
2000-2001	$3,600,550,972
2001-2002	$3,677,655,955
2002-2003	$3,843,443,582

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven per cent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to section 13 of article VII of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), all of the outstanding guaranties can be excluded.

(8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 6.0 per cent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties
Remainder FY 1999-2000 $190,000,000	589,871,788	423,100,970 (2002-2003)
1st half FY 2000-2001 $332,500,000	591,504,615	443,051,970 (2002-2003)
2nd half FY 2000-2001 $142,500,000	591,504,615	451,601,970 (2002-2003)
1st half FY 2001-2002 $142,500,000	593,494,287	455,876,970 (2002-2003)

2nd half FY 2001-2002 $142,500,000	593,494,287	464,426,970 (2002-2003)
1st half FY 2002-2003 $95,000,000	595,426,262	549,374,614 (2004-2005)
2nd half FY 2002-2003 $285,000,000	595,426,262	479,324,614 (2004-2005)

(9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 10. The legislature finds the bases for the declaration of findings set forth in this Act reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 11. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance the project authorized in this Act; provided that the sum total of general obligation bonds issued shall not exceed $3,800,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 12. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 13. In printing this Act, the revisor of statutes shall substitute in section 9 the corresponding act number for the bill identified therein.

SECTION 14. This Act shall take effect upon its approval.

(Approved June 1, 2000.)

Note

1. Act 279.