

ACT 33

S.B. NO. 1260

A Bill for an Act Relating to Public Finance.

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

SECTION 1. The purpose of this Act is to set forth the State's allocation of any annual or other limit on the principal amount of bonds that may be issued by issuers within Hawaii, including tax exempt interest, tax credits, interest subsidies or other benefits under the Internal Revenue Code of 1986, as amended, which is limited by federal legislation.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
ALLOCATION OF STATE BOND CEILING**

§ -1 **Definitions.** Whenever used in this chapter, unless a different meaning clearly appears from the context:

"Bond" means any bond, note, or other evidence of indebtedness or lease with separately stated principal and interest components or certificates of participation therein.

"Department" means the department of budget and finance.

"Issuer" means any state or county department, board, commission, authority or officer, or not-for-profit corporation authorized to issue bonds under the laws of the State.

"State ceiling" means any annual or other limit on the principal amount of bonds that may be issued by issuers, with tax exempt interest, tax credits, interest subsidies or other benefits under the Internal Revenue Code of 1986, as amended, which limit is imposed under or pursuant to the American Recovery and Reinvestment Act, Public Law 111-5, or any subsequent federal legislation.

§ -2 **Allocation of state bond ceiling.** (a) The department, with the approval of the governor, may allocate all or any part of the state ceiling to any issuer for a specific calendar year or shorter period. At the request of the department, any issuer to which any part of the state ceiling has been allocated, and with respect to which bonds have not yet been sold, shall return all or part of the allocation as the department has requested, in which case the department shall provide for its reallocation.

(b) In the event allocations of the state ceiling are made directly to issuers other than the State by federal statute or by the United States Department of the Treasury or other federal authority, including by requiring the State to make specified allocations, to the extent permitted by federal law or procedure, the department may require or request recipients of such allocations to report any plans the recipient may have to use the allocation in the form and by a date as the department may specify and to transfer to the State any allocation that

the recipients do not plan to use or which the department determines is not reasonably expected to be used, in which case the department may provide for its reallocation.

(c) Any issuer may request of the department an allocation or additional allocation of the state ceiling or transfer or return all or any portion of its allocation of the state ceiling to the State.

**§ -3 Application of allocation.** Any issuer that issues bonds to which an allocation of the state ceiling has been applied, shall evidence and report the application by a certificate, a copy of which shall be sent to the department. The department shall maintain a record of all allocations of the state ceiling made by the department and copies of certificates sent to or retained by the department.

**§ -4 Carry forward.** In the event that federal tax law permits all or any portion of the state ceiling or allocations thereof to be carried forward for future use, the director of finance of each county or any other issuer that has received state ceiling allocations that have not been applied as of December 15, or fifteen days prior to the end of the period during which the allocation must be used or carried forward under federal tax law, shall report to the department the amount of allocation that has not been applied and will not be applied by December 31 or such other deadline. Unless the director of finance of the county or other issuer, by written certificate, indicates to the department that it intends to carry forward all or any part of its unapplied allocation, the unapplied allocation shall revert to the State. The department, on behalf of the State, shall be entitled to carry forward the unapplied allocation together with any unapplied allocation of the State or state issuers for future allocation pursuant to section -2(a)."

**SECTION 3.** This Act shall take effect upon its approval.

(Approved April 29, 2011.)