

JAN 16 2008

A BILL FOR AN ACT

RELATING TO STATE BONDS.

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

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

12 (1) Limitation on general obligation debt. The debt limit
13 of the State is set forth in article VII, section 13
14 of the State Constitution, which states in part:
15 "General obligation bonds may be issued by the State;
16 provided that such bonds at the time of issuance would
17 not cause the total amount of principal and interest



1 payable in the current or any future fiscal year,
2 whichever is higher, on such bonds and on all
3 outstanding general obligation bonds to exceed: a sum
4 equal to twenty per cent of the average of the general
5 fund revenues of the State in the three fiscal years
6 immediately preceding such issuance until June 30,
7 1982; and thereafter, a sum equal to eighteen and
8 one-half per cent of the average of the general fund
9 revenues of the State in the three fiscal years
10 immediately preceding such issuance." Article VII,
11 section 13, also provides that in determining the
12 power of the State to issue general obligation bonds,
13 certain bonds are excludable, including "reimbursable
14 general obligation bonds issued for a public
15 undertaking, improvement or system but only to the
16 extent that reimbursements to the general fund are in
17 fact made from the net revenue, or net user tax
18 receipts, or combination of both, as determined for
19 the immediately preceding fiscal year" and bonds
20 constituting instruments of indebtedness under which
21 the State incurs a contingent liability as a
22 guarantor, but only to the extent the principal amount



1 of such bonds does not exceed seven per cent of the
 2 principal amount of outstanding general obligation
 3 bonds not otherwise excluded under article VII,
 4 section 13.

5 (2) Actual and estimated debt limits. The limit on
 6 principal and interest of general obligation bonds
 7 issued by the State, actual for fiscal year 2007-2008
 8 and estimated for each fiscal year from 2008-2009 to
 9 2010-2011, is as follows:

10	Fiscal	Net General	
11	<u>Year</u>	<u>Fund Revenues</u>	<u>Debt Limit</u>
12	2004-2005	\$4,471,460,582	
13	2005-2006	4,904,019,330	
14	2006-2007	5,166,308,841	
15	2007-2008		\$818,290,251
16	2008-2009		
17	2009-2010		
18	2010-2011		
19	2011-2012		

20 For fiscal years 2006-2007, 2007-2008, 2008-2009,
 21 2009-2010, and 2010-2011, respectively, the debt limit
 22 is derived by multiplying the average of the net
 23 general fund revenues for the three preceding fiscal
 24 years by eighteen and one-half per cent. The net
 25 general fund revenues for fiscal years 2004-2005,
 26 2005-2006, and 2007-2008 are actual, as certified by



1 the director of finance in the Statement of the Debt
2 Limit of the State of Hawaii as of July 1, 2006, dated
3 November , 2006. The net general fund revenues for
4 fiscal years 2007-2008 to 2009-2010 are estimates,
5 based on general fund revenue estimates made as of
6 March , 2008, by the council on revenues, the body
7 assigned by article VII, section 7 of the state
8 constitution, to make such estimates, and based on
9 estimates made by the department of budget and finance
10 of those receipts that cannot be included as general
11 fund revenues for the purpose of calculating the debt
12 limit, all of which estimates the legislature finds to
13 be reasonable.

14 (3) Principal and interest on outstanding bonds applicable
15 to the debt limit.

16 (A) According to the department of budget and
17 finance, the total amount of principal and
18 interest on outstanding general obligation bonds,
19 after the exclusions permitted by article VII,
20 section 13 of the state constitution, for
21 determining the power of the State to issue
22 general obligation bonds within the debt limit as



1 of April 1, 2007, is as follows for fiscal year
2 2008-2009 to fiscal year 2014-2015:

3 4 5	<u>Fiscal Year</u>	<u>Principal and Interest</u>
6	2008-2009	\$
7	2009-2010	
8	2010-2011	
9	2011-2012	
10	2012-2013	
11	2013-2014	
12	2014-2015	

13
14 The department of budget and finance further
15 reports that the amount of principal and interest
16 on outstanding bonds applicable to the debt limit
17 generally continues to decline each year from
18 fiscal year 2015-2016 to fiscal year 2027-2028
19 when the final installment of \$ shall be
20 due and payable.

21 (B) The department of budget and finance further
22 reports that the outstanding principal amount of
23 bonds constituting instruments of indebtedness
24 under which the State may incur a contingent
25 liability as a guarantor is \$191,000,000, all or
26 part of which is excludable in determining the
27 power of the State to issue general obligation



1 bonds, pursuant to article VII, section 13 of the
2 state constitution.

3 (4) Amount of authorized and unissued general obligation
4 bonds and guaranties and proposed bonds and
5 guaranties.

6 (A) As calculated from the state comptroller's bond
7 fund report as of February , 2008, adjusted
8 for:

9 (i) Appropriations to be funded by general
10 obligations bonds or reimbursable general
11 obligation bonds as provided in House Bill
12 No. , H.D. , S.D. , C.D. (the
13 Supplemental Appropriations Act of 2008), to
14 be expended in fiscal year 2008-2009;

15 (ii) Lapses as provided in House Bill No. ,
16 H.D. , S.D. , C.D. (the Supplemental
17 Appropriations Act of 2008);

18 (iii) Lapses as provided in House Bill No. ,
19 H.D. , S.D. , C.D. (the Judiciary
20 Supplemental Appropriations Act of 2008);

21 and



1 (iv) The issuance of \$ General
2 Obligation Bonds of 2006, Series DI,
3 the total amount of authorized but unissued
4 general obligation bonds or reimbursable general
5 obligation bonds is \$. The total
6 amount of general obligation bonds authorized by
7 this Act is \$. The total amount of
8 general obligation bonds previously authorized
9 and unissued and the general obligation bonds
10 authorized in this Act is \$.

11 (B) As reported by the department of budget and
12 finance the outstanding principal amount of bonds
13 constituting instruments of indebtedness under
14 which the State may incur a contingent liability
15 as a guarantor is \$, all or part of
16 which is excludable in determining the power of
17 the State to issue general obligation bonds,
18 pursuant to article VII, section 13 of the state
19 constitution.

20 (5) Proposed general obligation bond issuance. As
21 reported therein for the fiscal years 2008-2009,
22 2009-2010, and 2010-2011, the State proposed to issue



1 \$ in general obligation bonds during the
2 first half of fiscal year 2008-2009, \$ in
3 general obligation bonds during the second half of
4 fiscal year 2008-2009, \$ in general
5 obligation bonds during the first half of fiscal year
6 2009-2010, \$ in general obligation bonds
7 during the second half of fiscal year 2009-2010, and
8 \$ in general obligation bonds semi-annually
9 during fiscal year 2010-2011. It has been the
10 practice of the State to issue twenty-year serial
11 bonds with principal repayments beginning the fifth
12 year, the bonds payable in substantially equal annual
13 installments of principal and interest payment with
14 interest payments commencing six months from the date
15 of issuance and being paid semi-annually thereafter.
16 It is assumed that this practice will continue to be
17 applied to the bonds that are proposed to be issued.

18 (6) Sufficiency of proposed general obligation bond
19 issuance to meet the requirements of authorized and
20 unissued bonds, as adjusted, and bonds authorized by
21 this Act. From the schedule reported in paragraph
22 (5), the total amount of general obligation bonds that



1 the State proposes to issue during the fiscal years
2 2007-2008 to 2010-2011 is \$. An additional
3 \$ is proposed to be issued in fiscal year
4 2011-2012. The total amount of \$ which is
5 proposed to be issued through fiscal year 2010-2011 is
6 sufficient to meet the requirements of the authorized
7 and unissued bonds, as adjusted, the total amount of
8 which is \$, as reported in paragraph (4),
9 except for \$. It is assumed that the
10 appropriations to which an additional \$ in
11 bond issuance needs to be applied will have been
12 encumbered as of June 30, 2010. The \$
13 which is proposed to be issued in fiscal
14 year - will be sufficient to meet the
15 requirements of the June 30, , encumbrances in the
16 amount of \$. The amount of assumed
17 encumbrances as of June 30, , is reasonable and
18 conservative, based upon an inspection of June 30
19 encumbrances of the general obligation bond fund as
20 reported by the state comptroller. Thus, taking into
21 account the amount of authorized and unissued bonds,
22 as adjusted, and the bonds authorized by this Act



1 versus the amount of bonds proposed to be issued by
2 June 30, , and the amount of June 30, ,
3 encumbrances versus the amount of bonds proposed to be
4 issued in fiscal year - , the legislature finds
5 that in the aggregate, the amount of bonds proposed to
6 be issued is sufficient to meet the requirements of
7 all authorized and unissued bonds and the bonds
8 authorized by this Act.

9 (7) Bonds excludable in determining the power of the State
10 to issue bonds. As noted in paragraph (1), certain
11 bonds are excludable in determining the power of the
12 State to issue general obligation bonds.

13 (A) General obligation reimbursable bonds can be
14 excluded under certain conditions. It is not
15 possible to make a conclusive determination as to
16 the amount of reimbursable bonds which are
17 excludable from the amount of each proposed bond
18 issued because:

19 (i) It is not known exactly when projects for
20 which reimbursable bonds have been
21 authorized in prior acts and in this Act
22 will be implemented and will require the



1 application of proceeds from a particular
2 bond issue; and

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

5 However, the legislature notes that with respect
6 to the principal and interest on outstanding
7 general obligation bonds, according to the
8 department of budget and finance, the average
9 proportion of principal and interest which is
10 excludable each year from the calculation against
11 the debt limit is per cent for the ten
12 years from fiscal year - to fiscal
13 year - . For the purpose of this
14 declaration, the assumption is made that one per
15 cent of each bond issue will be excludable from
16 the debt limit, an assumption the legislature
17 finds to be reasonable and conservative.

18 (B) Bonds constituting instruments of indebtedness
19 under which the State incurs a contingent
20 liability as a guarantor can be excluded but only
21 to the extent the principal amount of such
22 guaranties does not exceed seven per cent of the



1 principal amount of outstanding general
 2 obligation bonds not otherwise excluded under
 3 subparagraph (A) of this paragraph (7) and
 4 provided that the State shall establish and
 5 maintain a reserve in an amount in reasonable
 6 proportion to the outstanding loans guaranteed by
 7 the State as provided by law. According to the
 8 department of budget and finance and the
 9 assumptions presented herein, the total principal
 10 amount of outstanding general obligation bonds
 11 and general obligation bonds proposed to be
 12 issued, which are not otherwise excluded under
 13 article VII, section 13 of the state constitution
 14 for the fiscal years 2007-2008, 2008-2009, 2009-
 15 2010, and 2010-2011 are as follows:

16 17 18 19 20 21	<u>Fiscal year</u>	Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 <u>of the State Constitution</u>
22	2007-2008	\$
23	2008-2009	
24	2009-2010	
25	2010-2011	
26		



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



1 paragraph (8), all of the outstanding guaranties can
2 be excluded.

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



1	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
6	1 st half FY 2007-2008		
7	\$		(2008-2009)
8	2 nd half FY 2007-2008		
9	\$		(2008-2009)
10	1 st half FY 2008-2009		
11	\$		(2009-2010)
12	2 nd half FY 2008-2009		
13	\$		(2009-2010)
14	1 st half FY 2009-2010		
15	\$		(2010-2011)
16	2 nd half FY 2009-2010		
17	\$		(2010-2011)
18	1 st half FY 2010-2011		
19	\$		(2011-2012)
20	2 nd half FY 2010-2011		
21	\$		(2011-2012)

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

32 SECTION 2. The legislature finds the bases for the
 33 declaration of findings set forth in this Act reasonable. The



1 assumptions set forth in this Act with respect to the principal
2 amount of general obligation bonds which will be issued, the
3 amount of principal and interest on reimbursable general
4 obligation bonds which are assumed to be excludable, and the
5 assumed maturity structure shall not be deemed to be binding, it
6 being the understanding of the legislature that such matters
7 must remain subject to substantial flexibility.

8 SECTION 3. Authorization for issuance of general
9 obligation bonds. General obligation bonds may be issued as
10 provided by law in an amount that may be necessary to finance
11 projects authorized in House Bill No. , H.D. , S.D. ,
12 C.D. (the Supplemental Appropriations Act of 2008), and House
13 Bill No. , H.D. , S.D. , C.D. (the Judiciary
14 Supplemental Appropriations Act of 2008), passed by this regular
15 session of 2008, designated to be financed from the general
16 obligation bond fund and from the general obligation bond fund
17 with debt service cost to be paid from special funds; provided
18 that the sum total of general obligation bonds so issued shall
19 not exceed \$.

20 Any law to the contrary notwithstanding, general obligation
21 bonds may be issued from time to time in accordance with section
22 39-16, Hawaii Revised Statutes, in such principal amount as may



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1 be required to refund any general obligation bonds of the State
2 of Hawaii heretofore or hereafter issued pursuant to law.

3 SECTION 4. The provisions of this Act are declared to be
4 severable and if any portion thereof is held to be invalid for
5 any reason, the validity of the remainder of this Act shall not
6 be affected.

7 SECTION 5. In printing this Act, the revisor of statutes
8 shall substitute in section 1 and section 3 the corresponding
9 act numbers for bills identified therein.

10 SECTION 6. This Act shall take effect upon its approval.

11

INTRODUCED BY:

Donald H. Baker

S.S.T.C.



Report Title:

General Obligation Bond Authorization

Description:

Authorizes issuance of general obligation bonds. Makes findings required by article XII, section 13 of state constitution to declare that issuance of authorized bonds will not cause debt limit to be exceeded.

