

JAN 20 2010

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 Hawaii 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 Hawaii 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 percent 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 one-
8 half percent 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 power
12 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 percent 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 2008-2009
 8 and estimated for each fiscal year from 2009-2010 to
 9 2012-2013, is as follows:

10	Fiscal	Net General	
11	<u>Year</u>	<u>Fund Revenues</u>	<u>Debt Limit</u>
12			
13	2005-2006	\$4,904,019,330	
14	2006-2007	5,122,620,268	
15	2007-2008	5,222,739,619	
16	2008-2009	4,938,449,000	\$ 940,378,385
17	2009-2010	4,955,871,000	942,501,548
18	2010-2011	5,183,014,000	932,218,677
19	2011-2012	5,448,451,000	929,768,930
20	2012-2013	(not applicable)	961,219,053

21
 22 For fiscal years 2008-2009, 2009-2010, 2010-2011,
 23 2011-2012, and 2012-2013, respectively, the debt limit
 24 is derived by multiplying the average of the net
 25 general fund revenues for the three preceding fiscal
 26 years by eighteen and one-half per cent. The net
 27 general fund revenues for fiscal years 2005-2006,
 28 2006-2007, 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, 2008, dated
3 November 21, 2008. The net general fund revenues for
4 fiscal years 2008-2009 to 2011-2012 are estimates,
5 based on general fund revenue estimates made as of
6 March 13, 2009, by the council on revenues, the body
7 assigned by article VII, section 7 of the Hawaii
8 Constitution to make such estimates, and based on
9 estimates made by the department of budget and finance
10 of those receipts which 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 Hawaii Constitution, for
21 determining the power of the State to issue
22 general obligation bonds within the debt limit as



1 of May 1, 2009, is as follows for fiscal year
 2 2009-2010 to fiscal year 2015-2016:

3	Fiscal	Principal
4	<u>Year</u>	<u>and Interest</u>
5		
6	2009-2010	\$547,514,586
7	2010-2011	535,125,820
8	2011-2012	514,381,984
9	2012-2013	519,067,954
10	2013-2014	473,857,632
11	2014-2015	453,412,417
12	2015-2016	372,288,179

13 The department of budget and finance further
 14 reports that the amount of principal and interest
 15 on outstanding bonds applicable to the debt limit
 16 generally continues to decline each year from
 17 fiscal year 2016-2017 to fiscal year 2028-2029
 18 when the final installment of \$8,857,050 shall be
 19 due and payable.

20 (B) The department of budget and finance further
 21 reports that the outstanding principal amount of
 22 bonds constituting instruments of indebtedness
 23 under which the State may incur a contingent
 24 liability as a guarantor is \$193,500,000
 25 (including \$2,500,000 enacted in Act 233, Session
 26 Laws of Hawaii 2008, Relating to Important



1 Agricultural Lands), all or part of which is
2 excludable in determining the power of the State
3 to issue general obligation bonds, pursuant to
4 article VII, section 13 of the Hawaii
5 Constitution.

6 (4) Amount of authorized and unissued general obligation
7 bonds and guaranties and proposed bonds and
8 guaranties.

9 (A) As calculated from the state comptroller's bond
10 fund report as of , adjusted for:

11 (i) Appropriations to be funded by general
12 obligation bonds or reimbursable general
13 obligation bonds as provided in House Bill
14 No. (the General Appropriations Act of
15 2010);

16 (ii) Lapses as provided in House Bill No. (the
17 General Appropriations Act of 2010);

18 (iii) Appropriations to be funded by general
19 obligation bonds or reimbursable general
20 obligation bonds as provided in House Bill
21 No. (the Judiciary Appropriations Act of
22 2010); and



1 (iv) Lapses as provided in House Bill No. (the
2 Judiciary Appropriations Act of 2010);
3 the total amount of authorized but unissued
4 general obligation bonds is \$1,846,918,113. The
5 total amount of general obligation bonds
6 authorized in this Act is \$. The total
7 amount of general obligation bonds previously
8 authorized and unissued, as adjusted, and the
9 general obligation bonds authorized in this Act
10 is \$.

11 (B) As reported by the department of budget and
12 finance, the outstanding principal amount of
13 bonds constituting instruments of indebtedness
14 under which the State may incur a contingent
15 liability as a guarantor is \$193,500,000
16 (including \$2,500,000 enacted in Act 233, Session
17 Laws of Hawaii 2008, Relating to Important
18 Agricultural Lands), all or part of which is
19 excludable in determining the power of the State
20 to issue general obligation bonds, pursuant to
21 article VII, section 13 of the Hawaii
22 Constitution. The total amount of guaranty



1 authorized by Act 233, Session Laws of Hawaii
2 2008 (Relating to Important Agricultural Lands)
3 is \$2,500,000, and is herein validated. The
4 total amount of guaranties previously authorized
5 and validated by this Act is \$193,500,000.

- 6 (5) Proposed general obligation bond issuance. As
7 reported therein for the fiscal years 2008-2009, 2009-
8 2010, 2010-2011, 2011-2012, and 2012-2013, the State
9 proposed to issue \$424,000,000 in general obligation
10 bonds during the remainder of second half of fiscal
11 year 2008-2009, \$210,000,000 in general obligation
12 bonds during the first half of fiscal year 2009-2010,
13 \$210,000,000 in general obligation bonds during the
14 second half of fiscal year 2009-2010, \$275,000,000 in
15 general obligation bonds during the first half of
16 fiscal year 2010-2011, \$275,000,000 in general
17 obligation bonds during the second half of fiscal year
18 2010-2011, \$330,000,000 in general obligation bonds
19 during the first half of fiscal year 2011-2012,
20 \$340,000,000 in general obligation bonds during the
21 second half of fiscal year 2011-2012, \$330,000,000 in
22 general obligation bonds during the first half of



1 fiscal year 2012-2013, and \$340,000,000 in general
2 obligation bonds during the second half of fiscal year
3 2012-2013. It has been the practice of the State to
4 issue twenty-year serial bonds with principal
5 repayments beginning the fifth year, the bonds payable
6 in substantially equal annual installments of
7 principal and interest payment with interest payments
8 commencing six months from the date of issuance and
9 being paid semi-annually thereafter. It is assumed
10 that this practice will continue to be applied to the
11 bonds that are proposed to be issued.

12 (6) Sufficiency of proposed general obligation bond
13 issuance to meet the requirements of authorized and
14 unissued bonds, as adjusted, and bonds authorized by
15 this Act. From the schedule reported in paragraph
16 (5), the total amount of general obligation bonds that
17 the State proposes to issue during the fiscal years
18 2008-2009 to 2011-2012 is \$2,064,000,000. An
19 additional \$670,000,000 is proposed to be issued in
20 fiscal year 2012-2013. The total amount of
21 \$2,064,000,000 which is proposed to be issued through
22 fiscal year 2011-2012 is sufficient to meet the



1 requirements of the authorized and unissued bonds, as
2 adjusted, the total amount of which is \$2,720,702,113
3 reported in paragraph (4), except for \$656,702,113.
4 It is assumed that the appropriations to which an
5 additional \$656,702,113 in bond issuance needs to be
6 applied will have been encumbered as of June 30, 2012.
7 The \$670,000,000 which is proposed to be issued in
8 fiscal year 2012-2013 will be sufficient to meet the
9 requirements of the June 30, 2012, encumbrances in the
10 amount of \$656,702,113. The amount of assumed
11 encumbrances as of June 30, 2012, is reasonable and
12 conservative, based upon an inspection of June 30
13 encumbrances of the general obligation bond fund as
14 reported by the state comptroller. Thus, taking into
15 account the amount of authorized and unissued bonds,
16 as adjusted, and the bonds authorized by this Act
17 versus the amount of bonds proposed to be issued by
18 June 30, 2012, and the amount of June 30, 2012
19 encumbrances versus the amount of bonds proposed to be
20 issued in fiscal year 2012-2013, the legislature finds
21 that in the aggregate, the amount of bonds proposed to
22 be issued is sufficient to meet the requirements of



1 all authorized and unissued bonds and the bonds
2 authorized by this Act.

3 (7) Bonds excludable in determining the power of the State
4 to issue bonds. As noted in paragraph (1), certain
5 bonds are excludable in determining the power of the
6 State to issue general obligation bonds.

7 (A) General obligation reimbursable bonds can be
8 excluded under certain conditions. It is not
9 possible to make a conclusive determination as to
10 the amount of reimbursable bonds which are
11 excludable from the amount of each proposed bond
12 issued because:

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

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

21 However, the legislature notes that with respect
22 to the principal and interest on outstanding



1 general obligation bonds, according to the
2 department of budget and finance, the average
3 proportion of principal and interest which is
4 excludable each year from the calculation against
5 the debt limit is 2.00 per cent for the ten years
6 from fiscal year 2008-2009 to fiscal year 2017-
7 2018. For the purpose of this declaration, the
8 assumption is made that one per cent of each bond
9 issue shall be excludable from the debt limit, an
10 assumption which the legislature finds to be
11 reasonable and conservative.

12 (B) Bonds constituting instruments of indebtedness
13 under which the State incurs a contingent
14 liability as a guarantor may be excluded but only
15 to the extent the principal amount of such
16 guaranties does not exceed seven per cent of the
17 principal amount of outstanding general
18 obligation bonds not otherwise excluded under
19 subparagraph (A) of this paragraph (7); provided
20 that the State shall establish and maintain a
21 reserve in an amount in reasonable proportion to
22 the outstanding loans guaranteed by the State as



1 provided by law. According to the department of
 2 budget and finance and the assumptions presented
 3 herein, the total principal amount of outstanding
 4 general obligation bonds and general obligation
 5 bonds proposed to be issued, which are not
 6 otherwise excluded under article VII, section 13
 7 of the Hawaii Constitution for the fiscal years
 8 2008-2009, 2009-2010, 2010-2011, 2011-2012, and
 9 2012-2013 are as follows:

<u>Fiscal year</u>	<u>Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 of the Hawaii Constitution</u>
2008-2009	\$4,993,599,012
2009-2010	5,159,324,540
2010-2011	5,370,455,000
2011-2012	5,678,190,000
2012-2013	5,608,595,000

21 Based on the foregoing and based on the
 22 assumption that the full amount of a guaranty is
 23 immediately due and payable when such guaranty changes
 24 from a contingent liability to an actual liability,
 25 the aggregate principal amount of the portion of the
 26 outstanding guaranties and the guaranties proposed to
 27 be incurred, which does not exceed seven per cent of



1 the average amount set forth in the last column of the
2 above table and for which reserve funds have been or
3 shall have been established as heretofore provided,
4 may be excluded in determining the power of the State
5 to issue general obligation bonds. As it is not
6 possible to predict with a reasonable degree of
7 certainty when a guaranty will change from a
8 contingent liability to an actual liability, it is
9 assumed in conformity with fiscal conservatism and
10 prudence, that all guaranties not otherwise excluded
11 pursuant to article VII, section 13 of the Hawaii
12 Constitution shall become due and payable in the same
13 fiscal year in which the greatest amount of principal
14 and interest on general obligation bonds, after
15 exclusions, occurs. Thus, based on such assumptions
16 and on the determination in paragraph (8), all of the
17 outstanding guaranties can be excluded.

18 (8) Determination whether the debt limit will be exceeded
19 at the time of issuance. From the foregoing and on
20 the assumption that all of the bonds identified in
21 paragraph (5) will be issued at an interest rate not
22 to exceed 6.0 per cent, it can be determined from the



1 following schedule that the bonds which are proposed
2 to be issued, which include all authorized and
3 unissued bonds previously authorized, as adjusted,
4 general obligation bonds, and instruments of
5 indebtedness under which the State incurs a contingent
6 liability as a guarantor authorized in this Act, will
7 not cause the debt limit to be exceeded at the time of
8 such issuance:



	Time of Issuance and Amount to be Counted Against <u>Debt Limit</u>	Debt Limit at Time of <u>Issuance</u>	Greatest Amount and Year of Highest Principal and Interest <u>on Bonds and Guaranties</u>
6	2 nd half FY 2008-2009 \$419,760,000	940,378,385	574,797,859 (2010-2011)
8	1 st half FY 2009-2010 \$207,900,000	942,501,548	581,034,859 (2010-2011)
10	2 nd half FY 2009-2010 \$207,900,000	942,501,548	592,511,421 (2012-2013)
12	1 st half FY 2010-2011 \$272,250,000	932,218,677	608,846,421 (2012-2013)
14	2 nd half FY 2010-2011 \$272,250,000	932,218,677	625,181,421 (2012-2013)
16	1 st half FY 2011-2012 \$326,700,000	929,768,930	634,982,421 (2012-2013)
18	2 nd half FY 2011-2012 \$336,600,000	929,768,930	645,080,421 (2012-2013)
20	1 st half FY 2012-2013 \$326,700,000	961,219,053	652,822,192 (2014-2015)
22	2 nd half FY 2012-2013 \$336,600,000	961,219,053	673,018,192 (2014-2015)

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



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

10 SECTION 3. Authorization for issuance of general
11 obligation bonds. General obligation bonds may be issued as
12 provided by law in an amount that may be necessary to finance
13 projects authorized in House Bill No. (the General
14 Appropriations Act of 2010) and House Bill No. (the Judiciary
15 Appropriations Act of 2010), passed by this regular session of
16 2010, and designated to be financed from the general obligation
17 bond fund and from the general obligation bond fund with debt
18 service cost to be paid from special funds; provided that the
19 sum total of general obligation bonds so issued shall not exceed
20 \$873,784,000.

21 Any law to the contrary notwithstanding, general obligation
22 bonds may be issued from time to time in accordance with section



1 39-16, Hawaii Revised Statutes, in such principal amount as may
2 be required to refund any general obligation bonds of the State
3 of Hawaii heretofore or hereafter issued pursuant to law.

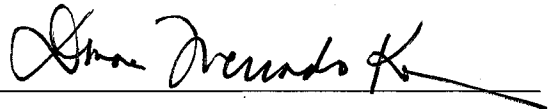
4 SECTION 4. The provisions of this Act are declared to be
5 severable and if any portion thereof is held to be invalid for
6 any reason, the validity of the remainder of this Act shall not
7 be affected.

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

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

12

INTRODUCED BY:





Report Title:

General Obligation Bond Declaration

Description:

Authorizes issuance of general obligation bonds. Makes findings required by Article VII, Section 13 of the Hawaii Constitution to declare that issuance of authorized bonds will not cause debt limit to be exceeded.

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

