



GOV. MSG. NO. 642

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

June 28, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

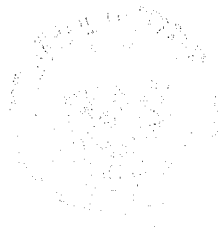
This is to inform you that on June 28, 2010, the following bill was signed into law:

SB2173 SD1 HD1 CD1

A BILL FOR AN ACT  
RELATING TO STATE BONDS.  
**ACT 181 (10)**

Sincerely,

LINDA LINGLE



RECEIVED  
SENATE  
OFFICE OF THE PRESIDENT  
10 JUN 28 P1:43

Approved by the Governor

on JUN 28 2010

THE SENATE  
TWENTY-FIFTH LEGISLATURE, 2010  
STATE OF HAWAII

**ACT 181**

**S.B. NO.** 2173  
S.D. 1  
H.D. 1  
C.D. 1

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## 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:

5 "Effective July 1, 1980, the legislature shall  
6 include a declaration of findings in every general law  
7 authorizing the issuance of general obligation bonds  
8 that the total amount of principal and interest,  
9 estimated for such bonds and for all bonds authorized  
10 and unissued and calculated for all bonds issued and  
11 outstanding, will not cause the debt limit to be  
12 exceeded at the time of issuance",

13 the legislature finds and declares as follows:

14 (1) Limitation on general obligation debt. The debt limit  
15 of the State is set forth in article VII, section 13  
16 of the Hawaii Constitution, which states in part:

17 "General obligation bonds may be issued by  
18 the State; provided that such bonds at the time



1 of issuance would not cause the total amount of  
2 principal and interest payable in the current or  
3 any future fiscal year, whichever is higher, on  
4 such bonds and on all outstanding general  
5 obligation bonds to exceed: a sum equal to twenty  
6 percent of the average of the general fund  
7 revenues of the State in the three fiscal years  
8 immediately preceding such issuance until June  
9 30, 1982; and thereafter, a sum equal to eighteen  
10 and one-half percent of the average of the  
11 general fund revenues of the State in the three  
12 fiscal years immediately preceding such  
13 issuance."

14 Article VII, section 13 also provides that in  
15 determining the power of the State to issue general  
16 obligation bonds, certain bonds are excludable,  
17 including "reimbursable general obligation bonds  
18 issued for a public undertaking, improvement or system  
19 but only to the extent that reimbursements to the  
20 general fund are in fact made from the net revenue, or  
21 net user tax receipts, or combination of both, as  
22 determined for the immediately preceding fiscal year"



1 and bonds constituting instruments of indebtedness  
 2 under which the State "incurs a contingent liability  
 3 as a guarantor, but only to the extent the principal  
 4 amount of such bonds does not exceed seven percent of  
 5 the principal amount of outstanding general obligation  
 6 bonds not otherwise excluded" under article VII,  
 7 section 13.

8 (2) Actual and estimated debt limits. The limit on  
 9 principal and interest of general obligation bonds  
 10 issued by the State, actual for fiscal year 2009-2010  
 11 and estimated for each fiscal year from 2010-2011 to  
 12 2012-2013, is as follows:

<u>Fiscal</u> <u>Year</u>	<u>Net General</u> <u>Fund Revenues</u>	<u>Debt Limit</u>
2006-2007	\$5,122,620,268	
2007-2008	5,222,739,619	
2008-2009	5,034,984,956	
2009-2010	4,598,138,000	948,454,599
2010-2011	4,861,843,000	916,111,525
2011-2012	5,122,804,000	893,856,234
2012-2013	(not applicable)	899,271,742

23 For fiscal years 2009-2010, 2010-2011, 2011-2012, and  
 24 2012-2013, respectively, the debt limit is derived by  
 25 multiplying the average of the net general fund  
 26 revenues for the three preceding fiscal years by  
 27



1           eighteen and one-half per cent. The net general fund  
2           revenues for fiscal years 2006-2007, 2007-2008, and  
3           2008-2009 are actual, as certified by the director of  
4           finance in the Statement of the Debt Limit of the  
5           State of Hawaii as of July 1, 2009, dated November 18,  
6           2009. The net general fund revenues for fiscal years  
7           2009-2010 to 2011-2012 are estimates, based on general  
8           fund revenue estimates made as of March 11, 2010, by  
9           the council on revenues, the body assigned by article  
10          VII, section 7 of the Hawaii Constitution to make such  
11          estimates, and based on estimates made by the  
12          department of budget and finance of those receipts  
13          that cannot be included as general fund revenues for  
14          the purpose of calculating the debt limit, all of  
15          which estimates the legislature finds to be  
16          reasonable.

17          (3) Principal and interest on outstanding bonds applicable  
18          to the debt limit.

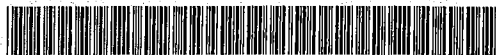
19                (A) According to the department of budget and  
20                finance, the total amount of principal and  
21                interest on outstanding general obligation bonds,  
22                after the exclusions permitted by article VII,

1 section 13 of the Hawaii Constitution, for  
 2 determining the power of the State to issue  
 3 general obligation bonds within the debt limit as  
 4 of April 1, 2010, is as follows for fiscal year  
 5 2010-2011 to fiscal year 2016-2017:

6	Fiscal	Principal
7	<u>Year</u>	<u>and Interest</u>
8		
9	2010-2011	\$404,880,572
10	2011-2012	515,522,195
11	2012-2013	587,669,004
12	2013-2014	586,474,660
13	2014-2015	618,710,580
14	2015-2016	571,831,350
15	2016-2017	584,263,195

16 The department of budget and finance further  
 17 reports that the amount of principal and interest  
 18 on outstanding bonds applicable to the debt limit  
 19 generally continues to decline each year from  
 20 fiscal year 2017-2018 to fiscal year 2029-2030  
 21 when the final installment of \$46,565,113 shall  
 22 be due and payable.

23 (B) The department of budget and finance further  
 24 reports that the outstanding principal amount of  
 25 bonds constituting instruments of indebtedness  
 26 under which the State may incur a contingent



1 liability as a guarantor is \$193,500,000, all or  
2 part of which is excludable in determining the  
3 power of the State to issue general obligation  
4 bonds, pursuant to article VII, section 13 of the  
5 Hawaii 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 February 28, 2010, adjusted  
11 for:

12 (i) Appropriations to be funded by general  
13 obligation bonds or reimbursable general  
14 obligation bonds as provided in Act 162,  
15 Session Laws of Hawaii 2009 (the General  
16 Appropriations Act of 2009), to be expended  
17 in fiscal year 2010-2011, adjusted for  
18 additional appropriations provided in House  
19 Bill No. 2200, H.D. 1, S.D. 2, C.D. 1 (the  
20 Supplemental Appropriations Act of 2010);





- 1                   (ii) Lapses as provided in House Bill No. 2200,  
2                                   H.D. 1, S.D. 2, C.D. 1 (the Supplemental  
3                                   Appropriations Act of 2010);
- 4                   (iii) Appropriations to be funded by general  
5                                   obligation bonds or reimbursable general  
6                                   obligation bonds as provided in Act 139,  
7                                   Session Laws of Hawaii 2009 (the Judiciary  
8                                   Appropriations Act of 2009) to be expended  
9                                   in fiscal year 2010-2011, adjusted for  
10                                  additional appropriations provided in House  
11                                  Bill No. 2000, H.D. 2, S.D. 2, C.D. 1 (the  
12                                  Judiciary Supplemental Appropriations Act of  
13                                  2010); and
- 14                   (iv) Lapses as provided in House Bill No. 2000,  
15                                   H.D. 2, S.D. 2, C.D. 1 (the Judiciary  
16                                   Supplemental Appropriations Act of 2010);  
17                                  the total amount of authorized but unissued  
18                                  general obligation bonds is \$1,522,109,695. The  
19                                  total amount of general obligation bonds  
20                                  authorized in this Act is \$326,115,000. The  
21                                  total amount of general obligation bonds  
22                                  previously authorized and unissued, as adjusted,



1 and the general obligation bonds authorized in  
2 this Act is \$1,848,224,695.

3 (B) As reported by the department of budget and  
4 finance, the outstanding principal amount of  
5 bonds constituting instruments of indebtedness  
6 under which the State may incur a contingent  
7 liability as a guarantor is \$193,500,000, all or  
8 part of which is excludable in determining the  
9 power of the State to issue general obligation  
10 bonds, pursuant to article VII, section 13 of the  
11 Hawaii Constitution.

12 (5) Proposed general obligation bond issuance. As  
13 reported therein for the fiscal years 2010-2011, 2011-  
14 2012, and 2012-2013, the State proposed to issue  
15 \$275,000,000 in general obligation bonds during the  
16 first half of fiscal year 2010-2011, \$275,000,000 in  
17 general obligation bonds during the second half of  
18 fiscal year 2010-2011, \$300,000,000 in general  
19 obligation bonds during the first half of fiscal year  
20 2011-2012, \$375,000,000 in general obligation bonds  
21 during the second half of fiscal year 2011-2012,  
22 \$300,000,000 in general obligation bonds during the



1 first half of fiscal year 2012-2013, and \$325,000,000  
2 in general obligation bonds during the second half of  
3 fiscal year 2012-2013. It has been the practice of  
4 the State to issue twenty-year serial bonds with  
5 principal repayments beginning the fifth year, the  
6 bonds payable in substantially equal annual  
7 installments of principal and interest payment with  
8 interest payments commencing six months from the date  
9 of issuance and being paid semi-annually thereafter.  
10 It is assumed that this practice will continue to be  
11 applied to the 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 2010-2011 to 2011-2012 is \$1,225,000,000. An  
19 additional \$625,000,000 is proposed to be issued in  
20 fiscal year 2012-2013. The total amount of  
21 \$1,225,000,000 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 \$1,848,224,695  
3 reported in paragraph (4), except for \$623,224,695.  
4 It is assumed that the appropriations to which an  
5 additional \$623,224,695 in bond issuance needs to be  
6 applied will have been encumbered as of June 30, 2012.  
7 The \$625,000,000 that 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 \$623,224,695. 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 that is  
4           excludable each year from the calculation against  
5           the debt limit is 1.52 per cent for the ten years  
6           from fiscal year 2009-2010 to fiscal year 2018-  
7           2019. For the purpose of this declaration, the  
8           assumption is made that one per cent of each bond  
9           issue will be excludable from the debt limit, an  
10          assumption that 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 can 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 2009-2010, 2010-2011, 2011-2012, and 2012-2013  
 9 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>
10	2009-2010	\$5,354,760,000
11	2010-2011	5,899,260,000
12	2011-2012	6,567,510,000
13	2012-2013	7,186,260,000

14  
15  
16  
17  
18  
19  
20 Based on the foregoing and based on the  
 21 assumption that the full amount of a guaranty is  
 22 immediately due and payable when such guaranty changes  
 23 from a contingent liability to an actual liability,  
 24 the aggregate principal amount of the portion of the  
 25 outstanding guaranties and the guaranties proposed to  
 26 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 will have been established as heretofore provided, can  
 4 be excluded in determining the power of the State to  
 5 issue general obligation bonds. As it is not possible  
 6 to predict with a reasonable degree of certainty when  
 7 a guaranty will change from a contingent liability to  
 8 an actual liability, it is assumed in conformity with  
 9 fiscal conservatism and prudence, that all guaranties  
 10 not otherwise excluded pursuant to article VII,  
 11 section 13 of the Hawaii Constitution will become due  
 12 and payable in the same fiscal year in which the  
 13 greatest amount of principal and interest on general  
 14 obligation bonds, after exclusions, occurs. Thus,  
 15 based on such assumptions and on the determination in  
 16 paragraph (8), all of the outstanding guaranties can  
 17 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 a net average interest  
 22 rate, after giving effect to federal subsidy payments,





1 if any, received by the State under and pursuant to  
 2 the American Recovery and Reinvestment Act of 2009, as  
 3 may be amended from time to time, not to exceed 5.25  
 4 per cent, it can be determined from the following  
 5 schedule that the bonds which are proposed to be  
 6 issued, which include all authorized and unissued  
 7 bonds previously authorized, as adjusted, general  
 8 obligation bonds, and instruments of indebtedness  
 9 under which the State incurs a contingent liability as  
 10 a guarantor authorized in this Act, will not cause the  
 11 debt limit to be exceeded at the time of such  
 12 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>
19	1 <sup>st</sup> half FY 2010-2011 \$272,250,000	916,111,525	650,692,999 (2014-2015)
21	2 <sup>nd</sup> half FY 2010-2011 \$272,250,000	916,111,525	675,296,124 (2014-2015)
23	1 <sup>st</sup> half FY 2011-2012 \$297,000,000	893,856,234	690,888,624 (2014-2015)
25	2 <sup>nd</sup> half FY 2011-2012 \$371,250,000	893,856,234	710,379,249 (2014-2015)
27	1 <sup>st</sup> half FY 2012-2013 \$297,000,000	899,271,742	727,495,990 (2016-2017)
29	2 <sup>nd</sup> half FY 2012-2013 \$321,750,000	899,271,742	756,567,865 (2016-2017)



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

10 SECTION 2. The legislature finds the bases for the  
11 declaration of findings set forth in this Act reasonable. The  
12 assumptions set forth in this Act with respect to the principal  
13 amount of general obligation bonds that will be issued, the  
14 amount of principal and interest on reimbursable general  
15 obligation bonds that are assumed to be excludable, and the  
16 assumed maturity structure shall not be deemed to be binding, it  
17 being the understanding of the legislature that such matters  
18 must remain subject to substantial flexibility.

19 SECTION 3. Authorization for issuance of general  
20 obligation bonds. General obligation bonds may be issued as  
21 provided by law in an amount that may be necessary to finance  
22 projects authorized in House Bill No. 2200, H.D. 1, S.D. 2, C.D.



1 1 (the Supplemental Appropriations Act of 2010) and House Bill  
2 No. 2000, H.D. 2, S.D. 2, C.D. 1 (the Judiciary Supplemental  
3 Appropriations Act of 2010), passed by the legislature during  
4 the regular session of 2010, and designated to be financed from  
5 the general obligation bond fund and from the general obligation  
6 bond fund with debt service cost to be paid from special funds;  
7 provided that the sum total of general obligation bonds so  
8 issued shall not exceed \$326,115,000.

9 Any law to the contrary notwithstanding, general obligation  
10 bonds may be issued from time to time in accordance with section  
11 39-16, Hawaii Revised Statutes, in such principal amount as may  
12 be required to refund any general obligation bonds of the State  
13 of Hawaii heretofore or hereafter issued pursuant to law.

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

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

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

APPROVED this 28 day of JUN, 2010

  
GOVERNOR OF THE STATE OF HAWAII