

JAN 23 2009

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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 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



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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 and  
 8 estimated for each fiscal year from to , is  
 9 as follows:

10	Fiscal	Net General	
11	<u>Year</u>	<u>Fund Revenues</u>	<u>Debt Limit</u>

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 19  
 20 For fiscal years , respectively,  
 21 the debt limit is derived by multiplying the average  
 22 of the net general fund revenues for the three  
 23 preceding fiscal years by eighteen and one-half per  
 24 cent. The net general fund revenues for fiscal years  
 25 are actual, as certified by the director  
 26 of finance in the Statement of the Debt Limit of the



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

12 (3) Principal and interest on outstanding bonds applicable  
13 to the debt limit.

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



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Fiscal  
Year

Principal  
and Interest

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 to fiscal year when the final installment of \$ 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 \$ , all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to article VII, section 13 of the state constitution.



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

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

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

12           (ii) Lapses as provided in House Bill No.           ,  
13           H.D.           , S.D.           , C.D.           (the Supplemental  
14           Appropriations Act of           );

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

19           (iv) The issuance of \$           General  
20           Obligation Bonds of           , Series DI,  
21           the total amount of authorized but unissued  
22           general obligation bonds or reimbursable general



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1 obligation bonds is \$ . The total  
 2 amount of general obligation bonds authorized by  
 3 this Act is \$ . The total amount of  
 4 general obligation bonds previously authorized  
 5 and unissued and the general obligation bonds  
 6 authorized in this Act is \$ .

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

16 (5) Proposed general obligation bond issuance. As  
 17 reported therein for the fiscal years , the  
 18 State proposed to issue \$ in general  
 19 obligation bonds during the first half of fiscal year  
 20 , \$ in general obligation bonds  
 21 during the second half of fiscal year ,  
 22 \$ in general obligation bonds during the



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

14 (6) Sufficiency of proposed general obligation bond  
15 issuance to meet the requirements of authorized and  
16 unissued bonds, as adjusted, and bonds authorized by  
17 this Act. From the schedule reported in paragraph  
18 (5), the total amount of general obligation bonds that  
19 the State proposes to issue during the fiscal years  
20 to is \$ . An additional  
21 \$ is proposed to be issued in fiscal year





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

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

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

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

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



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

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

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





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

21 (8) Determination whether the debt limit will be exceeded  
22 at the time of issuance. From the foregoing and on



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



1	2 Time of Issuance 3 and Amount to be 4 Counted Against 5 <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	1 <sup>st</sup> half FY		
7	\$		( - )
8	2 <sup>nd</sup> half FY		
9	\$		( - )
10	1 <sup>st</sup> half FY		
11	\$		( - )
12	2 <sup>nd</sup> half FY		
13	\$		( - )
14	1 <sup>st</sup> half FY		
15	\$		( - )
16	2 <sup>nd</sup> half FY		
17	\$		( - )
18	1 <sup>st</sup> half FY		
19	\$		( - )
20	2 <sup>nd</sup> half FY		
21	\$		( - )

22

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 ), and House  
 13 Bill No. , H.D. , S.D. , C.D. (the Judiciary  
 14 Supplemental Appropriations Act of ), passed by this regular  
 15 session of , 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





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: *Sen. Inez Garcia*



**Report Title:**

General Obligation Bond Authorization

**Description:**

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

