

JAN 18 2012

A BILL FOR AN ACT

PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION, TO BOTH REQUIRE THE LEGISLATURE TO ENACT LAWS TO AUTHORIZE THE COUNTIES TO ISSUE TAX INCREMENT BONDS AND TO EXCLUDE THE BONDS FROM DETERMINATIONS OF THE FUNDED DEBT OF THE COUNTIES.

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

1 SECTION 1. The purpose of this Act is to propose
2 amendments to article VII, sections 12 and 13, of the
3 Constitution of the State of Hawaii to:

- 4 (1) Require the legislature to enact laws to authorize the
5 counties to issue tax increment bonds; and
6 (2) Exclude the bonds from determinations of the funded
7 debt of the counties.

8 SECTION 2. Article VII, sections 12 and 13, of the
9 Constitution of the State of Hawaii is amended to read as
10 follows:

11 **"DEFINITIONS; ISSUANCE OF INDEBTEDNESS**

12 **Section 12.** For the purposes of this article:

- 13 1. The term "bonds" shall include bonds, notes and other
14 instruments of indebtedness.
15 2. The term "general obligation bonds" means all bonds for
16 the payment of the principal and interest of which the full



1 faith and credit of the State or a political subdivision are
2 pledged and, unless otherwise indicated, includes reimbursable
3 general obligation bonds.

4 3. The term "net revenues" or "net user tax receipts"
5 means the revenues or receipts derived from:

6 a. A public undertaking, improvement or system remaining
7 after the costs of operation, maintenance and repair
8 of the public undertaking, improvement or system, and
9 the required payments of the principal of and interest
10 on all revenue bonds issued therefor, have been made;
11 or

12 b. Any payments or return on security under a loan
13 program or a loan thereunder, after the costs of
14 operation and administration of the loan program, and
15 the required payments of the principal of and interest
16 on all revenue bonds issued therefor, have been made.

17 4. The term "person" means an individual, firm,
18 partnership, corporation, association, cooperative or other
19 legal entity, governmental body or agency, board, bureau or
20 other instrumentality thereof, or any combination of the
21 foregoing.



1 5. The term "rates, rentals and charges" means all
2 revenues and other moneys derived from the operation or lease of
3 a public undertaking, improvement or system, or derived from any
4 payments or return on security under a loan program or a loan
5 thereunder; provided that insurance premium payments,
6 assessments and surcharges, shall constitute rates, rentals and
7 charges of a state property insurance program.

8 6. The term "reimbursable general obligation bonds" means
9 general obligation bonds issued for a public undertaking,
10 improvement or system from which revenues, or user taxes, or a
11 combination of both, may be derived for the payment of the
12 principal and interest as reimbursement to the general fund and
13 for which reimbursement is required by law, and, in the case of
14 general obligation bonds issued by the State for a political
15 subdivision, general obligation bonds for which the payment of
16 the principal and interest as reimbursement to the general fund
17 is required by law to be made from the revenue of the political
18 subdivision.

19 7. The term "revenue bonds" means all bonds payable from
20 the revenues, or user taxes, or any combination of both, of a
21 public undertaking, improvement, system or loan program and any
22 loan made thereunder and secured as may be provided by law,



1 including a loan program to provide loans to a state property
2 insurance program providing hurricane insurance coverage to the
3 general public.

4 8. The term "special purpose revenue bonds" means all
5 bonds payable from rental or other payments made to an issuer by
6 a person pursuant to contract and secured as may be provided by
7 law.

8 9. The term "tax increment bonds" means all bonds, the
9 principal of and interest on which are payable from and secured
10 solely by all real property taxes levied by a political
11 subdivision, for a period not to exceed _____ years, on the
12 assessed valuation of the real property in a tax increment
13 district established by the political subdivision that is in
14 excess of the assessed valuation of the real property for the
15 year prior to the undertaking of specified public works, public
16 improvements or other actions by the political subdivision
17 within the tax increment district.

18 [~~9.~~] 10. The term "user tax" means a tax on goods or
19 services or on the consumption thereof, the receipts of which
20 are substantially derived from the consumption, use or sale of
21 goods and services in the utilization of the functions or
22 services furnished by a public undertaking, improvement or



1 system; provided that mortgage recording taxes shall constitute
2 user taxes of a state property insurance program.

3 The legislature, by a majority vote of the members to which
4 each house is entitled, shall authorize the issuance of all
5 general obligation bonds, bonds issued under special improvement
6 statutes and revenue bonds issued by or on behalf of the State
7 and shall prescribe by general law the manner and procedure for
8 such issuance. The legislature by general law shall authorize
9 political subdivisions to issue general obligation bonds, bonds
10 issued under special improvement statutes [~~and~~], revenue bonds
11 and tax increment bonds and shall prescribe the manner and
12 procedure for such issuance. All such bonds issued by or on
13 behalf of a political subdivision shall be authorized by the
14 governing body of such political subdivision.

15 Special purpose revenue bonds shall only be authorized or
16 issued to finance facilities of or for, or to loan the proceeds
17 of such bonds to assist:

- 18 1. Manufacturing, processing, or industrial enterprises;
- 19 2. Utilities serving the general public;
- 20 3. Health care facilities provided to the general public
- 21 by not-for-profit corporations;



- 1 4. Early childhood education and care facilities provided
2 to the general public by not-for-profit corporations;
3 5. Low and moderate income government housing programs;
4 6. Not-for-profit private nonsectarian and sectarian
5 elementary schools, secondary schools, colleges and
6 universities; or
7 7. Agricultural enterprises serving important
8 agricultural lands,
9 each of which is hereinafter referred to in this paragraph as a
10 special purpose entity.

11 The legislature, by a two-thirds vote of the members to
12 which each house is entitled, may enact enabling legislation for
13 the issuance of special purpose revenue bonds separately for
14 each special purpose entity, and, by a two-thirds vote of the
15 members to which each house is entitled and by separate
16 legislative bill, may authorize the State to issue special
17 purpose revenue bonds for each single project or multi-project
18 program of each special purpose entity; provided that the
19 issuance of such special purpose revenue bonds is found to be in
20 the public interest by the legislature; and provided further
21 that the State may combine into a single issue of special
22 purpose revenue bonds two or more proposed issues of special



1 purpose revenue bonds to assist not-for-profit private
2 nonsectarian and sectarian elementary schools, secondary
3 schools, colleges, and universities, separately authorized as
4 aforesaid, in the total amount of not exceeding the aggregate of
5 the proposed separate issues of special purpose revenue bonds.
6 The legislature may enact enabling legislation to authorize
7 political subdivisions to issue special purpose revenue bonds.
8 If so authorized, a political subdivision by a two-thirds vote
9 of the members to which its governing body is entitled and by
10 separate ordinance may authorize the issuance of special purpose
11 revenue bonds for each single project or multi-project program
12 of each special purpose entity; provided that the issuance of
13 such special purpose revenue bonds is found to be in the public
14 interest by the governing body of the political subdivision. No
15 special purpose revenue bonds shall be secured directly or
16 indirectly by the general credit of the issuer or by any
17 revenues or taxes of the issuer other than receipts derived from
18 payments by a person or persons under contract or from any
19 security for such contract or contracts or special purpose
20 revenue bonds and no moneys other than such receipts shall be
21 applied to the payment thereof. The governor shall provide the
22 legislature in November of each year with a report on the



1 cumulative amount of all special purpose revenue bonds
2 authorized and issued, and such other information as may be
3 necessary.

4 DEBT LIMIT; EXCLUSIONS

5 Section 13. General obligation bonds may be issued by the
6 State; provided that such bonds at the time of issuance would
7 not cause the total amount of principal and interest payable in
8 the current or any future fiscal year, whichever is higher, on
9 such bonds and on all outstanding general obligation bonds to
10 exceed: a sum equal to twenty percent of the average of the
11 general fund revenues of the State in the three fiscal years
12 immediately preceding such issuance until June 30, 1982; and
13 thereafter, a sum equal to eighteen and one-half percent of the
14 average of the general fund revenues of the State in the three
15 fiscal years immediately preceding such issuance. Effective
16 July 1, 1980, the legislature shall include a declaration of
17 findings in every general law authorizing the issuance of
18 general obligation bonds that the total amount of principal and
19 interest, estimated for such bonds and for all bonds authorized
20 and unissued and calculated for all bonds issued and
21 outstanding, will not cause the debt limit to be exceeded at the
22 time of issuance. Any bond issue by or on behalf of the State



1 may exceed the debt limit if an emergency condition is declared
2 to exist by the governor and concurred to by a two-thirds vote
3 of the members to which each house of the legislature is
4 entitled. For the purpose of this paragraph, general fund
5 revenues of the State shall not include moneys received as
6 grants from the federal government and receipts in reimbursement
7 of any reimbursable general obligation bonds which are excluded
8 as permitted by this section.

9 A sum equal to fifteen percent of the total of the assessed
10 values for tax rate purposes of real property in each political
11 subdivision, as determined by the last tax assessment rolls
12 pursuant to law, is established as the limit of the funded debt
13 of such political subdivision that is outstanding and unpaid at
14 any time.

15 All general obligation bonds for a term exceeding two years
16 shall be in serial form maturing in substantially equal
17 installments of principal, or maturing in substantially equal
18 installments of both principal and interest. The first
19 installment of principal of general obligation bonds and of
20 reimbursable general obligation bonds shall mature not later
21 than five years from the date of issue of such series. The last
22 installment on general obligation bonds shall mature not later



1 than twenty-five years from the date of such issue and the last
2 installment on general obligation bonds sold to the federal
3 government, on reimbursable general obligation bonds and on
4 bonds constituting instruments of indebtedness under which the
5 State or a political subdivision incurs a contingent liability
6 as a guarantor shall mature not later than thirty-five years
7 from the date of such issue. The interest and principal
8 payments of general obligation bonds shall be a first charge on
9 the general fund of the State or political subdivision, as the
10 case may be.

11 In determining the power of the State to issue general
12 obligation bonds or the funded debt of any political subdivision
13 under section 12, the following shall be excluded:

14 1. Bonds that have matured, or that mature in the then
15 current fiscal year, or that have been irrevocably called for
16 redemption and the redemption date has occurred or will occur in
17 the then fiscal year, or for the full payment of which moneys or
18 securities have been irrevocably set aside.

19 2. Revenue bonds, if the issuer thereof is obligated by
20 law to impose rates, rentals and charges for the use and
21 services of the public undertaking, improvement or system or the
22 benefits of a loan program or a loan thereunder or to impose a



1 user tax, or to impose a combination of rates, rentals and
2 charges and user tax, as the case may be, sufficient to pay the
3 cost of operation, maintenance and repair, if any, of the public
4 undertaking, improvement or system or the cost of maintaining a
5 loan program or a loan thereunder and the required payments of
6 the principal of and interest on all revenue bonds issued for
7 the public undertaking, improvement or system or loan program,
8 and if the issuer is obligated to deposit such revenues or tax
9 or a combination of both into a special fund and to apply the
10 same to such payments in the amount necessary therefor.

11 3. Special purpose revenue bonds, if the issuer thereof is
12 required by law to contract with a person obligating such person
13 to make rental or other payments to the issuer in an amount at
14 least sufficient to make the required payment of the principal
15 of and interest on such special purpose revenue bonds.

16 4. Bonds issued under special improvement statutes when
17 the only security for such bonds is the properties benefited or
18 improved or the assessments thereon.

19 5. Tax increment bonds, but only to the extent that the
20 principal of and interest on the bonds are in fact paid from the
21 real property taxes levied by a political subdivision on the
22 assessed valuation of the real property in a tax increment



1 district established by the political subdivision that is in
2 excess of the assessed valuation of the real property for the
3 year prior to the undertaking of specified public works, public
4 improvements or other actions by the political subdivision
5 within the tax increment district.

6 ~~[5-]~~ 6. General obligation bonds issued for assessable
7 improvements, but only to the extent that reimbursements to the
8 general fund for the principal and interest on such bonds are in
9 fact made from assessment collections available therefor.

10 ~~[6-]~~ 7. Reimbursable general obligation bonds issued for a
11 public undertaking, improvement or system but only to the extent
12 that reimbursements to the general fund are in fact made from
13 the net revenue, or net user tax receipts, or combination of
14 both, as determined for the immediately preceding fiscal year.

15 ~~[7-]~~ 8. Reimbursable general obligation bonds issued by
16 the State for any political subdivision, whether issued before
17 or after the effective date of this section, but only for as
18 long as reimbursement by the political subdivision to the State
19 for the payment of principal and interest on such bonds is
20 required by law; provided that in the case of bonds issued after
21 the effective date of this section, the consent of the governing
22 body of the political subdivision has first been obtained; and



1 provided further that during the period that such bonds are
2 excluded by the State, the principal amount then outstanding
3 shall be included within the funded debt of such political
4 subdivision.

5 ~~[8-]~~ 9. Bonds constituting instruments of indebtedness
6 under which the State or any political subdivision incurs a
7 contingent liability as a guarantor, but only to the extent the
8 principal amount of such bonds does not exceed seven percent of
9 the principal amount of outstanding general obligation bonds not
10 otherwise excluded under this section; provided that the State
11 or political subdivision shall establish and maintain a reserve
12 in an amount in reasonable proportion to the outstanding loans
13 guaranteed by the State or political subdivision as provided by
14 law.

15 ~~[9-]~~ 10. Bonds issued by or on behalf of the State or by
16 any political subdivision to meet appropriations for any fiscal
17 period in anticipation of the collection of revenues for such
18 period or to meet casual deficits or failures of revenue, if
19 required to be paid within one year, and bonds issued by or on
20 behalf of the State to suppress insurrection, to repel invasion,
21 to defend the State in war or to meet emergencies caused by
22 disaster or act of God.



1 The total outstanding indebtedness of the State or funded
 2 debt of any political subdivision and the exclusions therefrom
 3 permitted by this section shall be made annually and certified
 4 by law or as provided by law. For the purposes of section 12
 5 and this section, amounts received from on-street parking may be
 6 considered and treated as revenues of a parking undertaking.

7 Nothing in section 12 or in this section shall prevent the
 8 refunding of any bond at any time."

9 SECTION 3. The question to be printed on the ballot shall
 10 be as follows:

11 "Shall the Constitution be amended to both require the
 12 legislature to enact laws to authorize the counties to
 13 issue tax increment bonds and to also exclude the bonds
 14 from determinations of the funded debt of the counties?"

15 SECTION 4. Constitutional material to be repealed is
 16 bracketed and stricken. New constitutional material is
 17 underscored.

18 SECTION 5. This amendment shall take effect upon
 19 compliance with article XVII, section 3, of the Constitution of
 20 the State of Hawaii.

21

INTRODUCED BY:

Rosalyn H. Park

By Request

S.B. NO. 2008

Report Title:

Counties; Tax Increment Bonds

Description:

Proposes a constitutional amendment to both require the legislature to enact laws to authorize the counties to issue tax increment bonds and to also exclude the bonds from determinations of the funded debt of the counties.

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

