

LATE TESTIMONY

har2-Samantha

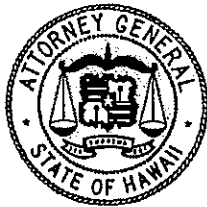
From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 26, 2012 6:02 PM
To: WLOtestimony
Cc: atg.legcoordinator@hawaii.gov
Subject: Testimony for HB1924 on 1/27/2012 9:00:00 AM
Attachments: HB1924_ATG_01-27-12_WLO.pdf

Testimony for WLO 1/27/2012 9:00:00 AM HB1924

Conference room: 325
Testifier position: Comments Only
Testifier will be present: Yes
Submitted by: Joshua Wisch
Organization: Department of the Attorney General
E-mail: atg.legcoordinator@hawaii.gov
Submitted on: 1/26/2012

Comments:

Deputy Attorney General Randall S. Nishiyama or Deputy Attorney General Pat Ohara will attend the hearing.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

LATE TESTIMONY

ON THE FOLLOWING MEASURE:

H.B. NO. 1924, 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.

BEFORE THE:

HOUSE COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES

DATE: Friday, January 27, 2012 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Chang and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

H.B. No. 1924 proposes to amend article VII, sections 12 and 13, of the Hawaii Constitution to permit political subdivisions, such as the counties, to issue tax increment bonds. Tax increment bonds can be used to finance public improvements for redevelopment and for economic development within a designated tax increment area.

Tax increment bonds work as follows:

1. The County establishes a tax increment district with specified boundaries.
2. When the tax increment district is formed, the total assessed value of the taxable real property in the tax increment district becomes the basis for allocating future real property taxes on that property (the "assessment base").
3. Each year, the real property tax generated by applying the tax rate to the assessment base is deposited into the County's general fund. The increment of tax generated by applying the tax rate to the amount by which the then current assessed value exceeds the assessment base is used to pay the tax increment bonds.

The function of tax increment bonds is to use the incremental real property taxes (which the private developer or property owner would be paying in any event) to pay for qualifying project costs, and not to use any county moneys to fund such improvements.

Based on discussions with Curtis Christensen, Kutak Rock LLP, the State's Public Finance General Advice Counsel, we propose three amendments to the bill.

First, on page 4, line 15, and on page 12, line 3, the meaning of the term "undertaking" is unclear. As to whether it means the date of the County resolution establishing the tax increment district, the effective date specified in the resolution, or something else. For flexibility, we suggest that the tax increment commence in the year in which occurs "the effective date specified by resolution of the political subdivision". This is reflected in our attached markup of the bill.

Second, on page 4, line 15, and on page 12, line 3, for clarity, the term "year" should be described for example as "fiscal", "calendar" or "assessment". This is reflected in our attached markup of the bill.

Third, we suggest that the wording of the ballot question presented in section 3 of this bill be amended as follows to be consistent with the "political subdivision" terminology used in article VII, sections 12 and 13, of the Hawaii State Constitution:

SECTION 3. The question to be printed on the ballot shall be as follows:
"Shall the Constitution be amended to both require the legislature to enact laws to authorize the political subdivisions, such as the counties, to issue tax increment bonds and also exclude the bonds from determinations of the funded debt of the political subdivisions?"

We respectfully ask the committee to consider our recommended amendments.

Attachment

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

[fiscal, calendar, assessment?]

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

[fiscal, calendar, assessment?] year in which
occurs the effective date specified by
resolution of the political subdivision of
the

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



[fiscal, calendar, assessment?] year in which occurs the effective date specified by resolution of the political subdivision of the

H.B. NO. 1924

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



LATE TESTIMONY

har2-Samantha

From: Tina Desuacido [tina500@juno.com]
Sent: Friday, January 27, 2012 7:28 AM
To: WLOtestimony
Subject: Tax Foundation Testimony
Attachments: h1924-12.pdf

DATE: Friday, January 27, 2012

House Committee on Water, Land & Ocean Resources

FROM: Tax Foundation of Hawaii

Total Pages 2

FOR: Representative Jerry Chang

Testifier: Lowell L. Kalapa, President – Tax Foundation of Hawaii

(Mr. Kalapa will not appear in person at the hearing.)

Date of Hearing – Friday, January 27, 2012

Position: Comments

Time of Hearing – 9:00 am

Number of Copies - 5

HB 1924 – 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 (2 Pages)

L E G I S L A T I V E

LATE TESTIMONY

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONSTITUTIONAL AMENDMENT, Authorize issuance of tax increment bonds

BILL NUMBER: SB 2008; HB 1924

INTRODUCED BY: SB by Baker by request; Keith-Agaran, Yamashita and 3 Democrats

BRIEF SUMMARY: Amends Article VII, Section 12, of the state constitution to allow the legislature to authorize the counties to issue tax increment bonds. Defines "tax increment bonds" as all bonds, the principal of and interest on which are payable from and secured solely by all real property taxes levied by a political subdivision, for a period not to exceed ____ years, on the assessed valuation of the real property in a tax increment district established by the political subdivision that is in excess of the assessed valuation of the real property for the year prior to the undertaking of specified public works, public improvements or other actions by the political subdivision within the tax increment district.

Amends Article VII, Section 13, of the state constitution to provide that tax increment bonds issued by the counties shall not be included in the determinations of the funded debt of the counties.

EFFECTIVE DATE: Voter approval

STAFF COMMENTS: The proposed measure would allow each of the counties to issue tax increment bonds and utilize the concept of tax increment financing as another means of financing capital improvements. The concept of tax increment financing is based on increased property tax revenue generated from rising property tax assessments which result from the improvements. Under a tax increment financing plan, a specific geographic area would be designated as a tax increment district for which tax increment bonds would be sold to cover capital improvement project costs within that district.

Upon the designation of a tax increment district an "assessment base" is established, based on the total assessed value of taxable real property in a tax increment district at that time. A "tax increment," which is the amount by which the current valuation of the real property exceeds the assessment base, is then determined. The revenues derived from the assessment base would be paid into the county's general fund while the revenues derived from the tax increment would be deposited into the tax increment fund. In addition to the revenues derived from the determination of the tax increment, the proceeds of tax increment bonds are also to be deposited into the tax increment fund. The total revenues in the tax increment fund are then be used to finance capital improvements including debt repayment made to the tax increment district which, in turn, will result in increased property valuations due to renovation and increased capital improvements within the designated district.

It should be noted that while this concept provides another means for the financing of capital improvements, caution should be exercised to ensure that the amount of revenues generated within a tax increment district will be sufficient to cover the debt service of the tax increment bonds issued. On the other hand, provisions should be made to insure that this method of financing is not abused as it has been in other states. Specifically, it should be delineated that once a tax increment financing district has

been designated and the project costs estimated, such districts may not be enlarged nor shall expenditures exceed projections to include purposes other than originally authorized without specific local government approval.

In other words, in designating such districts, certification of assessment values should be done to insure that valuations of properties within the tax increment district will increase sufficiently to generate enough revenues to repay the cost of the bonds sold. Conversely, specific provisions should be made to insure that any excess revenues are returned to the county general fund.

Digested 1/27/12