GOV. MSG. NO. 1232

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 18, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 18, 2013, the following bill was signed into law:

HB51 SD1 CD1 RELATING TO STATE BONDS
ACT 132 (13)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUN 18 2013

ORIGINAL

ACT 132

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

H.B. NO. 51 S.D. 1 C.D. 1

A BILL FOR AN ACT

RELATING TO STATE BONDS.

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

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in article VII, section 13 of the state constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance", the legislature finds and declares as follows:

(1) Limitation on general obligation debt. The debt limit of the state is set forth in article VII, section 13 of the state constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year,

whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13 also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "[r]eimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year" and "[b]onds constituting instruments of indebtedness under which the State...incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded" under said article VII, section 13.

(2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 2012-2013 and estimated for each fiscal year from 2013-2014 to 2016-2017, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
2009-2010	$4,841,194,658	
2010-2011	$5,102,646,283	
2011-2012	$5,648,800,650	
2012-2013	$5,960,809,000	$961,546,231
2013-2014	$6,253,585,000	$1,030,589,116
2014-2015	$6,642,356,000	$1,101,563,670
2015-2016	$6,722,192,000	$1,162,832,917
2016-2017	(not applicable)	$1,209,784,868

For fiscal years 2012-2013, 2013-2014, 2014-2015, 2015-2016, and 2016-2017, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 2009-2010, 2010-2011, and 2011-2012 are actual, as certified by the director of finance in the Statement of the Debt

Limit of the State of Hawaii as of July 1, 2012, dated October 18, 2012. The net general fund revenues for fiscal years 2012-2013 to 2015-2016 are estimates, based on general fund revenue estimates made as of March 13, 2013, by the council on revenues, the body assigned by article VII, section 7 of the state constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

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

(A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by article VII, section 13 of the state constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of April 1, 2013, is as follows for fiscal year 2013-2014 to fiscal year 2019-2020:

Fiscal Year	Principal and Interest
2013-2014	$685,973,183
2014-2015	649,399,252
2015-2016	624,628,042
2016-2017	624,968,865
2017-2018	586,323,791
2018-2019	545,902,049
2019-2020	476,253,659

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 2020-2021 to fiscal year 2032-2033 when the final installment of $40,847,231 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 $233,500,000, 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.

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

(A) As calculated from the state comptroller's bond fund report as of February 28, 2013, adjusted for:

(i) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in House Bill No. 200, H.D. 1, S.D. 1, C.D. 1 (the General Appropriations Act of 2013);

(ii) Lapses as provided in House Bill No. 200, H.D. 1, S.D. 1, C.D. 1 (the General Appropriations Act of 2013);

(iii) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in House Bill No. 197, H.D. 2, S.D. 2, C.D. 1 (the Judiciary Appropriations Act of 2013); and

(iv) Lapses as provided in House Bill No. 197, H.D. 2, S.D. 2, C.D. 1 (the Judiciary Appropriations Act of 2013);

the total amount of authorized but unissued general obligation bonds is $1,908,026,247. The total amount of general obligation bonds authorized in this Act is $1,382,677,000. The total amount of general obligation bonds previously authorized and unissued, as adjusted, and the general obligation bonds authorized in this Act is $3,290,703,247.

(B) As reported by the department of budget and finance the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is $233,500,000, 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.

(5) Proposed general obligation bond issuance. As reported therein for the fiscal years 2012-2013, 2013-

2014, 2014-2015, 2015-2016, and 2016-2017, the State proposed to issue $305,000,000 in general obligation bonds during the remainder of the second half of fiscal year 2012-2013, $400,000,000 in general obligation bonds semiannually during fiscal years 2013-2014 and 2014-2015, $375,000,000 in general obligation bonds during the first half of fiscal year 2015-2016, $325,000,000 in general obligation bonds during the second half of fiscal year 2015-2016, and $350,000,000 in general obligation bonds semiannually during fiscal year 2016-2017. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning in the fifth year, the bonds payable in substantially equal annual installments of principal and interest payment with interest payments commencing six months from the date of issuance and being paid semi-annually thereafter. It is assumed that this practice will continue to be applied to the bonds that are proposed to be issued.

(6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by

this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds that the State proposes to issue during the fiscal years 2012-2013 to 2015-2016 is $2,605,000,000. An additional $700,000,000 is proposed to be issued in fiscal year 2016-2017. The total amount of $2,605,000,000 which is proposed to be issued through fiscal year 2015-2016 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, the total amount of which is $3,290,703,247 reported in paragraph (4), except for $685,703,247. It is assumed that the appropriations to which an additional $685,703,247 in bond issuance needs to be applied will have been encumbered as of June 30, 2016. The $700,000,000 which is proposed to be issued in fiscal year 2016-2017 will be sufficient to meet the requirements of the June 30, 2016 encumbrances in the amount of $685,703,247. The amount of assumed encumbrances as of June 30, 2016 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds proposed to be issued by June 30, 2016, and the amount of June 30, 2016 encumbrances versus the amount of bonds proposed to be issued in fiscal year 2016-2017, the legislature finds that in the aggregate, the amount of bonds proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

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

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

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

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

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from the calculation against the debt limit is 0.87 per cent for approximately ten years from fiscal year 2012-2013 to fiscal year 2021-2022. For the purpose of this declaration, the assumption is made that 0.75 per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

(B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under article VII, section 13 of the state constitution for the fiscal years 2012-2013, 2013-2014, 2014-2015, 2015-2016, and 2016-2017 are as follows:

Fiscal year	Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 of the State Constitution
2012-2013	5,925,545,000
2013-2014	6,719,545,000
2014-2015	7,513,545,000
2015-2016	8,208,300,000
2016-2017	8,903,050,000

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven per cent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, Section 13 of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), all of the outstanding guaranties can be excluded.

(8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at a net average interest rate, after giving effect to federal subsidy payments, if any, received by the State under and pursuant to the American Recovery and Reinvestment Act of 2009, as may be amended from time to time, not to exceed 5.25 per cent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds, and instruments of indebtedness under which the State incurs a contingent liability as

a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties	
2nd half FY 2012-2013 $302,712,500	961,546,231	693,592,175	2013-2014
1st half FY 2013-2014 $397,000,000	1,030,589,116	693,592,175	2013-2014
2nd half FY 2013-2014 $397,000,000	1,030,589,116	693,592,175	2013-2014
1st half FY 2014-2015 $397,000,000	1,101,563,670	708,961,122	2016-2017
2nd half FY 2014-2015 $397,000,000	1,101,563,670	729,803,622	2016-2017
1st half FY 2015-2016 $372,190,000	1,162,832,917	739,573,609	2016-2017
2nd half FY 2015-2016 $322,565,000	1,162,832,917	739,573,609	2016-2017
1st half FY 2016-2017 $347,375,000	1,209,784,868	749,345,042	2018-2019
2nd half FY 2016-2017 $347,375,000	1,209,784,868	767,582,229	2018-2019

(9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated

for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

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

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 200, H.D. 1, S.D. 1, C.D. 1 (the General Appropriations Act of 2013) and House Bill No. 197, H.D. 2, S.D. 2, C.D. 1 (the Judiciary Appropriations Act of 2013), passed by the legislature during this regular session of 2013 and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of general obligation bonds so issued shall not exceed $1,382,677,000.

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

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

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

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

APPROVED this 18 day of JUN, 2013

Neil Abercrombie

GOVERNOR OF THE STATE OF HAWAII