
A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE VII, SECTIONS 12 AND 13, OF THE HAWAII CONSTITUTION TO AUTHORIZE THE COUNTIES TO ISSUE TAX INCREMENT BONDS AND TO EXCLUDE TAX INCREMENT 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) Clarify that the legislature has the power to
5 authorize the counties to issue tax increment bonds;
6 and

7 (2) Exclude tax increment bonds from determinations of the
8 funded debt of the counties.

9 SECTION 2. Article VII, section 12, of the Constitution of
10 the State of Hawaii is amended to read as 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.



1 2. The term "general obligation bonds" means all bonds for
2 the payment of the principal and interest of which the full
3 faith and credit of the State or a political subdivision are
4 pledged and, unless otherwise indicated, includes reimbursable
5 general obligation bonds.

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

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

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

19 4. The term "dam and reservoir owner" means any person who
20 has a right to, title to, or an interest in, a dam, a reservoir,



1 or the property upon which a dam, a reservoir, or appurtenant
2 work is located or proposed to be located.

3 5. The term "person" means an individual, firm,
4 partnership, corporation, association, cooperative or other
5 legal entity, governmental body or agency, board, bureau or
6 other instrumentality thereof, or any combination of the
7 foregoing.

8 6. The term "rates, rentals and charges" means all
9 revenues and other moneys derived from the operation or lease of
10 a public undertaking, improvement or system, or derived from any
11 payments or return on security under a loan program or a loan
12 thereunder; provided that insurance premium payments,
13 assessments and surcharges, shall constitute rates, rentals and
14 charges of a state property insurance program.

15 7. The term "reimbursable general obligation bonds" means
16 general obligation bonds issued for a public undertaking,
17 improvement or system from which revenues, or user taxes, or a
18 combination of both, may be derived for the payment of the
19 principal and interest as reimbursement to the general fund and
20 for which reimbursement is required by law, and, in the case of
21 general obligation bonds issued by the State for a political



1 subdivision, general obligation bonds for which the payment of
2 the principal and interest as reimbursement to the general fund
3 is required by law to be made from the revenue of the political
4 subdivision.

5 8. The term "revenue bonds" means all bonds payable from
6 the revenues, or user taxes, or any combination of both, of a
7 public undertaking, improvement, system or loan program and any
8 loan made thereunder and secured as may be provided by law,
9 including a loan program to provide loans to a state property
10 insurance program providing hurricane insurance coverage to the
11 general public.

12 9. The term "special purpose revenue bonds" means all
13 bonds payable from rental or other payments made to an issuer by
14 a person pursuant to contract and secured as may be provided by
15 law.

16 10. The term "tax increment bonds" means all bonds, the
17 principal of and interest on which are payable from and secured
18 solely by all real property taxes levied by a political
19 subdivision, such as a county, on the assessed valuation of the
20 real property in a tax increment district established by the
21 political subdivision that is in excess of the assessed



1 valuation of the real property for the fiscal year prior to the
2 effective date specified by resolution of the political
3 subdivisions of the specified public works, public improvements,
4 or other actions by the political subdivision within the tax
5 increment district.

6 [10-] 11. The term "user tax" means a tax on goods or
7 services or on the consumption thereof, the receipts of which
8 are substantially derived from the consumption, use or sale of
9 goods and services in the utilization of the functions or
10 services furnished by a public undertaking, improvement or
11 system; provided that mortgage recording taxes shall constitute
12 user taxes of a state property insurance program.

13 The legislature, by a majority vote of the members to which
14 each house is entitled, shall authorize the issuance of all
15 general obligation bonds, bonds issued under special improvement
16 statutes and revenue bonds issued by or on behalf of the State
17 and shall prescribe by general law the manner and procedure for
18 such issuance. The legislature by general law shall authorize
19 political subdivisions to issue general obligation bonds, bonds
20 issued under special improvement statutes [~~and~~], revenue bonds,
21 and tax increment bonds and shall prescribe the manner and



1 procedure for such issuance. All such bonds issued by or on
2 behalf of a political subdivision shall be authorized by the
3 governing body of such political subdivision.

4 Special purpose revenue bonds shall only be authorized or
5 issued to finance facilities of or for, or to loan the proceeds
6 of such bonds to assist:

- 7 1. Manufacturing, processing or industrial enterprises;
- 8 2. Utilities serving the general public;
- 9 3. Health care facilities provided to the general public
10 by not-for-profit corporations;
- 11 4. Early childhood education and care facilities provided
12 to the general public by not-for-profit corporations;
- 13 5. Low and moderate income government housing programs;
- 14 6. Not-for-profit private nonsectarian and sectarian
15 elementary schools, secondary schools, colleges and
16 universities;
- 17 7. Agricultural enterprises; or
- 18 8. Dam and reservoir owners; provided that the bonds are
19 issued for and the proceeds are used to offer loans to
20 assist dam and reservoir owners to improve their
21 facilities to protect public safety and provide



1 significant benefits to the general public as
2 important water sources,
3 each of which is hereinafter referred to in this paragraph as a
4 special purpose entity.

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

18 (1) Not-for-profit private nonsectarian and sectarian
19 elementary schools, secondary schools, colleges, and
20 universities;

21 (2) Dam and reservoir owners; or



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



1 special purpose revenue bonds authorized and issued, and such
2 other information as may be necessary."

3 SECTION 3. Article VII, section 13, of the Constitution of
4 the State of Hawaii is amended to read as follows:

5 "DEBT LIMIT; EXCLUSIONS

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



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

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

17 All general obligation bonds for a term exceeding two years
18 shall be in serial form maturing in substantially equal
19 installments of principal, or maturing in substantially equal
20 installments of both principal and interest. The first
21 installment of principal of general obligation bonds and of



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

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

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



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

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



1 4. Bonds issued under special improvement statutes when
2 the only security for such bonds is the properties benefited or
3 improved or the assessments thereon.

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

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

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



1 excluded by the State, the principal amount then outstanding
2 shall be included within the funded debt of such political
3 subdivision.

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

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



1 10. Tax increment bonds, but only to the extent that the
2 principal of and interest on the bonds are in fact paid from the
3 real property taxes levied by a political subdivision, such as a
4 county, on the assessed valuation of the real property in a tax
5 increment district established by the political subdivision that
6 is in excess of the assessed valuation of the real property for
7 the fiscal year prior to the effective date specified by
8 resolution of the political subdivision of the specified public
9 works, public improvements, or other actions by the political
10 subdivision within the tax increment district.

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

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

19 SECTION 4. The question to be printed on the ballot shall
20 be as follows:



H.B. NO. 827


1 "As the legislature previously passed a law to allow
2 political subdivisions, such as counties, to create tax
3 increment districts and issue tax increment bonds, which are
4 bonds repaid from the increase in property taxes in those
5 tax increment districts, shall the constitution be amended
6 to clarify that the legislature has the authority to pass
7 laws on tax increment bonds?"

8 SECTION 5. Constitutional material to be repealed is
9 bracketed and stricken. New constitutional material is
10 underscored.

11 SECTION 6. This amendment shall take effect upon
12 compliance with article XVII, section 3, of the Constitution of
13 the State of Hawaii.

14

INTRODUCED BY: _____



JAN 23 2017



H.B. NO. 827

Report Title:

Tax Increment Bonds; Constitutional Amendment

Description:

Proposes amendments to the Constitution of the State of Hawaii to expressly provide that the Legislature may authorize political subdivisions, such as counties, to issue tax increment bonds and to exclude tax increment bonds in calculating the debt limit of the political subdivisions.

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