

JAN 18 2019

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) Allow the counties to issue tax increment bonds; and
5 (2) Exclude tax increment bonds from determinations of the
6 funded debt of the counties.

7 SECTION 2. Article VII, section 12, of the Constitution of
8 the State of Hawaii is amended to read as follows:

9 **"DEFINITIONS; ISSUANCE OF INDEBTEDNESS**

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

11 1. The term "bonds" shall include bonds, notes and other
12 instruments of indebtedness.

13 2. The term "general obligation bonds" means all bonds for
14 the payment of the principal and interest of which the full
15 faith and credit of the State or a political subdivision are



1 pledged and, unless otherwise indicated, includes reimbursable
2 general obligation bonds.

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

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

10 or

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

16 4. The term "dam and reservoir owner" means any person who
17 has a right to, title to, or an interest in, a dam, a reservoir,
18 or the property upon which a dam, a reservoir, or appurtenant
19 work is located or proposed to be located.

20 5. The term "person" means an individual, firm,
21 partnership, corporation, association, cooperative or other



1 legal entity, governmental body or agency, board, bureau or
2 other instrumentality thereof, or any combination of the
3 foregoing.

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

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



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

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, such as a county, for a period not to exceed
12 years, on the assessed valuation of the real property in a tax
13 increment district established by the political subdivision that
14 is in excess of the assessed valuation of the real property for
15 the year prior to the undertaking of specified public works,
16 public improvements, or other actions by the political
17 subdivision within the tax increment district.

18 [9.] 10. The term "special purpose revenue bonds" means
19 all bonds payable from rental or other payments made to an
20 issuer by a person pursuant to contract and secured as may be
21 provided by law.



1 ~~[10-]~~ 11. The term "user tax" means a tax on goods or
2 services or on the consumption thereof, the receipts of which
3 are substantially derived from the consumption, use or sale of
4 goods and services in the utilization of the functions or
5 services furnished by a public undertaking, improvement or
6 system; provided that mortgage recording taxes shall constitute
7 user taxes of a state property insurance program.

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



1 Special purpose revenue bonds shall only be authorized or
2 issued to finance facilities of or for, or to loan the proceeds
3 of such bonds to assist:

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



1 each of which is hereinafter referred to in this paragraph as a
2 special purpose entity.

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

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

19 (2) Dam and reservoir owners; or

20 (3) Agricultural enterprises,



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

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

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

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

20 "Shall the state constitution be amended to expressly
21 provide that the legislature may authorize the counties to



S.B. NO. 858

1 issue tax increment bonds and to also be amended to exclude
 2 tax increment bonds in determining the funded debt of the
 3 counties?"

4 SECTION 5. Constitutional material to be repealed is
 5 bracketed and stricken. New constitutional material is
 6 underscored.

7 SECTION 6. This amendment shall take effect upon
 8 compliance with article XVII, section 3, of the Constitution of
 9 the State of Hawaii.

10

INTRODUCED BY: ~~Sen. Keith~~

4 Heleni Ghosh

[Signature]

[Signature]

Ronald H. Beh

[Signature]
[Signature]

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S.B. NO. 858

Report Title:

Tax Increment Bonds; Proposed Constitutional Amendment

Description:

Proposes amendments to the Constitution of the State of Hawaii to expressly provide that the legislature may authorize the counties to issue tax increment bonds and to exclude tax increment bonds in determining 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.

