



**STATE OF HAWAII  
OFFICE OF PLANNING  
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Statement of  
**MARY ALICE EVANS**  
Director, Office of Planning and Sustainable Development  
before the  
**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**  
Wednesday, February 16, 2022  
2:00 PM  
State Capitol, Conference Room 325

in consideration of  
**HB 2085**

**PROPOSING AMENDMENTS TO ARTICLE VII, SECTIONS 12 AND 13, OF THE  
HAWAII CONSTITUTION TO EXPRESSLY PROVIDE THAT THE LEGISLATURE  
MAY AUTHORIZE THE COUNTIES TO ISSUE TAX INCREMENT BONDS AND TO  
EXCLUDE TAX INCREMENT BONDS FROM DETERMINATIONS OF THE FUNDED  
DEBT OF THE COUNTIES.**

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee.

The Office of Planning and Sustainable Development (OPSD) **strongly supports** Administration bill, HB 2085. This measure proposes amendments to article VII, sections 12 and 13 of the Hawaii State Constitution to expressly provide that the legislature may authorize the counties to issue tax increment bonds and to exclude tax increment bonds in calculating the debt limit of the counties.

Tax increment financing is a method through which a portion of property taxes in excess of a base assessed value may be dedicated to finance costs of a project through the issuance of bonds. While HRS §46-103 permits a county council to provide for tax increment financing, and HRS §46-104(2) grants a county the power to issue tax increment bonds, tax increment bonds do not fit neatly within the types of bonds that counties may issue under Hawaii's Constitution. The measure will allow tax increment bonds to be issued by the counties without affecting the debt limit of the counties.

The constitutional cloud can be cleared should this bill pass and the constitutional amendment be approved in the general election in November 2022. This change could enable use of this method to finance costly infrastructure upgrades in smart growth and transit-oriented development (TOD) areas. Tax Increment Financing is a value capture financing tool which is successfully and widely used in other states. TOD enhances property values which can be captured for cost recovery of State costs for funding infrastructure improvements.

Thank you for this opportunity to testify.



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Statement of  
**MIKE MCCARTNEY**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**

Wednesday, February 16, 2022  
2:00 PM  
State Capitol, Conference Room 325

In consideration of  
**HOUSE BILL 2085**  
**PROPOSING AMENDMENTS TO ARTICLE VII, SECTIONS 12 AND 13, OF THE  
HAWAII CONSTITUTION TO EXPRESSLY PROVIDE THAT THE LEGISLATURE  
MAY AUTHORIZE THE COUNTIES TO ISSUE TAX INCREMENT BONDS AND TO  
EXCLUDE TAX INCREMENT BONDS FROM DETERMINATIONS OF THE FUNDED  
DEBT OF THE COUNTIES.**

Chair Nakashima, Vice Chair Matayoshi, and members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) **supports** Administration Bill, House Bill 2085 which amends 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 calculating the debt limit of the political subdivisions.

The allowance for counties to use tax increment bonds as a value capture financing tool has been hampered by the uncertainty in the allowance of its use in the State Constitution. The constitutional cloud would be lifted by the passage of this bill, which includes a ballot question to be posed to the electorate in the upcoming election.

Tax Increment Financing is well-used in other states to capture the increased property valuations arising from increased density in transit-oriented developments which are a key component to economic development and revitalization. Tax increment bonds could be used to fund costly infrastructure upgrades often needed to develop and redevelop higher density mixed-use projects and affordable housing.

Thank you for the opportunity to testify.

# TAX FOUNDATION OF HAWAII

**LATE**

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SUBJECT: CONSTITUTIONAL AMENDMENT, Allows Counties to Issue Tax Increment Bonds and Exclude from County Debt Limit

BILL NUMBER: HB 2085, SB 3053

INTRODUCED BY: HB by SAIKI by request; SB by KOUCHI by request (Governor's Package)

EXECUTIVE SUMMARY: 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.

SYNOPSIS: Amends Article VII, Section 12 of the Constitution to add the definition of "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, such as a county, 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 fiscal year prior to the effective date specified by resolution of the political subdivision of the specified public works, public improvements or other actions by the political subdivision within the tax increment district.

Authorizes counties to issue tax increment bonds.

Amends Article VII, Section 13 of the Constitution to exclude from the debt limit tax increment bonds, but only to the extent that the principal of and interest on the bonds are in fact paid from the real property taxes levied by a political subdivision, such as a county, 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 fiscal year prior to the effective date specified by resolution of the political subdivision of the specified public works, public improvements or other actions by the political subdivision within the tax increment district.

EFFECTIVE DATE: Upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

STAFF COMMENTS: This is an Administration measure sponsored by DBEDT and designated BED-09 (22).

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.

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 enough to cover the debt service of the tax increment bonds issued. Provisions should be made to ensure that this method of financing is not abused as it has been in other states. Specifically, it should be provided 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 ensure 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 ensure that any excess revenues are returned to the county general fund.

The measure also provides that tax increment bonds shall be excluded from the determination of funded debt of the counties for purposes of the constitutional spending ceiling. It is questionable why tax increment bonds should be treated differently from any other debt of the counties.

As the Hawaii Supreme Court explained in *Convention Center Authority v. Anzai*, 78 Haw. 157, 890 P.2d 1197 (1995), Hawaii’s Constitution has had some form of debt limitation in place essentially from its inception. Under the Organic Act, the debt limit was set at ten percent of the assessed value of real property. The limit was subsequently increased to fifteen percent at the 1950 Constitutional Convention. The present structure of the debt limit and its exceptions was adopted by the 1968 Constitutional Convention, where the delegates were particularly wary of the implications of pledging the full faith and credit of the state behind an undertaking that was not “self-sustaining” or whose revenues, and/or the user taxes derived from the undertaking, could not cover the debt service charges. That is why the present constitutional provisions provide for the excludability of reimbursable general obligation bonds from the debt limit to the extent that “reimbursements 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.” Haw. Const. art. VII, § 13(6). In other words, the amounts that are not directly reimbursed to the general fund by revenue and/or user taxes are not excludable from the debt limit. This compromise position carefully balances the competing interests of flexibility and security.

We question the wisdom of writing an exception into our constitutional debt limit safeguards for debt that is supposed to be paid back by increased property tax revenues from development that has yet to occur. If the development does not deliver as advertised, government remains on the hook to repay the bonds, meaning that all of us suffer.

Digested: 2/15/2022