

**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

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Statement of
SCOTT GLENN, Director

before the
SENATE COMMITTEE ON WAYS AND MEANS

Tuesday, February 28, 2023, 10:00 AM
State Capitol, Conference Room 211

in consideration of
SB1101
RELATING TO TAX INCREMENT BONDS.

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means:

The Office of Planning and Sustainable Development (OPSD) **strongly supports** SB1101 which conforms state debt limit statements law to include tax increment bonds if a constitutional amendment authorizing the use of such bonds and excluding such bonds from determinations of the Counties' funded debt is ratified.

Tax increment financing (TIF) is a useful tool to help finance regional public infrastructure to facilitate transit-oriented development on state and private lands. It allows a portion of property taxes in excess of a base assessed value to be dedicated to finance costs of a project through 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. If a separate bill is passed to introduce a constitutional amendment authorizing TIF use, and the amendment is ratified, this bill would conform state debt limit statements law to include tax increment bonds, and would exclude tax increment bonds in calculating the debt limit of the counties.

Thank you for the opportunity to testify on this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 1101, RELATING TO TAX INCREMENT BONDS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, February 28, 2023 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Randall S. Nishiyama,
Deputy Attorney General, at (808) 586-1267)

Chair Dela Cruz and Members of the Committee:

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

This bill amends section 39-92, Hawaii Revised Statutes (HRS), to conform the state debt limit statement laws to include tax increment bonds if the constitutional amendments authorizing the counties to issue tax increment bonds are authorized by the Legislature and ratified by the electorate. Tax increment bonds can be used to finance public improvements for redevelopment and for economic development within a designated tax increment area.

While this bill proposes to amend the statutes pertaining to the state debt limit ceiling to exclude tax increment bonds issued by the counties, we note that the state debt limit ceiling applies only to state debt issuances. Because the proposed constitutional amendments seek to authorize the issuance of tax increment bonds by the counties, this bill should be amending chapter 47C, HRS, Indebtedness of the Counties, Exclusions from the Funded Debt, and Certification Thereof, the governing statutory framework for the debt limit statement for the counties, and not section 39-92, HRS.

We recommend the following amendments to chapter 47C, HRS, to permit the counties to exclude tax increment bonds from the debt limit of the counties.

- (1) Amend the last paragraph of section 47C-1, to read as follows:

As used in sections 47C-1 through 47C-6, the words or terms "bonds", "general obligation bonds", "net revenue", "net user tax receipts", "reimbursable general obligation bonds", "revenue bonds", "special purpose revenue bonds", tax increment bonds, and "user tax" shall have the respective meanings and inclusions given to such words and terms in section 12 of article VII of the constitution.

- (2) Amend paragraph (1) of section 47C-2, to read as follows:

(1) An itemization of the total principal amount of all general obligation bonds, reimbursable general obligation bonds, revenue bonds, special assessment bonds, special purpose revenue bonds, and all other bonds of the county outstanding and unpaid, including bonds which may be excluded under clauses 1, 2, 3, 4, 5, 6, 8, ~~and~~ 9, and 10 of section 13 of article VII of the constitution when determining the funded debt of the county for the purposes of that section together with a grand total of such total principal amounts.

- (3) Amend the last paragraph of section 47C-2, to read as follows:

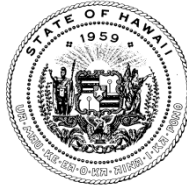
The director of finance shall also prepare and attach to the tabular summary such supporting schedules as may be required to set forth in detail the bonds included in the itemizations required by paragraphs (1) and (4). Such supporting schedules shall also set forth or make reference to the relevant statutory, charter, ordinance, or other legal provision, and the relevant figures of the tax increment as defined in section 46-102, assessment collections, revenues, user tax receipts, cost of operation, maintenance and repair, net revenues, net user tax receipts, reimbursements to the general fund, and other financial information, justifying the inclusion of such bonds in the itemization required by paragraph (4). The director of finance shall indicate in the supporting schedules whether the financial findings and figures are based upon the records of the director's office or upon audited statements and reports, and if based upon the latter, shall identify in the schedules the audited reports and statements.

- (4) Amend the first paragraph of section 47C-3, to read as follows:

Whenever the county proposes to issue bonds, the director of finance shall prepare a supplemental summary of the indebtedness of the county setting forth therein such information and findings as of a date within thirty days of the delivery of such bonds as will bring up to date and make current the most recent summary prepared in accordance with the

provisions of section 47C-2. The director of finance shall also prepare and attach to such supplemental summary such supporting schedules as may be required to set forth in detail the variations and changes from the summary prepared in accordance with section 47C-2, including such legal and financial findings as will justify any changes in the itemizations set forth in such previous summary pursuant to the requirements of paragraph (4) of section 47C-2. If all the bonds proposed to be issued may be excluded when determining the funded debt of the county for the purposes of section 13 of article VII of the constitution by reason of the provisions of clauses 2 [~~or~~], 4, or 10 of that section, the supplemental summary and supporting schedules may be limited to such bonds and findings as are necessary to justify such exclusion under such clauses.

We respectfully ask the Committee to consider our comments.



TESTIMONY BY:
EDWIN H. SNIFFEN
DIRECTOR

Deputy Directors
DREANALEE K. KALILI
TAMMY L. LEE
ROBIN K. SHISHIDO
JAMES KUNANE TOKIOKA

**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION**
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HONOLULU, HAWAII 96813-5097

February 28, 2023
10:00 A.M.

State Capitol Conference Room 211 & Videoconference

**S.B. 1101
RELATING TO TAX INCREMENT BONDS**

Senate Committee on Ways and Means

The Hawaii Department of Transportation (DOT) **supports** this measure that proposes to conform the state debt limit statements law to include tax increment bonds if a constitutional amendment authorizing the use of such bonds and excluding such bonds from determinations of the Counties' funded debt is ratified.

This testimony follows the DOT testimony in S.B. 1100. The DOT issues Revenue Bonds under the authority of Hawaii Revised Statutes (HRS) § 39 Part III and is supportive of tax increment bonds as a complement to Revenue Bonds as an innovative financing tool.

And while the DOT understands that implementing Tax Increment Financing (TIF) and Tax Increment Bonds is complicated, this evolved way of thinking about financing may provide the potential for infrastructure improvements under the purview of the DOT as FHWA provides this on the subject of TIF, "Although TIF has not been used extensively to fund transportation infrastructure, some state laws specifically authorize the use of TIF for transportation purposes."¹

The DOT supports housing and have been working with developers to fulfill our infrastructure requirements and see TIF as an opportunity for the State and Counties to collaborate on areas that have been historically difficult to develop.

Thank you for the opportunity to provide testimony.

¹ https://www.fhwa.dot.gov/ipd/value_capture/defined/tax_increment_financing.aspx

TAX FOUNDATION OF HAWAII

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SUBJECT: MISCELLANEOUS, Amend State Debt Limit Statements if Tax Increment Bonds Are Authorized

BILL NUMBER: SB 1101, HB 1456

INTRODUCED BY: SB by KEITH-AGARAN, AQUINO, MCKELVEY, Keohokalole, Kidani; HB by SAIKI

EXECUTIVE SUMMARY: Conforms state debt limit statements law to include tax increment bonds if a constitutional amendment authorizing the use of such bonds and excluding such bonds from determinations of the Counties' funded debt is ratified.

SYNOPSIS: Amends section 39-92, HRS, to conform the statutory language to accommodate a new clause in Article VII, section 13 of the Hawaii Constitution.

EFFECTIVE DATE: Upon its approval and upon ratification of a constitutional amendment expressly providing that the legislature may authorize the counties to issue tax increment bonds and excluding tax increment bonds from determinations of the funded debt of the counties.

STAFF COMMENTS: Apparently, this legislation was intended to pair with SB 1100 / HB 1457 which proposes a constitutional amendment to authorize the counties to issue tax increment bonds. However, SB 1100 / HB 1457 as currently drafted amends only Article VII, section 12 of the Hawaii Constitution. It does not touch section 13, and therefore does not exclude tax increment bonds from determinations of the funded debt of the counties. Thus, there is a mismatch with its intended companion bill. If SB 1100 / HB 1457 were to be approved by the electorate, this bill would not become effective because part of the predicate for effectiveness would not have been met.

Digested: 1/30/2023