
A BILL FOR AN ACT

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.

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) Expressly provide that the legislature may authorize
5 political subdivisions, such as the counties, to issue
6 tax increment bonds; and

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

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 of
10 the public undertaking, improvement or system, and the
11 required payments of the principal of and interest on
12 all revenue bonds issued therefor, have been made; or

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

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



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

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

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



1 is required by law to be made from the revenue of the political
2 subdivision.

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

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

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



1 subdivision of the specified public works, public improvements
2 or other actions by the political subdivision within the tax
3 increment district.

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

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



1 issued by or on behalf of a political subdivision shall be
2 authorized by the governing body of such political subdivision.

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

- 6 1. Manufacturing, processing or industrial enterprises;
- 7 2. Utilities serving the general public;
- 8 3. Health care facilities provided to the general public
9 by not-for-profit corporations;
- 10 4. Early childhood education and care facilities provided
11 to the general public by not-for-profit corporations;
- 12 5. Low and moderate income government housing programs;
- 13 6. Not-for-profit private nonsectarian and sectarian
14 elementary schools, secondary schools, colleges and
15 universities;
- 16 7. Agricultural enterprises; or
- 17 8. Dam and reservoir owners; provided that the bonds are
18 issued for and the proceeds are used to offer loans to
19 assist dam and reservoir owners to improve their
20 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~~] the special purpose revenue bonds is found to
 14 be in the public interest by the legislature; [~~and~~] provided
 15 further that the State may combine into a single issue of
 16 special purpose revenue bonds two or more proposed issues of
 17 special 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 [~~sueh~~] the 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 [~~sueh~~] the
18 contract or contracts or special purpose revenue bonds and no
19 moneys 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~~] the bonds at the time of issuance
8 would not cause the total amount of principal and interest
9 payable in the current or any future fiscal year, whichever is
10 higher, on [~~such~~] the bonds and on all outstanding general
11 obligation bonds to exceed: a sum equal to twenty percent of
12 the average of the general fund revenues of the State in the
13 three fiscal years immediately preceding [~~such~~] the issuance
14 until June 30, 1982; and thereafter, a sum equal to eighteen and
15 one-half percent of the average of the general fund revenues of
16 the State in the three fiscal years immediately preceding [~~such~~]
17 the issuance. Effective July 1, 1980, the legislature shall
18 include a declaration of findings in every general law
19 authorizing the issuance of general obligation bonds that the
20 total amount of principal and interest, estimated for [~~such~~] the
21 bonds and for all bonds authorized and unissued and calculated



1 for all bonds issued and outstanding, will not cause the debt
2 limit to be exceeded at the time of issuance. Any bond issue by
3 or on behalf of the State may exceed the debt limit if an
4 emergency condition is declared to exist by the governor and
5 concurred to by a two-thirds vote of the members to which each
6 house of the legislature is entitled. For the purpose of this
7 paragraph, general fund revenues of the State shall not include
8 moneys received as grants from the federal government and
9 receipts in reimbursement of any reimbursable general obligation
10 bonds which are excluded 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~~ the political subdivision that is outstanding and
16 unpaid at 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~~] the series.
3 The last installment on general obligation bonds shall mature
4 not later than twenty-five years from the date of [~~such~~] the
5 issue and the last installment on general obligation bonds sold
6 to the federal government, on reimbursable general obligation
7 bonds and on bonds constituting instruments of indebtedness
8 under which the State or a political subdivision incurs a
9 contingent liability as a guarantor shall mature not later than
10 thirty-five years from the date of [~~such~~] the issue. The
11 interest and principal payments of general obligation bonds
12 shall be a first charge on the general fund of the State or
13 political subdivision, as the 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 [~~sueh~~] the revenues or
13 tax or a combination of both into a special fund and to apply
14 the same to [~~sueh~~] the payments in the amount necessary
15 therefor.

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



1 4. Bonds issued under special improvement statutes when
2 the only security for [~~such~~] the bonds is the properties
3 benefited or 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~~] the bonds
7 are in 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~~] the bonds is
18 required by law; provided that in the case of bonds issued after
19 the 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~~] the bonds



1 are excluded by the State, the principal amount then outstanding
2 shall be included within the funded debt of [~~such~~] the 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~~] the 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 that period or to meet casual deficits or failures of revenue,
18 if required to be paid within one year, and bonds issued by or
19 on behalf of the State to suppress insurrection, to repel
20 invasion, to defend the State in war or to meet emergencies
21 caused by 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:



1 "Shall the Constitution be amended to expressly provide
2 that the legislature may authorize political subdivisions,
3 such as the counties, to issue tax increment bonds to pay
4 for specified public works, public improvements or other
5 actions by the political subdivision within the tax
6 increment district and also be amended to exclude tax
7 increment bonds in determining the funded debt of the
8 political subdivisions, such as the counties?"

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

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



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. (SD1)

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