

**ACT 20**

An Act to Amend Chapter 44 of the Revised Laws of Hawaii 1955 Relating to Revenue Bonds of the University of Hawaii.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 190, Session Laws of Hawaii 1959, amending Chapter 44 of the Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 2. Chapter 44 of the Revised Laws of Hawaii 1955 is amended as follows:

(a) By amending section 44-61 to read as follows:

“Sec. 44-61. Powers of Board. In addition to the powers which it now possess, the board shall have power to:

“(a) Construct and maintain university projects;

“(b) Prescribe and collect rents, fees and charges for the use or enjoyment of any of the facilities of any university project;

“(c) With the approval of the governor, issue revenue bonds, to finance in whole or in part the cost of construction, or maintenance, or both, of any university project; provided, that the total indebtedness incurred by the board under this part, outstanding at any one time, shall not exceed \$5,000,000;

“(d) Pledge to the punctual payment of such revenue bonds, and interest thereon, the revenue of the university project or projects for the construction

or maintenance of which the bonds have been issued, and the revenue of other or all university projects, in an amount sufficient to pay such bonds, and interest as the same shall become due, and to create and maintain reasonable reserves therefor;

“(e) Advance such moneys of the university, not otherwise required, as are necessary to pay the expenses incurred in making the preparations for the initial issuance of revenue bonds under this chapter, and to take any other action necessary or proper for carrying into execution and administering the provisions of this part, including providing for the full utilization of university projects in every way conducive to the furtherance of any or all of the purposes of the university.”

(b) By amending section 44-62 to read as follows:

“**Sec. 44-62. Authorization of university projects and revenue bonds.** Authorization of construction, maintenance, or both, of a university project or projects, authorization for issuance of revenue bonds under this part shall be by resolution or resolutions of the board. The resolution may be adopted at the same meeting at which it is introduced by a majority of all the members of the board then in office and shall take effect immediately upon adoption.”

(c) By amending section 44-63 to read as follows:

“Revenue bonds shall be issued in the name of the board and shall bear interest at such rate or rates not exceeding six per cent per annum, may be in one or more series, may be in such denomination or denominations, may bear such date or dates, may mature at such time or times not exceeding fifty years from their respective dates, may be payable at such place or places within or without the State, may carry such registration privileges as to principal alone or as to both principal and interest, may be subject to such terms or redemption with or without premium, may be executed in such manner, and may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as the resolution authorizing the issuance of the bonds, or subsequent resolutions may provide. Revenue bonds may be sold at private sale to the United States, or any agency, instrumentality or corporation thereof, to the State or any political subdivision, agency, instrumentality or corporation thereof, or to any person or group of persons offering to purchase all of a major portion of a particular issue or series. Unless sold at private sale as herein provided, revenue bonds shall be sold at public sale after publication of a notice of such sale at least once, the date of publication to be at least five days prior to the date of such sale, and such publication shall be made in a newspaper published and of general circulation in the State and in a financial newspaper published in either of the cities of New York, Chicago or San Francisco. No revenue bonds shall be sold at a price or prices which will result in an interest cost on such bonds in excess of six per cent per annum. Pending the preparation of definitive revenue bonds, interim receipts or temporary bonds may be issued and delivered to the purchasers of such bonds in such form and containing such provisions as the Board may determine. Revenue bonds, interim receipts and temporary bonds shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law, constituting chapter 197.

“It shall be legal for the State and any of its political subdivisions, or any political or public corporation, including the employees’ retirement system of the State, or any instrumentality of the State, or any insurance company or building and loan association, or any savings bank or trust company, or any bank or other financial institution operating under the laws of this State, or for any executor, administrator, guardian, trustee or other fiduciary, or any educational, charitable, or eleemosynary institution, to invest their funds, and moneys in their custody in revenue bonds issued under this part.”

(d) By deleting section 44-64.

(e) By amending section 44-65 to read as follows:

**“Sec. 44-65. Covenants in resolution authorizing revenue bonds.** Any resolution or resolutions authorizing the issuance of revenue bonds under this part may contain covenants as to: (a) the purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied and the use and disposition thereof; (b) the use and disposition of the revenue of the university project or projects for the construction or maintenance of which the revenue bonds are issued, the use and disposition of the revenue of all university projects, and of the revenue of the university, including the creation and maintenance of reserves and the investment of moneys in such reserves; (c) the use and disposition of the proceeds of the sale of any university project, or part thereof; (d) the construction and maintenance of any university project other than the university project or projects for the construction or maintenance of which revenue bonds are issued; (e) the issuance of other or additional revenue bonds payable either from the revenue of the university project or projects for the construction or maintenance of which the revenue bonds are issued or payable from the revenue of other university projects; (f) the maintenance of the university project, including the creation by the board of such supervisory positions, which shall not be subject to the provisions of chapters 3 and 4, as are necessary to facilitate the issuance of revenue bonds by ensuring the adequacy of revenues; (g) the insurance to be carried on university projects and the use and disposition of insurance moneys; (h) books of account and inspection and audit thereof; (i) a procedure by which the terms and conditions of the bond indenture may be subsequently amended or modified with the consent of the board, the vote or written assent of the holders of bonds or any proportion of such holders, or any trustee thereof; and (j) the terms and conditions upon which the holders of bonds evidencing the obligation to repay loans, or any proportion of such holders, or any trustee thereof, shall be entitled to the appointment of a receiver by any court of competent jurisdiction, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the university project or projects, maintain them, prescribe rents, fees and charges, and collect, receive, and apply all revenue thereafter arising therefrom in the same manner as the board itself might do, but the receiver shall have no power, nor be granted any power, to utilize, or permit the utilization of, any university project other than in a manner consistent with and in furtherance of the purposes of the university. The provisions of this part and any such resolution or resolutions shall be a contract with the holders of bonds issued under this part, and the

duties of the board and any such resolution or resolutions shall be enforceable by any bondholder by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.”

(f) By amending section 44-66 to read as follows:

“**Sec. 44-66. Validity of bonds.** Revenue bonds issued under this part shall bear the signatures of the chairman and executive officer of the board. Revenue bonds bearing the signature of officers in office at the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to be officers. The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the construction or maintenance of the university project or projects for which the bonds were issued. The resolution authorizing the issuance of revenue bonds may provide that the bonds shall contain a recital that they are issued pursuant to this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.”

(g) By amending section 44-67 to read as follows:

“**Sec. 44-67. Bonds.** The resolution or resolutions authorizing issuing of revenue bonds may pledge to the payment thereof all or any part of the revenue of the University, and such pledge shall constitute a lien on the revenue of the University to the extent and in the manner in said resolution or resolutions provided prior and paramount to any claim or other obligation of any nature against said revenue subsequently arising or subsequently incurred. The Board may provide in such resolution or resolutions that all revenue bonds of the same issue shall be equally and ratably secured without priority by reason of number, date or maturity of the bonds, date of sale, execution or delivery thereof. Any pledge of revenues contained in any resolution or resolutions adopted under the provisions of this part shall be valid and binding from and after the adoption of such resolution or resolutions without physical delivery of the revenues therein pledged or the necessity of any further action by the State or the Board, or any officer or agent of either the State or Board.”

(h) By amending section 44-68 to read as follows:

“**Sec. 44-68. Bonds not State obligations.** No holder or holders of any revenue bonds issued under this part shall ever have the right to compel any exercise of the taxing power of the State to pay such bonds, or interest thereon. Each revenue bond shall recite in substance that the obligation or bond, respectively, including interest thereon, is payable from the revenue pledged to the payment thereof, and that the bond does not constitute a debt of the State within the meaning of any limitation of law.”

(i) By deleting the word “loans” and the comma following it from section 44-69.

(j) By amending section 44-70 to read as follows:

“**Sec. 44-70. University project fund.** The treasurer of the State shall establish as a special deposit in the treasury of the State, a special fund into which all revenues received from all university projects constructed, maintained, or both, by the board under the provisions of this part shall be paid, which special fund is hereby created and shall be known as the uni-

versity project fund. All moneys in the university project fund are hereby appropriated except as limited or prohibited by the covenants in the resolution or resolutions of the board authorizing the issuance of revenue bonds under this part: (a) to provide for all costs of construction and maintenance of university projects, including reserves therefor; (b) to pay when due all revenue bonds, and interest thereon, for the payment of which such revenue is or has been pledged, charged or otherwise encumbered, including reserves therefor; (c) to reimburse the university for all moneys advanced to pay the expenses incurred in making the preparations for the initial issuance of revenue bonds under this part; and (d) to provide a reserve for betterments to university projects. If adequate provision has been made for all the foregoing purposes, and if permitted by the covenants in the resolution or resolutions authorizing the issuance of revenue bonds under this part, any surplus moneys remaining in the university project fund at the end of any fiscal year may be expended by the board in subsequent years in furtherance of any or all of the purposes of the university.

“The comptroller of the State shall open and keep in his books a separate and special account of the university project fund which shall be known as the university project fund account and which shall at all times show the exact condition thereof, including reserves.

“Moneys appropriated as hereinabove provided shall be payable by the treasurer of the State, upon warrants issued by the comptroller of the State, upon vouchers approved by the board or its duly authorized agent.”

(k) By amending section 44-71 to read as follows:

“**Sec. 44-71. University project, bonds exempt from taxation.** The property and revenue of any university project shall be exempt from all State, county and municipal taxation and assessments. Revenue bonds issued under this part, and all income therefrom shall be exempt from all State, county and municipal taxation except inheritance, transfer and estate taxes.”

(l) By adding a new section to be numbered 44-73 and to read as follows:

“**Sec. 44-73. Funding and refunding bonds; authorization and purpose.** The board may, with the approval of the governor, provide for the issuance of revenue bonds (herein referred to as refunding bonds) for the purpose of refunding, redeeming or retiring at maturity, or within one year prior to maturity or the first date upon which the outstanding bonds to be refunded may be called for redemption, any bonds issued under the provisions of this part, including any bonds which the holders may consent to be paid or refunded even though such bonds are not matured or are not callable or redeemable, and for the purpose of funding indebtedness not evidenced by revenue bonds but which was incurred for purposes for which revenue bonds may be issued pursuant to this part. All provisions of this part applicable to the issuance of revenue bonds shall be complied with in the issuance of refunding bonds. Refunding bonds shall be sold as provided in section 44-63, or the board may, in its discretion, provide for the exchange of refunding bonds for a like principal amount of outstanding bonds for the refunding of which the issuance of such refunding bonds has been authorized, whether or not the interest rate on the refunding bonds is higher than the interest rate on the bonds refunded thereby.”

(m) By adding a new section to be numbered 44-74 and to read as follows:

**“Sec. 44-74. Funding and refunding bonds; principal amount.** Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds or indebtedness to be funded or refunded thereby, and for the payment of all expenses paid or incurred in connection with the calling, redeeming, retiring or paying of such indebtedness or outstanding bonds, and the issuance of such refunding bonds. Such expenses may include the amount necessary for the payment of interest upon such refunding bonds from the date of delivery thereof to the date upon which the principal of the outstanding bonds to be refunded will be paid whether at maturity or pursuant to a call for redemption thereof, or pursuant to agreement with the holders thereof, plus in any case the amount of the premium, if any, required to be paid in order to call or retire such outstanding bonds.”

(n) By adding a new section to be numbered 44-75 and to read as follows:

**“Sec. 44-75. ‘Revenue Bonds’** mean revenue bonds, interim certificates, notes, debentures, or other evidence of indebtedness of the board authorized by the provisions of this part.”

(o) By adding a new section to be numbered 44-76 and to read as follows:

**“Sec. 44-76.** Notwithstanding any other provision to the contrary, nothing in this chapter shall be construed to authorize the authority to incur any indebtedness contrary to the provisions of Article VI, section 3, paragraph 7, of the Constitution of the State of Hawaii.”

**SECTION 3.** Nothing in this act shall be construed as altering or impairing any obligations under any existing instrument evidencing indebtedness or any outstanding loan agreement or bond indenture, nor shall this act be construed as altering the rights of the holders of any outstanding revenue bonds heretofore issued under the authority of this part, except as such alteration may have been provided or permitted by the terms and conditions of the resolution, loan agreement, bond indenture, or instrument evidencing such indebtedness, or except as such alteration may be consented to by the parties in interest thereto.

**SECTION 4.** This act shall take effect upon its approval.

(Approved November 18, 1959.) **S.B. 81.**

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