

**ACT 360**

S.B. NO. 408

A Bill for an Act Relating to State Bonds.

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

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance", the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13, of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the

total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund 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."

- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1988-1989 and estimated for each fiscal year from 1989-1990 to 1991-1992, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1985-86	\$1,569,777,922	\$
1986-87	\$1,759,104,963	\$
1987-88	\$2,135,842,312	\$
1988-89	\$2,284,006,000	\$336,991,387
1989-90	\$2,506,024,000	\$381,035,452
1990-91	\$2,711,913,000	\$426,848,793
1991-92	\$2,896,684,000	\$462,373,152
1992-93	(not applicable)	\$500,154,962

For fiscal years 1988-89, 1989-90, 1990-91, 1991-92, and 1992-93, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1985-86, 1986-87, and 1987-88 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1988, dated November 16, 1988. The net general fund revenues for fiscal years 1988-89 to 1991-92 are estimates, based on general fund revenue estimates made as of March 15, 1989, by the council on revenues, the body assigned by Article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds for determining the power of the State to issue general obligation bonds

within the debt limit, as of March 1, 1989, is as follows for fiscal year 1989-90 to fiscal year 1995-96:

Fiscal Year	Principal and Interest
1989-90	\$226,675,960
1990-91	\$224,642,651
1991-92	\$214,148,100
1992-93	\$201,466,964
1993-94	\$199,219,568
1994-95	\$185,616,247
1995-96	\$174,779,498

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit continues to decline each year from fiscal year 1996-97 to fiscal year 2011-12 when the final installment of \$15,347 shall be due and payable.

- (4) Amount of authorized and unissued general obligation bonds and bonds authorized by this Act. As calculated from the state comptroller's bond fund report as of February 28, 1989, as adjusted for \$90,000,000 general obligation bonds authorized in House Bill No. 462, S.D. 1, passed by this Regular Session of 1989,<sup>1</sup> and further adjusted for the lapsing of prior appropriations totalling \$3,216,000 as provided in House Bill No. 205, H.D. 1, S.D. 1, C.D. 2 (the General Appropriations Act of 1989),<sup>2</sup> the total amount of authorized but unissued general obligation bonds is \$549,378,602. The total amount of general obligation bonds authorized by this Act is \$247,555,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$796,933,602.
- (5) Proposed general obligation bond issuance. As reported by the department of budget and finance for fiscal years 1988-89, 1989-90, 1990-91, 1991-92, and 1992-93, the State proposes to issue two series of \$80,000,000 each during the remainder of fiscal year 1988-89 and \$80,000,000 semiannually in each of fiscal years 1989-90, 1990-91, 1991-92, and 1992-93. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bonds issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the remainder of fiscal year 1988-89 and during the fiscal years 1989-90, 1990-91, and 1991-92 is \$640,000,000. An additional \$160,000,000 is proposed to be issued in fiscal year 1992-93. The total amount of \$640,000,000 which is proposed to be issued through fiscal year 1991-92 is sufficient to meet the requirements of

the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$796,933,602, as reported in paragraph (4), except for \$156,933,602. It is assumed that the appropriations to which an additional \$156,933,602 in bond issuance needs to be applied will have been encumbered as of June 30, 1992. The \$160,000,000 which is proposed to be issued in fiscal year 1992-93 will be sufficient to meet the requirements of the June 30, 1992, encumbrances in the amount of \$156,933,602. The amount of assumed encumbrances as of June 30, 1992, is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1992, and the amount of June 30, 1992, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1992-93, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
  - (A) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (B) While at the present time, all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 11.69 per cent for the ten years from fiscal year 1988-89 to fiscal year 1997-98. For the purpose of this declaration, the assumption is made that ten per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 8.0 per cent through June 30, 1989, and 8.5 per cent for the fiscal years following thereafter, the maximum allowable by law, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest
2nd half FY 1988-89 1st issue \$72,000,000	\$336,991,387	\$232,435,961 (FY 1989-90)
2nd half FY 1988-89 2nd issue \$72,000,000	\$336,991,387	\$238,195,961 (FY 1989-90)
1st half FY 1989-90 \$72,000,000	\$381,035,452	\$242,282,651 (FY 1990-91)
2nd half FY 1989-90 \$72,000,000	\$381,035,452	\$248,402,651 (FY 1990-91)
1st half FY 1990-91 \$72,000,000	\$426,848,793	\$252,029,100 (FY 1991-92)
2nd half FY 1990-91 \$72,000,000	\$426,848,793	\$258,149,100 (FY 1991-92)
1st half FY 1991-92 \$72,000,000	\$462,373,152	\$263,042,280 (FY 1993-94) <sup>3</sup>
2nd half FY 1991-92 \$72,000,000	\$462,373,152	\$269,162,280 (FY 1993-94) <sup>3</sup>
1st half FY 1992-93 \$72,000,000	\$500,154,962	\$275,282,280 (FY 1993-94)
2nd half FY 1992-93 \$72,000,000	\$500,154,962	\$281,402,280 (FY 1993-94)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the basis for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 205, H.D. 1, S.D. 1, C.D. 2 (the General Appropriations Act of 1989),<sup>2</sup> House Bill No. 189, H.D. 2, S.D. 2, C.D. 1 (the Judiciary Appropriations Act of 1989),<sup>4</sup> and Senate Bill No. 1734, S.D. 1, H.D. 1, C.D. 2 (Relating to Capital Improvement Projects),<sup>5</sup> passed by this Regular Session of 1989, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$247,555,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-13, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

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SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in sections 1 and 3 the corresponding act numbers for bills identified therein.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 19, 1989.)

### **Notes**

1. Act 73, this volume.
2. Act 316, this volume.
3. So in original.
4. Act 315, this volume.
5. Act 314, this volume.