

ACT 73

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H.B. NO. 462

A Bill for an Act Relating to State Bonds.

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

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with Section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to authorize and appropriate general obligation bond funds for the acquisition of approximately sixty-seven acres of the

Kapalama Military Reservation during fiscal year 1988-89 and the fiscal biennium 1990-1991.

SECTION 3. There is appropriated a sum not to exceed \$90,000,000 out of the general obligation bond funds of the State of Hawaii or so much thereof as may be necessary for the period March 1, 1989, to February 28, 1991, for the purposes of this Act. Any funds remaining unexpended or unencumbered as of February 28, 1992, shall lapse as of such date.

SECTION 4. When it is deemed in the public interest of the State, the governor, in the governor's discretion, is authorized to use general fund savings or balances determined to be available from authorized general fund program appropriations to finance capital improvements projects authorized in this Act, where the method of financing is designated to be the general obligation bond fund; provided that if the governor uses general funds, the governor shall report that fact to the legislature twenty days prior to the convening of the regular session of 1990 for funds used in fiscal year 1989-1990, and twenty days prior to the convening of the regular session of 1991 for funds used in fiscal year 1990-1991.

SECTION 5. The sum appropriated shall be expended by the department of transportation for the purposes of this Act by submitting bids, by negotiating, and, if appropriate, by condemnation.

SECTION 6. 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 bond 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 percent 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 percent 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	2,502,024,000	381,035,452
1990-91	2,711,913,000	426,848,793
1991-92	(Not Applicable)	462,373,152

For fiscal years 1988-89, 1989-90, 1990-91, and 1991-92, 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 1990-91 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 December 31, 1988, and adjusted for the issuance of \$65,000,954.43 general obligation bonds Series BL and \$45,000,000 general obligation bonds Series BM, both dated December 6, 1988, the total amount of authorized but unissued general obligation bonds is \$462,981,554. The total amount of general obligation bonds authorized by this Act is \$90,000,000. The total amount of general

obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$552,981,554.

- (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 semi-annually in each of fiscal years 1989-90, 1990-91, 1991-92, and 1992-93. The State proposes to issue a total of \$560,000,000 during the period of March 1, 1989 to February 29, 1992. 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 semi-annually 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 bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. As reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue prior to February 29, 1992 is \$560,000,000. The total amount of \$560,000,000 which is proposed to be issued prior to February 29, 1992 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 \$552,981,554, as reported in paragraph (4).
- (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, as of March 1, 1989, is 11.69 per cent for the ten years from fiscal year 1989-90 to fiscal year 1998-99. For the purpose of this declaration, the assumption is made that ten per cent of each bond issue will be excludable from 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

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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)

- (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 7. 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 8. 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 by this Act provided that the sum total of the general obligations so issued shall not exceed \$90,000,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, 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.

SECTION 9. 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 10. This Act shall take effect upon its approval.

(Approved May 8, 1989.)