

ACT 256

S.B. NO. 2378

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 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 and bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under said Article VII, section 13."
- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1992-1993 and estimated for each fiscal year from 1993-1994 to 1996-1997, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1990-1991	\$2,654,706,036	
1991-1992	2,672,238,596	
1992-1993	2,801,180,523	
1993-1994	2,937,602,217	501,234,385
1994-1995	3,003,013,918	518,679,649
1995-1996	3,151,428,408	539,077,461
1996-1997	(Not Applicable)	560,676,080

For fiscal years 1993-1994, 1994-1995, 1995-1996, and 1996-1997, 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 1990-1991, 1991-1992, and 1992-1993 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, 1993, dated November 30, 1993. The net general fund revenues for fiscal years 1993-1994 to 1995-1996 are based on general fund revenue estimates made as of March 14, 1994, 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. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, section 13 of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of March 1, 1994 is as follows for fiscal year 1994-1995 to fiscal year 2000-2001:

Fiscal Year	Principal and Interest
1994-1995	\$323,002,875
1995-1996	367,181,168
1996-1997	361,748,315
1997-1998	333,619,403
1998-1999	306,409,679
1999-2000	291,629,762
2000-2001	243,119,480

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2001-2002 to fiscal year 2013-2014 when the final installment of \$14,214,769 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under

which the State may incur a contingent liability as a guarantor is \$222,600,000, part of which is excludable in determining the power to the State to issue general obligation bonds, pursuant to Article VII, section 13 of the State Constitution.

- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds. (A) As calculated from the state comptroller's bond fund report as of February 28, 1994, adjusted for (1) appropriations to be funded by general obligation bonds as provided in Act 289, Session Laws of Hawaii 1993 (General Appropriations Act of 1993), to be expended in the fiscal year 1994-1995, (2) appropriations to be funded by general obligation bonds as provided in Act 364, Session Laws of Hawaii 1993 (Relating to Education), to be expended in the fiscal year 1994-1995, (3) encumbrance lapses of \$6,055,073, (4) lapses as provided in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> amounting to \$52,395,217, (5) lapses as provided in House Bill No. 2990, H.D. 2, S.D. 1, C.D. 1 (the Judiciary Supplemental Appropriations Act of 1994),<sup>2</sup> amounting to \$7,555,000, and (6) the change in the means of financing from general obligation bond fund to general fund provided in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> amounting to \$16,231,000, the total amount of authorized but unissued general obligation bonds is \$1,059,869,150. The amount of general obligation bonds authorized in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> House Bill No. 2990, H.D. 2, S.D. 1, C.D. 1 (the Judiciary Supplemental Appropriations Act of 1994),<sup>2</sup> and Senate Bill No. 1628, S.D. 2, H.D. 1, C.D. 1 (Making an Appropriation for the Dredging of Maunalua Bay),<sup>3</sup> is \$90,130,000. The total amount of general obligation bonds previously authorized and unissued, as adjusted, and the general obligation bonds authorized in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> House Bill No. 2990, H.D. 2, S.D. 1, C.D. 1 (the Judiciary Supplemental Appropriations Act of 1994),<sup>2</sup> and Senate Bill No. 1628, S.D. 2, H.D. 1, C.D. 1 (Making an Appropriation for the Dredging Of Maunalua Bay),<sup>3</sup> is \$1,149,999,150. (B) As reported by the department of budget and finance, the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$222,600,000, part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, section 13, of the State Constitution.
- (5) Proposed general obligation bond issuance. As reported herein for fiscal years 1993-1994, 1994-1995, 1995-1996, and 1996-1997, the State proposes to issue \$337,500,000 during the remainder of fiscal year 1993-1994, \$100,000,000 semiannually in fiscal year 1994-1995, \$200,000,000 in the first half of fiscal year 1995-1996, \$212,500,000 in the second half of fiscal year 1995-1996 and \$100,000,000 semiannually in fiscal year 1996-1997. It is 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 this practice will continue to be applied to 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. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1993-1994 to 1995-1996 is \$950,000,000. An additional \$200,000,000 is proposed to be issued in fiscal year 1996-1997. The total amount of \$950,000,000 which is proposed to be issued through fiscal year 1995-1996 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 \$1,149,999,150, as reported in paragraph (4), except for \$199,999,150. It is assumed that the appropriations to which an additional \$199,999,150 in bond issuance needs to be applied will have been encumbered as of June 30, 1996. The \$200,000,000 which is proposed to be issued in fiscal year 1996-1997 will be sufficient to meet the requirements of the June 30, 1996, encumbrances in the amount of \$199,999,150. The amount of assumed encumbrances as of June 30, 1996 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, 1996, and the amount of June 30, 1996 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1996-1997, 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.
  - (A) 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 is excludable from the amount of each proposed bond issued because:
    - (i) 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
    - (ii) Not all reimbursable general obligation bonds may qualify for exclusion.

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 8.3 percent for the ten years from fiscal year 1994-1995 to fiscal year 2003-2004. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which

the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, section 13, of the State Constitution for the fiscal years 1993-1994, 1994-1995, 1995-1996 and 1996-1997 are as follows:

Fiscal year	Total amount of General Obligation Bonds not otherwise excluded by Article VII, section 13 of the State Constitution
1993-1994	\$2,992,476,241
1994-1995	2,998,643,721
1995-1996	3,139,740,268
1996-1997	3,064,758,296

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven percent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided by, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to a actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, section 13, of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which must be included in determining the power of the State to issue general obligation bonds is \$9,176,676.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that the bonds identified in paragraph (5) will be issued at an interest rate of 6.0 percent, 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, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such 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 on Bonds and Guaranties
Remainder FY 93-94 \$320,625,000	\$501,234,385	\$407,974,991 (1996-1997)
1st half FY 94-95 \$95,000,000	518,679,649	413,674,991 (1996-1997)
2nd half FY 94-95 \$95,000,000	518,679,649	419,374,991 (1996-1997)
1st half FY 95-96 \$190,000,000	539,077,461	430,774,991 (1996-1997)
2nd half FY 95-96 \$201,875,000	539,077,461	442,887,491 (1996-1997)
1st half FY 96-97 \$95,000,000	560,676,080	429,795,369 (1997-1998)
2nd half FY 96-97 \$95,000,000	560,676,080	435,495,369 (1997-1998)

- (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 and guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds that the bases for the declaration of findings set forth in this Act are reasonable. The following assumptions set forth in this Act shall not be deemed to be binding:

- (1) The principal amount of general obligation bonds which will be issued;
- (2) The amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable; and
- (3) The assumed maturity structure.

It is 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. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> House Bill No. 2990, H.D. 2, S.D. 1, C.D. 1 (the Judiciary Supplemental Appropriations Act of 1994),<sup>2</sup> and Senate Bill No. 1628, S.D. 2, H.D. 1, C.D. 1 (Making an Appropriation for the Dredging of Maunalua Bay),<sup>3</sup> passed by this regular session of 1994, 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 \$90,130,000.

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 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 section 1 and section 3 the corresponding act numbers for bills identified therein.

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

(Approved June 30, 1994.)

#### Notes

1. Act 252.
2. Act 254.
3. Act 231.