

ACT 119

H.B. NO. 3389

A Bill for an Act Relating to Municipal Leases.

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

SECTION 1. The legislature finds and determines that:

- (1) Substantial growth in lease purchase agreements, installment sale agreements, and other similar financing agreements entered into by state agencies to finance real or personal property has occurred in the last several years and similar growth is projected to continue and even accelerate in the coming years;
- (2) The agencies that rate the credit of the state general obligation, revenue, and other bonds take into consideration the “off-the-books” financings undertaken by state agencies including lease purchase and installment sale financings; and
- (3) Although “off-the-books” financings are not considered to be a legal debt of the issuer, the rating agencies, nevertheless, have threatened to downgrade, in numerous cases, the rating of an issuer’s general obligation or other debt, if the issuer intentionally fails to make the appropriations for payments due under these financings.

The purpose of this Act is to avoid jeopardizing the ratings on state bonds and to maintain the fiscal integrity of the State, by establishing procedures in the state budgeting process and other fiscal and legal oversight to monitor, coordinate, and control “off-the-books” financings.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER MANAGEMENT OF FINANCING AGREEMENTS

§ **-1 Definitions.** Unless the context requires otherwise, as used in this chapter:

“Agency” means the State or any executive department, independent commission, board, authority, bureau, office, or other establishment of the State (except the legislature and its agencies and the judiciary), or any public corporation that is supported in whole or in part by state funds, or any agent thereof, authorized by law to expend available moneys.

“Attorney general” means the attorney general of the State or any duly designated deputy attorney general.

“Available funds” means funds appropriated or otherwise made available, from time to time, by the legislature to pay amounts due under a financing agreement for the fiscal period in which the payments are due, together with any unexpended proceeds of the financing agreement, and any reserves or other amounts that have been deposited in trust to pay amounts due under the financing agreement. The legislature shall not be obligated to appropriate or otherwise make funds available.

“Credit enhancement agreement” means any agreement or contractual relationship between the State or any state agency and any bank, trust company, insurance company, surety bonding company, pension fund, or other financial institution providing additional credit on or security for a financing agreement or certificates of participation authorized by this chapter.

“Director” means the director of finance or any duly designated deputy director of finance.

“Financing agreement” means any lease purchase agreement, installment sale agreement, loan agreement, or other agreement to finance the improvement, use, or acquisition of real or personal property that is or will be owned or operated by the State or any state agency, or to refinance previously executed financing agreements including certificates of participation.

“Personal property” means tangible personal property, software, and fixtures.

“Property rights” means, with respect to personal property, the rights of a secured party under chapter 490, and, with respect to real property, the rights of a trustee or lender under a lease authorized by section 3(5).

“Software” includes software, training, and maintenance contracts related to the operation of computer equipment.

§ **-2 Financing agreements.** Only with the approval of the director, and the approval by the attorney general of form and legality, may the agency enter into a financing agreement in accordance with this chapter, upon terms the agency finds to be advantageous. Any financing agreement entered into by the agency without the approvals required by this section shall be void and of no effect. Financing agreements shall be subject to the following limitations:

- (1) Amounts payable by the agency under a financing agreement shall be limited to available funds. In no circumstance shall the agency be obligated to pay amounts due under a financing agreement from any source other than available funds. If, by reason of insufficient available funds or other reason, amounts due under a financing agreement are not paid when due, the lender may exercise any property right that the agency has granted to it in the financing agreement, against the property that was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the agency under the financing agreement;

- (2) No property rights may be granted in property unless the property is being acquired, is to be substantially improved, or is to be refinanced with the proceeds of a financing agreement, or is land on which such property is located;
- (3) The agency shall not enter into financing agreements under any provision of law other than this chapter if the principal amount of the financing agreement, together with the principal amount of any financing agreement previously issued by the agency for the same project, exceeds \$100,000; and
- (4) The sale, assignment, or other disposition of any financing agreements, including certificates of participation shall require the approval of the director.

§ -3 **Related agreements.** With the approval of the director and the approval by the attorney general of form and legality, an agency may:

- (1) Enter into agreements with trustees to hold financing agreement proceeds, payments, and reserves as security for lenders to accept assignments of rights in the financing agreement from, and to enforce such rights of the lessor or other party thereto, and to issue certificates of participation for the right to receive payments due from the agency under a financing agreement. Amounts held by a trustee shall be invested by the trustee at the direction of the agency in such investments as shall be specified in the agreement with the trustee. Interest earned on any investment held by a trustee as security for a financing agreement may, at the option of the agency, be credited to the accounts held by the trustee and applied in payment of sums due under a financing agreement;
- (2) Enter into credit enhancement agreements for financing agreements or certificates of participation, provided that the credit enhancement agreements shall be payable solely from available funds and amounts received from the exercise of property rights granted under such financing agreements;
- (3) Use financing agreements to finance the costs of acquiring or refinancing property, plus the costs of reserves and credit enhancements and costs associated with obtaining the financing;
- (4) Use a single financing agreement to finance property to be used by multiple agencies;
- (5) Grant leases of real property subject to section -2(2). The leases may be for a term that ends on the date on which all amounts due under a financing agreement have been paid or provision for payment has been made, or ten years after the last scheduled payment under a financing agreement, whichever is later. The leases may grant the lessor the right to evict the agency and exclude it from possession of the real property for the term of the lease if the agency fails to appropriate or pay when due the amounts scheduled to be paid under a financing agreement or otherwise defaults under a financing agreement. Upon failure to pay or default, the lessor may sublease the land to third parties and apply any rentals toward payments scheduled to be made under a financing agreement;
- (6) Grant security interests in personal property subject to section -2(2). The security interests shall attach and be perfected on the date the agency takes possession of the personal property, or the date the lender advances money under a financing agreement, whichever is later. A security interest authorized by this section shall have, except as

otherwise provided by law, priority over all other liens and claims. Upon failure to pay or default, the secured party shall have the rights and remedies available to a secured party under chapter 490 or a first, perfected security interest in goods and fixtures. No later than ten days after a security interest authorized by this section attaches, the agency shall cause a financing statement for the security interest to be filed with the bureau of conveyance in the same manner as financing statements are filed for goods;

- (7) Pledge any amounts that are deposited with a trustee in accordance with a financing agreement. The pledge shall be valid and binding from the time it is made, the amounts so pledged shall immediately be subject to the lien of the pledge without filing, physical delivery, or other act, and the lien of the pledge shall be superior to all other claims and liens of any kind whatsoever;
- (8) Bill any other agency that benefits from property acquired with the proceeds of a financing agreement for an appropriate share of the financing costs, including debt service, on a monthly or other periodic basis, and deposit payments received in connection with the billings with a trustee as security for a financing agreement. Any agency receiving such a bill shall be authorized and shall pay the amounts billed from the first amounts legally available to it; and
- (9) Purchase fire and extended coverage or other casualty insurance for property that is acquired or refinanced with proceeds of a financing agreement, assign the proceeds thereof to a lender or trustee to the extent of their interest, and covenant to maintain such insurance while the financing agreement is unpaid, so long as available funds are sufficient to purchase such insurance.

§ -4 Inclusion in governor's budget request. There shall be included in the governor's budget request to the legislature, for each fiscal period, amounts sufficient to permit the payment of all amounts that will be due on unpaid financing agreements during that fiscal period.

§ -5 Financing agreements not a general obligation of State. Financing agreements shall:

- (1) Not be obligations for which the full faith and credit of the agency is pledged; and
- (2) Have no claim or lien on any revenues or other moneys of the agency except moneys appropriated or otherwise held in trust for such purpose.

Financing agreements entered into under this chapter shall not constitute "bonds" within the meaning of Section 12 of Article VII of the Constitution of the State. No holder or holders of any financing agreement entered into under this chapter shall have the right to compel any exercise of taxing power of the agency to pay such financing agreements or the interest thereon and no moneys other than amounts appropriated or otherwise held in trust for such purpose shall be required to be applied to the payment thereof. Each financing agreement issued under this chapter shall recite in substance that such agreement, including the interest component thereof, shall not be an obligation for which the full faith and credit of the agency is pledged, and that such financing agreement shall have no claim or lien on any revenues or other moneys of the agency except moneys appropriated or otherwise held in trust for such purpose.

§ -6 Federal tax-exempt status; preference; protection. (a) To the extent practicable, financing agreements issued pursuant to this chapter shall be

issued to comply with requirements imposed by applicable federal law providing that the interest on financing agreements shall be excluded from gross income for federal income tax purposes, except as certain minimum taxes or environmental taxes may apply. The director or chair of the agency may:

- (1) Enter into agreements;
- (2) Establish funds or accounts;
- (3) Make rebate payments to the federal government; and
- (4) Take any action required to comply with applicable federal tax law.

Nothing in this chapter shall prohibit the issuance of financing agreements, the interest on which may be included in gross income for federal income tax purposes.

(b) To insure that interest on a financing agreement issued pursuant to this chapter that is excluded from gross income for federal income tax purposes, except as provided in subsection (a), on the date of issuance shall continue to be excluded, no state officer or employee shall authorize or allow any change, amendment, or modification to a financing agreement which would affect the exclusion of interest on such financing agreement from gross income for federal income tax purposes unless the change, amendment, or modification shall have received the prior approval of the director or chair of the agency that entered into the financing agreement. Failure to receive the approval of the director or chair of such agency shall render any change, amendment, or modification void.

§ -7 Financing agreements legal investments. All public officers and agencies, all political subdivisions, all insurance companies and associations, all banks, savings banks, and savings institutions, including building or savings and loan associations, all credit unions, all trust companies, all personal representatives, guardians, trustees, and all other persons and fiduciaries in the State who are regulated by law as to the character of their investment, may legally invest funds within their control and available for investment in financing agreements of the agency. The purpose of this section is to authorize any person, firm, corporation, association, political subdivision, body, or officer, public or private, to use any funds owned or controlled by them, including, without prejudice to the generality of the foregoing, sinking, insurance, investment, retirement, compensation, pension, trust funds, and funds held on deposit, for the purchase of any financing agreements of the agency.

§ -8 Exemption from taxation. All real and personal property owned or operated by the agency and payments made under the financing agreements to which the property is subject shall be exempt from all state, county, and municipal taxation. Financing agreements issued pursuant to this chapter and the income therefrom, including, without limitation, the interest component of any lease payments, shall be exempt from all taxation by the agency or any county or other political subdivision thereof, except inheritance, transfer, and estate taxes.

§ -9 Litigation; jurisdiction. The director of finance may petition the supreme court for an opinion as to the validity of any financing or related agreement entered into pursuant to the provisions of this chapter. The petition shall constitute a case for purposes of section 602-5, and the supreme court shall have exclusive and original jurisdiction to receive and determine the question presented in the petition, irrespective of an actual controversy or dispute regarding the agreement or its validity.”

SECTION 3. Section 37-62, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

““Certificate of participation” means any certificate evidencing a participation right or a proportionate interest in any financing agreement or the right to receive proportionate payments from the state or a state agency due under any financing agreement.

“Financing agreement” means any lease purchase agreement, installment sale agreement, loan agreement, or any other agreement to finance the improvement, use, or acquisition of real or personal property that is or will be owned or operated by the State or any agency or to refinance any such previously executed financing agreement including certificates of participation.

“Lease payments” means payments made by the State or any agency under any financing agreement.”

2. By amending the definition of “agency” to read:

““Agency” means any executive department, independent commission, board, agency, authority, bureau, office, or other establishment of the state government (except the legislature and the judiciary), or any quasi-public institution which is supported in whole or in part by state funds.”

3. By amending the definition of “cost elements” to read:

““Cost elements” means the major subdivisions of a cost category. [For the] ~~The~~ category “capital investment[,]” [it] includes plan, land acquisition, design, construction, and equipment and furnishing. [For the] ~~The~~ categories “research and development” and “operating[,]” [it includes] include personal services, current lease payments, other current expenses, equipment, and motor vehicles.”

4. By amending the definition of “operating costs” to read:

““Operating costs” means recurring costs of operating, supporting and maintaining authorized programs, including costs for personnel salaries and wages, employee fringe benefits, lease payments,¹ supplies, materials, equipment, and motor vehicles.”

SECTION 4. Section 37-69, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The financial plan for the ensuing six fiscal years shall more specifically include:

- (1) Economic data for the State and the counties of the following kinds:
 - (A) Population [-]: Including historical, current, and projected population count; population distribution by age and sex; estimated increases and decreases, including increases and decreases by immigration[, etc.];
 - (B) Employment [-]: Including magnitude of labor force by age and sex; labor force participation rates; employment by age and sex; industry and occupational surpluses and shortages; effects of government programs on employment rate[, etc.];
 - (C) Income [-]: Including per capita and per family income; disposable income; income distribution[, etc.];
 - (D) Wages and prices [-]: Including wages by industry and occupational groups; prices for government procurement items; construction costs; cost of living index; price indices for components of personal consumption[, etc.];

- (E) Industry and business trends[.]; and
- (F) Effects of national economic and financial policies and conditions[.];
- (2) Brief statements disclosing the basis upon which the revenue estimates in the plan were made, including for each specific tax and nontax revenue source[, the]:
 - (A) The previous projections for the last completed fiscal year and the fiscal year in progress[, the];
 - (B) The variance between the projections and the actual or revised estimate, and the reasons for the variances; [the tax]
 - (C) Tax or source base and rates; [yield]
 - (D) Yield projections of existing revenue sources and existing taxes at authorized rates; [assumptions]
 - (E) Assumptions made and methodology used in projections; [changes]
 - (F) Changes recommended[, projected]; and
 - (G) Projected yields if changes are adopted[.]; etc.;
- (3) At the lowest level on the state program structure, for each program:
 - (A) The total actual program cost for the last completed fiscal year, the estimated cost for the fiscal year in progress, and the estimated cost for each of the next six fiscal years; research and development, operating, and capital costs shall be included and the means of financing shall be [appropriately] identified. The number of personnel positions and all lease payments shall be shown for the program, identified by their means of financing[.];
 - (B) The program size indicators; the actual size attained in the last completed fiscal year, the estimated size for the fiscal year in progress, and the estimated size for each of the next six fiscal years[.]; and
 - (C) The effectiveness measures; the actual level of effectiveness attained in the last completed fiscal year, the estimated level of effectiveness for the fiscal year in progress, and the estimated level for each of the next six fiscal years[.];
- (4) Appropriate displays of paragraph (3)(A) and (C) [immediately above], at every level of the state program structure above the lowest level, by the major groupings of programs encompassed within the level. The displays of (3)(A) shall appropriately identify the means of financing and the number of positions included in the level[.];
- (5) Financial summaries displaying the State's financial condition, actual for the last completed fiscal year, and estimated for the fiscal year in progress[, and [estimated for] each of the next six fiscal years, including:
- (A) A display of the programmed, total state expenditures, by cost categories, the total state resources anticipated from existing tax and nontax sources at existing rates, by resource categories, [(including the fund balance or deficit at the beginning of the fiscal year and bond receipts)], and the resulting fund balance or deficit at the close of each fiscal year. Lease payments in each cost category shall be stated separately; and
- (B) The changes proposed to the existing tax and nontax rates, sources or structure, and the estimated increases or reductions in revenues, the estimated cumulative increases or reductions, and the estimated fund balance or deficit in each of the next six fiscal years as a result of such proposed changes. Proposals for changes

in the existing tax and nontax rates, sources or structure shall be made in every case where the proposed, total state expenditures exceed the total resources anticipated from existing tax and nontax sources at existing rates.

Such financial summaries shall be prepared for the total state expenditures and resources and for the general fund and special fund portions thereof[.];

- (6) A summary of the balance of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and estimated for each of the next six fiscal years[.];
- (7) A summary of the State's total bond fund required to carry out the recommended programs and the kinds of bonds and amounts thereof through which [such] the requirements were met in the last completed fiscal year, are to be met in the fiscal year in progress, and are proposed to be met in each of the next six fiscal years. The summary shall detail, for each fiscal year:
 - (A) Of the total bond fund requirements, the amount, by cost categories, requiring new bond issuance authorization and the kinds and amounts of bonds planned for issuance under such new authorizations[.];
 - (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof proposed to be issued[.]; and
 - (C) A recapitulation of the total bonds to be issued, including both new authorizations and prior authorizations, by bond categories[.];
- (8) Separately for general fund tax revenues, special fund tax revenues, general fund nontax revenues, and special fund nontax revenues:
 - (A) By kinds of taxes or sources, the amount of revenue from existing, authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in each of the next six fiscal years[.];
 - (B) A summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in revenues in each of the next six fiscal years resulting from such changes[.]; and
 - (C) The total estimated revenues with and without the proposed changes in each of the next six fiscal years[.];and
- (9) A summary of the State's total payments due under financing agreements required to carry out the recommended programs and the kinds of financing agreements and amounts thereof through which the requirements were met in the last completed fiscal year, are to be met in the fiscal year in progress, and are proposed to be met in each of the next six fiscal years. The summary shall detail, for each fiscal year:
 - (A) Of the total financing agreement requirements, the amount, by cost categories, requiring new financing agreement authorizations and the kinds and amounts of financing agreements planned for execution and delivery under such new authorizations;
 - (B) By cost category, the cumulative balance of financing agreements authorized in prior years but not executed and delivered and the amount proposed to be executed and delivered; and

- (C) A recapitulation of the total financing agreements to be executed and delivered, including both new authorizations and prior authorizations, by cost categories.

(d) The program plans for the ensuing six fiscal years shall more specifically include:

- (1) At the lowest level on the state program structure, for each program:
 - (A) A statement of its objectives[.];
 - (B) Measures by which the effectiveness in attaining the objectives is to be assessed[.];
 - (C) The level of effectiveness planned for each of the ensuing six fiscal years[.];
 - (D) A brief description of the activities encompassed[.];
 - (E) The program size indicators[.];
 - (F) The program size planned for each of the next six fiscal years[.];
 - (G) A narrative explanation of the plans for the program. It shall contain, and in general be limited to, the following:
 - (i) A description of the kinds of activities carried out or unusual technologies employed;
 - (ii) A statement of key policies pursued;
 - (iii) Identification of important program or organizational relationships involved;
 - (iv) A description of major external trends affecting the program;
 - (v) A discussion of significant discrepancies between previously planned cost, effectiveness, and program size levels and those actually achieved;
 - (vi) Comments on, and an interpretation of, cost, effectiveness, and program size data over the upcoming budget period, with special attention devoted to changes from the current budget period;
 - (vii) Comments on, and an interpretation of, cost, effectiveness, and program size data over the four years of the planning period and how they relate to the corresponding data for the budget period; and
 - (viii) A summary of the special analytic study, program evaluation, or other analytic report supporting a substantial change in the program where such a major program change recommendation has been made[.];
 - (H) The full cost implications of the recommended programs, by cost categories and cost elements, actually experienced in the last completed fiscal year, estimated for the fiscal year in progress, and estimated for each of the next six fiscal years. The means of financing shall be identified for each cost category. The personal services cost element and the lease payments cost element shall be shown separately; the cost elements of other current expenses, equipment, and motor vehicles may be combined. The number of positions included in the program shall be appropriately identified by means of financing[.];
 - (I) A recapitulation of subparagraph (H) [above] for the last completed fiscal year, the fiscal year in progress and each of the next six fiscal years, by means of financing grouped under each cost category. The number of positions included in any program shall be appropriately identified[.];

- (J) An identification of the revenues generated in the last completed fiscal year and estimated to be generated in the fiscal year in progress and in each of the next six fiscal years, and the fund into which such revenues are deposited[.];
- (K) Details of implementation of each capital improvement project included in the total program cost, including:
 - (i) A description of the project, location, and scope;
 - (ii) The initially estimated, currently estimated, and final cost of the project, by investment cost elements and by means of financing;
 - (iii) The amounts previously appropriated by the legislature for the project, by cost elements and by means of financing specified in the acts appropriating the sums, and an identification of the acts so appropriating;
 - (iv) The costs incurred in the last completed fiscal year and the estimated costs to be incurred in the fiscal year in progress and in each of the next six fiscal years, by cost elements and by means of financing; and
 - (v) A commencement and completion schedule, by month and year, of the various phases of the capital improvement project (i.e., land acquisition, design, construction, and occupancy) as originally intended, as currently estimated, and as actually experienced[.];
- and
- (L) A crosswalk of the program expenditures, by cost categories and cost elements between the program and expending agencies for the next two fiscal years. The means of financing and the number of positions included in the program costs to be expended by each agency shall be specified[.];
- and
- (2) Appropriate displays at every level of the state program structure above the lowest level. The displays shall include:
 - (A) A listing of all major groupings of programs included within the level, together with the objectives, measures of effectiveness, and planned levels of effectiveness for each of the ensuing six fiscal years for each such major groupings of programs[.]; and
 - (B) A summary of the total cost of each cost category by the major groupings of programs encompassed within the level, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the next six fiscal years.”

SECTION 5. Section 37-71, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The display of financial requirements for the ensuing two fiscal years shall more specifically include:

- (1) At the lowest level on the state program structure, for each program:
 - (A) The total recommended expenditures, including research and development, capital and operating costs, by cost categories and cost elements for the ensuing biennium; the planned allocation of the total biennial request, by cost categories, and cost elements, between the two fiscal years of the biennium. The means of financing and the number of positions included in any cost category amount shall be appropriately identified[.];

- (B) A summary showing means of financing the total recommended expenditures, those amounts requiring and those amounts not requiring legislative appropriation or authorization for spending in each fiscal year of the biennium[.];
- (C) A crosswalk of the total proposed biennial expenditures between the program and expending agencies. The means of financing the number of positions and the lease payments included in any cost amount, and the net amount requiring appropriation or authorization shall be appropriately identified for each expending agency[.]; and
- (D) The proposed changes in the levels of expenditures, by cost categories, between the biennium in progress and the ensuing biennium, together with a brief explanation of the major reasons for each change. The reasons shall include, as appropriate, the following:
 - (i) Salary adjustments to existing positions of personnel[.];
 - (ii) The addition or deletion of positions[.];
 - (iii) Changes in the number of persons being served or to be served by the program[.];
 - (iv) Changes in the program implementation schedule[.];
 - (v) Changes in the actual or planned level of program effectiveness[.];
 - (vi) Increases due to the establishment of a program not previously included in the State's program structure[.];
 - (vii) Decreases due to the phasing out of a program previously included in the State's program structure[.]; and
 - (viii) Changes in the purchase price of goods or services[.];

As appropriate, references to the program and financial plan shall be noted for an explanation of the changes. Notwithstanding the provisions of subsection (b)(5) [of this section], the proposed changes in the levels of expenditures may be shown to the nearest thousand dollars[.];

- (2) Appropriate summaries of paragraph (1)(A) and (C) immediately above at every level of the state program structure above the lowest level. Such summaries shall be by the major groupings of programs encompassed within the level. The summaries of paragraph (1)(A) shall identify the means of financing and the number of positions and the lease payments included in any cost category amount[.]; and
- (3) A summary listing of all capital improvement projects included in the proposed capital investment costs for the ensuing biennium. The listing shall be by programs at the lowest level of the state program structure and shall show for each project, by investment cost elements:
 - (A) The cost of the project[.];
 - (B) The amount of funds previously appropriated and authorized by the legislature[.]; and
 - (C) The amount of new appropriations and authorizations proposed in each of the two fiscal years of the ensuing biennium and in each of the succeeding four years. The amount of the new appropriations and authorizations proposed shall constitute the proposed new requests for the project in each of the fiscal bienniums.

In every instance, the means of financing shall be noted.

(d) The summaries of the state receipts and revenues shall more specifically include:

- (1) Financial summaries displaying the State's financial condition, to-wit:

- (A) A display of the proposed, total state expenditures, by cost categories, the total state resources anticipated from existing taxes and nontax sources at existing rates, by resource categories (including the available fund balances or deficits and anticipated bond receipts), and the fund balance or deficit resulting therefrom for the biennium in progress, for the ensuing biennium, and for each of the two fiscal years of the ensuing biennium[.]; and
- (B) The changes proposed to the existing tax and nontax rates, sources, or structure, and the estimated cumulative increases or reductions, and the estimated fund balance or deficit in the ensuing biennium and in each of the two fiscal years of the biennium as a result of such proposed changes. Proposals for changes in the existing tax and nontax rates, sources, or structure shall be made in every case where the proposed, total state expenditures exceed the total state resources anticipated from existing tax and nontax sources at existing rates.

Such financial summaries shall be prepared for the total state expenditures and resources and for the general fund and special fund portions thereof[.];

- (2) A summary of the balances of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the two fiscal years in the ensuing biennium[.];
- (3) A summary of the State's total bond fund required to carry out the recommended programs and the kinds of bonds and amounts thereof through which such requirements are to be met in the biennium in progress and in each of the two fiscal years in the ensuing biennium. The summary shall detail for the biennium in progress and for each of the two years of the ensuing biennium:
 - (A) Of the total requirements, the amount, by cost categories, requiring new bond issuance authorization and the kinds and amounts of bonds planned for issuance under such new authorization[.];
 - (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof planned to be issued[.]; and
 - (C) A recapitulation of the total bonds, both new authorizations and prior authorizations, by bond categories, proposed to be issued[.];
- (4) A tentative schedule by quarter and fiscal year of the amount of general obligation bonds and the amount of revenue bonds proposed to be issued in the ensuing fiscal biennium[.];
- (5) A schedule of projected debt service charges for general obligation bonds outstanding at the time of the submission of the budget and to be issued by the close of the budget biennium in progress and the close of the ensuing budget biennium. The projection shall be separately stated for:
 - (A) Bonds currently outstanding[.];
 - (B) Bonds to be issued during the remainder of the fiscal biennium in progress and during the ensuing fiscal biennium[.]; and
 - (C) The total bonds currently outstanding and to be issued.

In each case, the projection shall be categorized into debt service to be paid directly from the general fund, debt service to be paid through reimbursements, and total debt service. The projection shall extend at least five years beyond the close of the ensuing fiscal biennium. An explanation shall be appended to the schedule, which shall include

- among other things, the amount of bonds to be issued during the fiscal year in progress and in each of the two fiscal years of the ensuing biennium, the maturities of the bonds to be issued, the method of retirement, and the interest rate assumed in the projection[.];
- (6) A schedule of the current state funded debt, legal debt limit, and the legal debt margin, including the details thereof. In any budget which proposes appropriations for which the source of funding is general obligation bonds, the schedule shall include a declaration by the director of finance and computations showing that the total amount of principal and interest, estimated for such proposed appropriations 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[.];
 - (7) Separately for general fund tax revenues, special fund tax revenues, general fund nontax revenues, and special fund nontax revenues:
 - (A) By kinds of taxes or sources, the amount of revenue from existing, authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in each of the two fiscal years in the ensuing biennium, with appropriate totals for the two bienniums[.];
 - (B) A summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in revenues in each of the two years in the ensuing fiscal biennium resulting from such changes[.]; and
 - (C) The total estimated revenues with and without the proposed changes[.];
 - and
 - (8) A summary of the State's total payments due under financing agreements required to carry out the recommended programs and the kinds of financing agreements and amounts thereof through which such requirements are to be met in the biennium in progress and in each of the two fiscal years in the ensuing biennium. The summary shall detail for the biennium in progress and for each of the two years of the ensuing biennium:
 - (A) Of the total financing agreement requirements, the amount, by cost categories, requiring new financing agreement authorizations and the kinds and amounts of financing agreements planned for execution and delivery under such new authorizations;
 - (B) By cost category, the cumulative balance of financing agreements authorized in prior years but not executed and delivered and the amount thereof proposed to be executed and delivered; and
 - (C) A recapitulation of the total financing agreements to be executed and delivered, including both new authorizations and prior authorizations, by cost categories."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1996.

(Approved June 12, 1996.)

Note

1. Should be underscored.