



GOV. MSG. NO. 1210

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 08, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 08, 2012, the following bill was signed into law:

HB1838 SD1 CD1

RELATING TO STATE BONDS.
Act 108 (12)

Aloha
Signed
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO STATE BONDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Declaration of findings with respect to the
2 general obligation bonds authorized by this Act. Pursuant to
3 the clause in article VII, section 13 of the state constitution
4 which states:

5 "Effective July 1, 1980, the legislature shall
6 include a declaration of findings in every general law
7 authorizing the issuance of general obligation bonds
8 that the total amount of principal and interest,
9 estimated for such bonds and for all bonds authorized
10 and unissued and calculated for all bonds issued and
11 outstanding, will not cause the debt limit to be
12 exceeded at the time of issuance",

13 the legislature finds and declares as follows:

14 (1) Limitation on general obligation debt. The debt limit
15 of the State is set forth in article VII, section 13
16 of the state constitution, which states in part:

17 "General obligation bonds may be issued by the
18 State; provided that such bonds at the time of



1 issuance would not cause the total amount of principal
2 and interest payable in the current or any future
3 fiscal year, whichever is higher, on such bonds and on
4 all outstanding general obligation bonds to exceed: a
5 sum equal to twenty percent of the average of the
6 general fund revenues of the State in the three fiscal
7 years immediately preceding such issuance until June
8 30, 1982; and thereafter, a sum equal to eighteen and
9 one-half percent of the average of the general fund
10 revenues of the State in the three fiscal years
11 immediately preceding such issuance."

12 Article VII, section 13 also provides that in
13 determining the power of the State to issue general
14 obligation bonds, certain bonds are excludable,
15 including "[r]eimbursable general obligation bonds
16 issued for a public undertaking, improvement or system
17 but only to the extent that reimbursements to the
18 general fund are in fact made from the net revenue, or
19 net user tax receipts, or combination of both, as
20 determined for the immediately preceding fiscal year"
21 and "[b]onds constituting instruments of indebtedness
22 under which the State . . . incurs a contingent



1 liability as a guarantor, but only to the extent the
2 principal amount of such bonds does not exceed seven
3 percent of the principal amount of outstanding general
4 obligation bonds not otherwise excluded" under article
5 VII, section 13.

6 (2) Actual and estimated debt limits. The limit on
7 principal and interest of general obligation bonds
8 issued by the State, actual for fiscal year 2011-2012
9 and estimated for each fiscal year from 2012-2013 to
10 2014-2015, is as follows:

11	Fiscal	Net General	
12	<u>Year</u>	<u>Fund Revenues</u>	<u>Debt Limit</u>
13			
14	2008-2009	\$5,034,984,956	
15	2009-2010	4,841,194,658	
16	2010-2011	5,102,646,283	
17	2011-2012	5,395,828,000	\$923,694,264
18	2012-2013	5,758,984,000	945,946,251
19	2013-2014	5,966,568,000	1,002,543,261
20	2014-2015	(not applicable)	1,055,818,433

21
22
23 For fiscal years 2011-2012, 2012-2013, 2013-2014, and
24 2014-2015, respectively, the debt limit is derived by
25 multiplying the average of the net general fund
26 revenues for the three preceding fiscal years by
27 eighteen and one-half per cent. The net general fund
28 revenues for fiscal years 2008-2009, 2009-2010, and



1 2010-2011 are actual, as certified by the director of
2 finance in the Statement of the Debt Limit of the
3 State of Hawaii as of July 1, 2011, dated November 9,
4 2011. The net general fund revenues for fiscal years
5 2011-2012 to 2013-2014 are estimates, based on general
6 fund revenue estimates made as of March 9, 2012, by
7 the council on revenues, the body assigned by article
8 VII, section 7 of the state constitution to make such
9 estimates, and based on estimates made by the
10 department of budget and finance of those receipts
11 which cannot be included as general fund revenues for
12 the purpose of calculating the debt limit, all of
13 which estimates the legislature finds to be
14 reasonable.

15 (3) Principal and interest on outstanding bonds applicable
16 to the debt limit.

17 (A) According to the department of budget and
18 finance, the total amount of principal and
19 interest on outstanding general obligation bonds,
20 after the exclusions permitted by article VII,
21 section 13 of the state constitution, for
22 determining the power of the State to issue



1 general obligation bonds within the debt limit as
2 of April 1, 2012, is as follows for fiscal year
3 2012-2013 to fiscal year 2018-2019:

	<u>Fiscal Year</u>	<u>Principal and Interest</u>
7	2012-2013	\$626,428,451
8	2013-2014	667,040,922
9	2014-2015	630,466,991
10	2015-2016	605,695,781
11	2016-2017	606,036,604
12	2017-2018	578,752,918
13	2018-2019	514,151,736

14 The department of budget and finance further
15 reports that the amount of principal and interest
16 on outstanding bonds applicable to the debt limit
17 generally continues to decline each year from
18 fiscal year 2019-2020 to fiscal year 2031-2032
19 when the final installment of \$72,249,725 shall
20 be due and payable.

21 (B) The department of budget and finance further
22 reports that the outstanding principal amount of
23 bonds constituting instruments of indebtedness
24 under which the State may incur a contingent
25 liability as a guarantor is \$233,500,000, all or
26 part of which is excludable in determining the

1 power of the State to issue general obligation
2 bonds, pursuant to article VII, section 13 of the
3 state constitution.

4 (4) Amount of authorized and unissued general obligation
5 bonds and guaranties and proposed bonds and
6 guaranties.

7 (A) As calculated from the state comptroller's bond
8 fund report as of February 29, 2012, adjusted
9 for:

10 (i) Appropriations to be funded by general
11 obligation bonds or reimbursable general
12 obligation bonds as provided in Act 164,
13 Session Laws of Hawaii 2011 (the General
14 Appropriations Act of 2011), to be expended
15 in fiscal year 2012-2013, adjusted for
16 additional appropriations provided in House
17 Bill No. 2012, H.D. 1, S.D. 1, C.D. 1 (the
18 Supplemental Appropriations Act of 2012);

19 (ii) Lapses as provided in House Bill No. 2012,
20 H.D. 1, S.D. 1, C.D. 1 (the Supplemental
21 Appropriations Act of 2012);



1 (iii) Appropriations to be funded by general
2 obligation bonds or reimbursable general
3 obligation bonds as provided in Act 61,
4 Session Laws of Hawaii 2011 (the Judiciary
5 Appropriations Act of 2011), to be expended
6 in fiscal year 2012-2013, adjusted for
7 additional appropriations provided in House
8 Bill No. 1800, H.D. 2, S.D. 2, C.D. 1 (the
9 Judiciary Supplemental Appropriations Act of
10 2012); and

11 (iv) Lapses as provided in House Bill No. 1800,
12 H.D. 2, S.D. 2, C.D. 1 (the Judiciary
13 Supplemental Appropriations Act of 2012);
14 the total amount of authorized but unissued
15 general obligation bonds is \$2,008,699,756. The
16 total amount of general obligation bonds
17 authorized in this Act is \$436,726,000. The
18 total amount of general obligation bonds
19 previously authorized and unissued, as adjusted,
20 and the general obligation bonds authorized in
21 this Act is \$2,445,425,756.



1 (B) As reported by the department of budget and
2 finance, the outstanding principal amount of
3 bonds constituting instruments of indebtedness
4 under which the State may incur a contingent
5 liability as a guarantor is \$233,500,000, all or
6 part of which is excludable in determining the
7 power of the State to issue general obligation
8 bonds, pursuant to article VII, section 13 of the
9 state constitution.

10 (5) Proposed general obligation bond issuance. As
11 reported therein for the fiscal years 2012-2013, 2013-
12 2014, and 2014-2015, the State proposed to issue
13 \$325,000,000 in general obligation bonds during the
14 first half of fiscal year 2012-2013, \$450,000,000 in
15 general obligation bonds during the second half of
16 fiscal year 2012-2013, \$500,000,000 in general
17 obligation bonds during the first half of fiscal year
18 2013-2014, \$350,000,000 in general obligation bonds
19 during the second half of fiscal year 2013-2014,
20 \$500,000,000 in general obligation bonds during the
21 first half of fiscal year 2014-2015, and \$325,000,000
22 in general obligation bonds during the second half of



1 fiscal year 2014-2015. It has been the practice of
2 the State to issue twenty-year serial bonds with
3 principal repayments beginning the fifth year, the
4 bonds payable in substantially equal annual
5 installments of principal and interest payment with
6 interest payments commencing six months from the date
7 of issuance and being paid semi-annually thereafter.
8 It is assumed that this practice will continue to be
9 applied to the bonds that are proposed to be issued.

10 (6) Sufficiency of proposed general obligation bond
11 issuance to meet the requirements of authorized and
12 unissued bonds, as adjusted, and bonds authorized by
13 this Act. From the schedule reported in paragraph
14 (5), the total amount of general obligation bonds that
15 the State proposes to issue during the fiscal years
16 2012-2013 to 2013-2014 is \$1,625,000,000. An
17 additional \$825,000,000 is proposed to be issued in
18 fiscal year 2014-2015. The total amount of
19 \$1,625,000,000 which is proposed to be issued through
20 fiscal year 2013-2014 is sufficient to meet the
21 requirements of the authorized and unissued bonds, as
22 adjusted, the total amount of which is \$2,445,425,756



1 reported in paragraph (4), except for \$820,425,756.
2 It is assumed that the appropriations to which an
3 additional \$820,425,756 in bond issuance needs to be
4 applied will have been encumbered as of June 30, 2014.
5 The \$825,000,000 which is proposed to be issued in
6 fiscal year 2014-2015 will be sufficient to meet the
7 requirements of the June 30, 2014, encumbrances in the
8 amount of \$820,425,756. The amount of assumed
9 encumbrances as of June 30, 2014, is reasonable and
10 conservative, based upon an inspection of June 30
11 encumbrances of the general obligation bond fund as
12 reported by the state comptroller. Thus, taking into
13 account the amount of authorized and unissued bonds,
14 as adjusted, and the bonds authorized by this Act
15 versus the amount of bonds proposed to be issued by
16 June 30, 2014, and the amount of June 30, 2014,
17 encumbrances versus the amount of bonds proposed to be
18 issued in fiscal year 2014-2015, the legislature finds
19 that in the aggregate, the amount of bonds proposed to
20 be issued is sufficient to meet the requirements of
21 all authorized and unissued bonds and the bonds
22 authorized by this Act.



1 (7) Bonds excludable in determining the power of the State
2 to issue bonds. As noted in paragraph (1), certain
3 bonds are excludable in determining the power of the
4 State to issue general obligation bonds.

5 (A) General obligation reimbursable bonds can be
6 excluded under certain conditions. It is not
7 possible to make a conclusive determination as to
8 the amount of reimbursable bonds which are
9 excludable from the amount of each proposed bond
10 issued because:

11 (i) It is not known exactly when projects for
12 which reimbursable bonds have been
13 authorized in prior acts and in this Act
14 will be implemented and will require the
15 application of proceeds from a particular
16 bond issue; and

17 (ii) Not all reimbursable general obligation
18 bonds may qualify for exclusion.

19 However, the legislature notes that with respect
20 to the principal and interest on outstanding
21 general obligation bonds, according to the
22 department of budget and finance, the average



1 proportion of principal and interest which is
2 excludable each year from the calculation against
3 the debt limit is 1.07 per cent for the ten years
4 from fiscal year 2011-2012 to fiscal year 2020-
5 2021. For the purpose of this declaration, the
6 assumption is made that one per cent of each bond
7 issue shall be excludable from the debt limit, an
8 assumption which the legislature finds to be
9 reasonable and conservative.

10 (B) Bonds constituting instruments of indebtedness
11 under which the State incurs a contingent
12 liability as a guarantor may be excluded but only
13 to the extent the principal amount of the
14 guaranties does not exceed seven per cent of the
15 principal amount of outstanding general
16 obligation bonds not otherwise excluded under
17 subparagraph (A) of this paragraph; provided that
18 the State shall establish and maintain a reserve
19 in an amount in reasonable proportion to the
20 outstanding loans guaranteed by the State as
21 provided by law. According to the department of
22 budget and finance and the assumptions presented



1 herein, the total principal amount of outstanding
2 general obligation bonds and general obligation
3 bonds proposed to be issued, which are not
4 otherwise excluded under article VII, section 13
5 of the state constitution for the fiscal years
6 2011-2012, 2012-2013, 2013-2014, and 2014-2015
7 are as follows:

	Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 of the State Constitution
<u>Fiscal year</u>	<u>of the State Constitution</u>
2011-2012	\$5,797,480,000
2012-2013	6,242,980,000
2013-2014	7,084,480,000
2014-2015	7,901,230,000

19 Based on the foregoing and based on the
20 assumption that the full amount of a guaranty is
21 immediately due and payable when such guaranty changes
22 from a contingent liability to an actual liability,
23 the aggregate principal amount of the portion of the
24 outstanding guaranties and the guaranties proposed to
25 be incurred, which does not exceed seven per cent of
26 the average amount set forth in the last column of the
27 above table and for which reserve funds have been or



1 shall have been established as heretofore provided,
2 may be excluded in determining the power of the State
3 to issue general obligation bonds. As it is not
4 possible to predict with a reasonable degree of
5 certainty when a guaranty will change from a
6 contingent liability to an actual liability, it is
7 assumed in conformity with fiscal conservatism and
8 prudence, that all guaranties not otherwise excluded
9 pursuant to article VII, section 13 of the state
10 constitution shall become due and payable in the same
11 fiscal year in which the greatest amount of principal
12 and interest on general obligation bonds, after
13 exclusions, occurs. Thus, based on such assumptions
14 and on the determination in paragraph (8), all of the
15 outstanding guaranties can be excluded.

16 (8) Determination whether the debt limit will be exceeded
17 at the time of issuance. From the foregoing and on
18 the assumption that all of the bonds identified in
19 paragraph (5) will be issued at a net average interest
20 rate, after giving effect to federal subsidy payments,
21 if any, received by the State under and pursuant to
22 the American Recovery and Reinvestment Act of 2009, as



1 may be amended from time to time, not to exceed 5.25
2 per cent, it can be determined from the following
3 schedule that the bonds which are proposed to be
4 issued, which include all authorized and unissued
5 bonds previously authorized, as adjusted, general
6 obligation bonds, and instruments of indebtedness
7 under which the State incurs a contingent liability as
8 a guarantor authorized in this Act, will not cause the
9 debt limit to be exceeded at the time of such
10 issuance:

12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
	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				
17	1 st half FY 2012-2013															
18	\$321,750,000				945,946,251			683,105,852	(2013-2014)							
19	2 nd half FY 2012-2013															
20	\$445,500,000				945,946,251			674,659,914	(2013-2014)							
21	1 st half FY 2013-2014															
22	\$495,000,000				1,002,543,261			674,659,914	(2013-2014)							
23	2 nd half FY 2013-2014															
24	\$346,500,000				1,002,543,261			679,197,007	(2015-2016)							
25	1 st half FY 2014-2015															
26	\$495,000,000				1,055,818,433			705,163,823	(2016-2017)							
27	2 nd half FY 2014-2015															
28	\$321,750,000				1,055,818,433			722,055,698	(2016-2017)							

29
30 (9) Overall and concluding finding. From the facts,
31 estimates, and assumptions stated in this declaration

1 of findings, the conclusion is reached that the total
2 amount of principal and interest estimated for the
3 general obligation bonds authorized in this Act, and
4 for all bonds authorized and unissued, and calculated
5 for all bonds issued and outstanding, and all
6 guaranties, will not cause the debt limit to be
7 exceeded at the time of issuance.

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

17 SECTION 3. Authorization for issuance of general
18 obligation bonds. General obligation bonds may be issued as
19 provided by law in an amount that may be necessary to finance
20 projects authorized in House Bill No. 2012, H.D. 1, S.D. 1, C.D.
21 1 (the Supplemental Appropriations Act of 2012) and House Bill
22 No. 1800, H.D. 2, S.D. 2, C.D. 1 (the Judiciary Supplemental



1 Appropriations Act of 2012), passed by the legislature during
2 this regular session of 2012, and designated to be financed from
3 the general obligation bond fund and from the general obligation
4 bond fund with debt service cost to be paid from special funds;
5 provided that the sum total of general obligation bonds so
6 issued shall not exceed \$436,726,000.

7 Any law to the contrary notwithstanding, general obligation
8 bonds may be issued from time to time in accordance with section
9 39-16, Hawaii Revised Statutes, in such principal amount as may
10 be required to refund any general obligation bonds of the State
11 of Hawaii heretofore or hereafter issued pursuant to law.

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

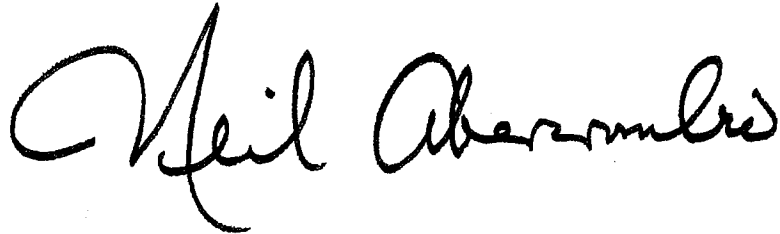
16 SECTION 5. In printing this Act, the revisor of statutes
17 shall substitute in section 1 and section 3 the corresponding
18 act numbers for bills identified therein.

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



H.B. NO. 1838
S.D. 1
C.D. 1

APPROVED this 8 day of JUN , 2012

A handwritten signature in black ink, reading "Neil Abernethy". The signature is written in a cursive style with a large initial "N".

GOVERNOR OF THE STATE OF HAWAII