

**S.B. NO. 2856**

JAN 25 2012

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**A BILL FOR AN ACT**

PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.

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

1           SECTION 1. The purpose of this Act is to propose an  
2 amendment to article VII, section 12, of the Hawaii State  
3 Constitution, to authorize the State to issue special purpose  
4 revenue bonds and use the proceeds from the bonds to assist dam  
5 and reservoir owners.

6           SECTION 2. Article VII, section 12, of the Constitution of  
7 the State of Hawaii is amended to read as follows:

8                           **"DEFINITIONS; ISSUANCE OF INDEBTEDNESS**

9           **Section 12.** For the purposes of this article:

10          1. The term "bonds" shall include bonds, notes and other  
11 instruments of indebtedness.

12          2. The term "general obligation bonds" means all bonds for  
13 the payment of the principal and interest of which the full  
14 faith and credit of the State or a political subdivision are  
15 pledged and, unless otherwise indicated, includes reimbursable  
16 general obligation bonds.

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1           3. The term "net revenues" or "net user tax receipts"

2 means the revenues or receipts derived from:

3           a. A public undertaking, improvement or system remaining  
4           after the costs of operation, maintenance and repair of  
5           the public undertaking, improvement or system, and the  
6           required payments of the principal of and interest on  
7           all revenue bonds issued therefor, have been made; or

8           b. Any payments or return on security under a loan program  
9           or a loan thereunder, after the costs of operation and  
10          administration of the loan program, and the required  
11          payments of the principal of and interest on all revenue  
12          bonds issued therefor, have been made.

13          4. The term "owner" means any person who has a right,  
14 title, or interest in or to the dam or reservoir or to the  
15 property upon which the dam, reservoir or appurtenant work is  
16 located or proposed to be located.

17          ~~[4.]~~ 5. The term "person" means an individual, firm,  
18 partnership, corporation, association, cooperative or other  
19 legal entity, governmental body or agency, board, bureau or  
20 other instrumentality thereof, or any combination of the  
21 foregoing.

22          ~~[5.]~~ 6. The term "rates, rentals and charges" means all

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1 revenues and other moneys derived from the operation or lease of  
2 a public undertaking, improvement or system, or derived from any  
3 payments or return on security under a loan program or a loan  
4 thereunder; provided that insurance premium payments,  
5 assessments and surcharges, shall constitute rates, rentals and  
6 charges of a state property insurance program.

7 ~~[6-]~~ 7. The term "reimbursable general obligation bonds"  
8 means general obligation bonds issued for a public undertaking,  
9 improvement or system from which revenues, or user taxes, or a  
10 combination of both, may be derived for the payment of the  
11 principal and interest as reimbursement to the general fund and  
12 for which reimbursement is required by law, and, in the case of  
13 general obligation bonds issued by the State for a political  
14 subdivision, general obligation bonds for which the payment of  
15 the principal and interest as reimbursement to the general fund  
16 is required by law to be made from the revenue of the political  
17 subdivision.

18 ~~[7-]~~ 8. The term "revenue bonds" means all bonds payable  
19 from the revenues, or user taxes, or any combination of both, of  
20 a public undertaking, improvement, system or loan program and  
21 any loan made thereunder and secured as may be provided by law,  
22 including a loan program to provide loans to a state property

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1 insurance program providing hurricane insurance coverage to the  
2 general public.

3 ~~[8.]~~ 9. The term "special purpose revenue bonds" means all  
4 bonds payable from rental or other payments made to an issuer by  
5 a person pursuant to contract and secured as may be provided by  
6 law.

7 ~~[9.]~~ 10. The term "user tax" means a tax on goods or  
8 services or on the consumption thereof, the receipts of which  
9 are substantially derived from the consumption, use or sale of  
10 goods and services in the utilization of the functions or  
11 services furnished by a public undertaking, improvement or  
12 system; provided that mortgage recording taxes shall constitute  
13 user taxes of a state property insurance program.

14 The legislature, by a majority vote of the members to which  
15 each house is entitled, shall authorize the issuance of all  
16 general obligation bonds, bonds issued under special improvement  
17 statutes and revenue bonds issued by or on behalf of the State  
18 and shall prescribe by general law the manner and procedure for  
19 such issuance. The legislature by general law shall authorize  
20 political subdivisions to issue general obligation bonds, bonds  
21 issued under special improvement statutes and revenue bonds and  
22 shall prescribe the manner and procedure for such issuance. All

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1 such bonds issued by or on behalf of a political subdivision  
2 shall be authorized by the governing body of such political  
3 subdivision.

4 Special purpose revenue bonds shall only be authorized or  
5 issued to finance facilities of or for, or to loan the proceeds  
6 of such bonds to assist:

- 7 1. Manufacturing, processing[~~7~~] or industrial enterprises;
- 8 2. Utilities serving the general public;
- 9 3. Health care facilities provided to the general public  
10 by not-for-profit corporations;
- 11 4. Early childhood education and care facilities provided  
12 to the general public by not-for-profit corporations;
- 13 5. Low and moderate income government housing programs;
- 14 6. Not-for-profit private nonsectarian and sectarian  
15 elementary schools, secondary schools, colleges and  
16 universities; [~~or~~]
- 17 7. Agricultural enterprises serving important agricultural  
18 lands[~~7~~]; or
- 19 8. Dam and reservoir owners,

20 each of which is hereinafter referred to in this paragraph as a  
21 special purpose entity.

22 The legislature, by a two-thirds vote of the members to

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1 which each house is entitled, may enact enabling legislation for  
2 the issuance of special purpose revenue bonds separately for  
3 each special purpose entity, and, by a two-thirds vote of the  
4 members to which each house is entitled and by separate  
5 legislative bill, may authorize the State to issue special  
6 purpose revenue bonds for each single project or multi-project  
7 program of each special purpose entity; provided that the  
8 issuance of such special purpose revenue bonds is found to be in  
9 the public interest by the legislature; and provided further  
10 that the State may combine into a single issue of special  
11 purpose revenue bonds two or more proposed issues of special  
12 purpose revenue bonds to assist not-for-profit private  
13 nonsectarian and sectarian elementary schools, secondary  
14 schools, colleges[7] and universities, and dam and reservoir  
15 owners, separately authorized as aforesaid, in the total amount  
16 of not exceeding the aggregate of the proposed separate issues  
17 of special purpose revenue bonds. The legislature may enact  
18 enabling legislation to authorize political subdivisions to  
19 issue special purpose revenue bonds. If so authorized, a  
20 political subdivision by a two-thirds vote of the members to  
21 which its governing body is entitled and by separate ordinance  
22 may authorize the issuance of special purpose

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1 revenue bonds for each single project or multi-project program  
2 of each special purpose entity; provided that the issuance of  
3 such special purpose revenue bonds is found to be in the public  
4 interest by the governing body of the political subdivision. No  
5 special purpose revenue bonds shall be secured directly or  
6 indirectly by the general credit of the issuer or by any  
7 revenues or taxes of the issuer other than receipts derived from  
8 payments by a person or persons under contract or from any  
9 security for such contract or contracts or special purpose  
10 revenue bonds and no moneys other than such receipts shall be  
11 applied to the payment thereof. The governor shall provide the  
12 legislature in November of each year with a report on the  
13 cumulative amount of all special purpose revenue bonds  
14 authorized and issued, and such other information as may be  
15 necessary."

16 SECTION 3. The question to be printed on the ballot shall  
17 be as follows:

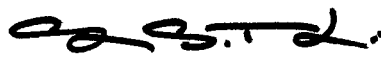
18 "Shall the State be authorized to issue special purpose  
19 revenue bonds and use the proceeds from the bonds to assist  
20 dam and reservoir owners?"

21 SECTION 4. Constitutional material to be repealed is  
22 bracketed and stricken. New constitutional material is  
23 underscored.

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1 SECTION 5. This amendment shall take effect upon  
2 compliance with article XVII, section 3, of the Constitution of  
3 the State of Hawaii.

4  
5  
6

INTRODUCED BY: 

BY REQUEST



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**Report Title:**

Special Purpose Revenue Bonds; Constitutional Amendment; Dams and Reservoirs

**Description:**

Proposes a constitutional amendment to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

## JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.

PURPOSE: To propose an amendment to the Hawaii State Constitution, to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners.

MEANS: Amend article VII, section 12, of the Hawaii State Constitution.

JUSTIFICATION: This bill would assist dam and reservoir owners by providing an economic means to bring their facilities up to current safety standards. As a result of the Kaloko disaster on Kauai and implementation of the current dam safety law, dam owners are mandated to bring their dams and reservoirs into compliance.

Dams and reservoirs provide many public benefits as a potential resource for agriculture, water supply, recharge, flood control, hydropower and other beneficial uses. Dams are a critical part of our state infrastructure, providing benefits upon which our communities and industries depend. Over 80 per cent of the dams in Hawaii were constructed before 1940 to support the sugarcane plantations. Due to the age of these facilities and deferred maintenance due to demise of the sugar industry, without needed safety improvements, many dams could pose risks to life and property due to dam failures. The alternative of bringing a dam into compliance would be to decommission the structure entirely, which would preempt the many benefits that dams provide.

Impact on the public: Would provide an economic means to dam and reservoir owners to bring their facilities up to safety standards and promote the retention of such dams and reservoirs for agriculture, water supply, recharge, flood control, power generation and other beneficial uses.

Impact on the department and other agencies: Would require the Department of Budget and Finance to enter project agreements and to issue and manage the special purpose revenue bonds.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LNR 810.

OTHER AFFECTED  
AGENCIES: Department of Budget and Finance.

EFFECTIVE DATE: Upon compliance with article XVII, section 3, of the Hawaii State Constitution.