

S.B. NO. 2876

JAN 23 2014

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 a dam or reservoir or to the property
15 upon which a dam, reservoir or appurtenant work is located or
16 proposed to be located.

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

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

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

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

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

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, [~~and~~] universities[~~7~~] 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 revenue bonds for

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


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

17 "Shall the State be authorized to issue special purpose
18 revenue bonds and use the proceeds from the bonds to offer
19 low interest loans to qualifying dam and reservoir owners
20 to improve their facilities to protect public safety and
21 provide significant benefits to the general public as
22 important water sources?"

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1 SECTION 4. Constitutional material to be repealed is
2 bracketed and stricken. New constitutional material is
3 underscored.

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

7
8 INTRODUCED BY: 

9 BY REQUEST

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Report Title:

Constitutional Amendment; Special Purpose Revenue Bonds; 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 to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources.

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 dams and reservoirs owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources.

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 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 the full or partial

removal of the structure, which would preempt the many benefits that dams provide.

Impact on the public: This bill 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: This bill 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.