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# A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE VII, SECTIONS 12 AND 13, OF THE HAWAII CONSTITUTION TO EXPRESSLY PROVIDE THAT THE LEGISLATURE MAY AUTHORIZE THE COUNTIES TO ISSUE TAX INCREMENT BONDS AND TO EXCLUDE TAX INCREMENT BONDS FROM DETERMINATIONS OF THE FUNDED DEBT OF THE COUNTIES.

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

1 SECTION 1. The purpose of this Act is to propose  
2 amendments to article VII, sections 12 and 13, of the  
3 Constitution of the State of Hawaii to:

4 (1) Expressly provide that the legislature may authorize  
5 political subdivisions, such as the counties, to issue  
6 tax increment bonds; and

7 (2) Exclude tax increment bonds from determinations of the  
8 funded debt of the political subdivisions.

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

11 **"DEFINITIONS; ISSUANCE OF INDEBTEDNESS**

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

13 1. The term "bonds" shall include bonds, notes and other  
14 instruments of indebtedness.



1           2. The term "general obligation bonds" means all bonds for  
2 the payment of the principal and interest of which the full  
3 faith and credit of the State or a political subdivision are  
4 pledged and, unless otherwise indicated, includes reimbursable  
5 general obligation bonds.

6           3. The term "net revenues" or "net user tax receipts"  
7 means the revenues or receipts derived from:

8           a. A public undertaking, improvement or system remaining  
9 after the costs of operation, maintenance and repair of  
10 the public undertaking, improvement or system, and the  
11 required payments of the principal of and interest on  
12 all revenue bonds issued therefor, have been made; or

13           b. Any payments or return on security under a loan program  
14 or a loan thereunder, after the costs of operation and  
15 administration of the loan program, and the required  
16 payments of the principal of and interest on all revenue  
17 bonds issued therefor, have been made.

18           4. The term "dam and reservoir owner" means any person who  
19 has a right to, title to, or an interest in, a dam, a reservoir,  
20 or the property upon which a dam, a reservoir, or appurtenant  
21 work is located or proposed to be located.



1           5. The term "person" means an individual, firm,  
2 partnership, corporation, association, cooperative or other  
3 legal entity, governmental body or agency, board, bureau or  
4 other instrumentality thereof, or any combination of the  
5 foregoing.

6           6. The term "rates, rentals and charges" means all  
7 revenues and other moneys derived from the operation or lease of  
8 a public undertaking, improvement or system, or derived from any  
9 payments or return on security under a loan program or a loan  
10 thereunder; provided that insurance premium payments,  
11 assessments and surcharges, shall constitute rates, rentals and  
12 charges of a state property insurance program.

13           7. The term "reimbursable general obligation bonds" means  
14 general obligation bonds issued for a public undertaking,  
15 improvement or system from which revenues, or user taxes, or a  
16 combination of both, may be derived for the payment of the  
17 principal and interest as reimbursement to the general fund and  
18 for which reimbursement is required by law, and, in the case of  
19 general obligation bonds issued by the State for a political  
20 subdivision, general obligation bonds for which the payment of  
21 the principal and interest as reimbursement to the general fund



1 is required by law to be made from the revenue of the political  
2 subdivision.

3 8. The term "revenue bonds" means all bonds payable from  
4 the revenues, or user taxes, or any combination of both, of a  
5 public undertaking, improvement, system or loan program and any  
6 loan made thereunder and secured as may be provided by law,  
7 including a loan program to provide loans to a state property  
8 insurance program providing hurricane insurance coverage to the  
9 general public.

10 9. The term "special purpose revenue bonds" means all  
11 bonds payable from rental or other payments made to an issuer by  
12 a person pursuant to contract and secured as may be provided by  
13 law.

14 10. The term "tax increment bonds" means all bonds, the  
15 principal of and interest on which are payable from and secured  
16 solely by the amount of real property taxes levied and collected  
17 by a political subdivision, such as a county, on the difference  
18 between the assessed value of the taxable real property located  
19 within the boundaries of a tax increment district established by  
20 a political subdivision in a given year and the assessed value



1 of the taxable real property in the tax increment district  
2 during the year of creation of that tax increment district.

3       ~~[10.]~~ 11. The term "user tax" means a tax on goods or  
4 services or on the consumption thereof, the receipts of which  
5 are substantially derived from the consumption, use or sale of  
6 goods and services in the utilization of the functions or  
7 services furnished by a public undertaking, improvement or  
8 system; provided that mortgage recording taxes shall constitute  
9 user taxes of a state property insurance program.

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



1 authorized by the governing body of [~~such~~] that political  
2 subdivision.

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

- 6 1. Manufacturing, processing or industrial enterprises;
- 7 2. Utilities serving the general public;
- 8 3. Health care facilities provided to the general public  
9 by not-for-profit corporations;
- 10 4. Early childhood education and care facilities provided  
11 to the general public by not-for-profit corporations;
- 12 5. Low and moderate income government housing programs;
- 13 6. Not-for-profit private nonsectarian and sectarian  
14 elementary schools, secondary schools, colleges and  
15 universities;
- 16 7. Agricultural enterprises; or
- 17 8. Dam and reservoir owners; provided that the bonds are  
18 issued for and the proceeds are used to offer loans to  
19 assist dam and reservoir owners to improve their  
20 facilities to protect public safety and provide



1           significant benefits to the general public as  
2           important water sources,  
3 each of which is hereinafter referred to in this paragraph as a  
4 special purpose entity.

5           The legislature, by a two-thirds vote of the members to  
6 which each house is entitled, may enact enabling legislation for  
7 the issuance of special purpose revenue bonds separately for  
8 each special purpose entity, and, by a two-thirds vote of the  
9 members to which each house is entitled and by separate  
10 legislative bill, may authorize the State to issue special  
11 purpose revenue bonds for each single project or multi-project  
12 program of each special purpose entity; provided that the  
13 issuance of [~~such~~] the special purpose revenue bonds is found to  
14 be in the public interest by the legislature; [~~and~~] provided  
15 further that the State may combine into a single issue of  
16 special purpose revenue bonds two or more proposed issues of  
17 special purpose revenue bonds to assist:

- 18           (1) Not-for-profit private nonsectarian and sectarian  
19           elementary schools, secondary schools, colleges[~~r~~] and  
20           universities;  
21           (2) Dam and reservoir owners; or



1           (3) Agricultural enterprises,  
2 separately authorized as aforesaid, in the total amount not  
3 exceeding the aggregate of the proposed separate issues of  
4 special purpose revenue bonds. The legislature may enact  
5 enabling legislation to authorize political subdivisions to  
6 issue special purpose revenue bonds. If so authorized, a  
7 political subdivision by a two-thirds vote of the members to  
8 which its governing body is entitled and by separate ordinance  
9 may authorize the issuance of special purpose revenue bonds for  
10 each single project or multi-project program of each special  
11 purpose entity; provided that the issuance of [~~such~~] the special  
12 purpose revenue bonds is found to be in the public interest by  
13 the governing body of the political subdivision. No special  
14 purpose revenue bonds shall be secured directly or indirectly by  
15 the general credit of the issuer or by any revenues or taxes of  
16 the issuer other than receipts derived from payments by a person  
17 or persons under contract or from any security for [~~such~~] the  
18 contract or contracts or special purpose revenue bonds and no  
19 moneys other than such receipts shall be applied to the payment  
20 thereof. The governor shall provide the legislature in November  
21 of each year with a report on the cumulative amount of all





1 special purpose revenue bonds authorized and issued, and [~~such~~]  
2 other information as may be necessary."

3 SECTION 3. Article VII, section 13, of the Constitution of  
4 the State of Hawaii is amended to read as follows:

5 **"DEBT LIMIT; EXCLUSIONS**

6 **Section 13.** General obligation bonds may be issued by the  
7 State; provided that [~~such~~] the bonds at the time of issuance  
8 would not cause the total amount of principal and interest  
9 payable in the current or any future fiscal year, whichever is  
10 higher, on [~~such~~] the bonds and on all outstanding general  
11 obligation bonds to exceed: a sum equal to twenty percent of  
12 the average of the general fund revenues of the State in the  
13 three fiscal years immediately preceding [~~such~~] the issuance  
14 until June 30, 1982; and thereafter, a sum equal to eighteen and  
15 one-half percent of the average of the general fund revenues of  
16 the State in the three fiscal years immediately preceding [~~such~~]  
17 the issuance. Effective July 1, 1980, the legislature shall  
18 include a declaration of findings in every general law  
19 authorizing the issuance of general obligation bonds that the  
20 total amount of principal and interest, estimated for [~~such~~] the  
21 bonds and for all bonds authorized and unissued and calculated



1 for all bonds issued and outstanding, will not cause the debt  
2 limit to be exceeded at the time of issuance. Any bond issue by  
3 or on behalf of the State may exceed the debt limit if an  
4 emergency condition is declared to exist by the governor and  
5 concurred to by a two-thirds vote of the members to which each  
6 house of the legislature is entitled. For the purpose of this  
7 paragraph, general fund revenues of the State shall not include  
8 moneys received as grants from the federal government and  
9 receipts in reimbursement of any reimbursable general obligation  
10 bonds which are excluded as permitted by this section.

11 A sum equal to fifteen percent of the total of the assessed  
12 values for tax rate purposes of real property in each political  
13 subdivision, as determined by the last tax assessment rolls  
14 pursuant to law, is established as the limit of the funded debt  
15 of [~~such~~] the political subdivision that is outstanding and  
16 unpaid at any time.

17 All general obligation bonds for a term exceeding two years  
18 shall be in serial form maturing in substantially equal  
19 installments of principal, or maturing in substantially equal  
20 installments of both principal and interest. The first  
21 installment of principal of general obligation bonds and of



1 reimbursable general obligation bonds shall mature not later  
2 than five years from the date of issue of [~~such~~] the series.  
3 The last installment on general obligation bonds shall mature  
4 not later than twenty-five years from the date of [~~such~~] the  
5 issue and the last installment on general obligation bonds sold  
6 to the federal government, on reimbursable general obligation  
7 bonds and on bonds constituting instruments of indebtedness  
8 under which the State or a political subdivision incurs a  
9 contingent liability as a guarantor shall mature not later than  
10 thirty-five years from the date of [~~such~~] the issue. The  
11 interest and principal payments of general obligation bonds  
12 shall be a first charge on the general fund of the State or  
13 political subdivision, as the case may be.

14 In determining the power of the State to issue general  
15 obligation bonds or the funded debt of any political subdivision  
16 under section 12, the following shall be excluded:

17 1. Bonds that have matured, or that mature in the then  
18 current fiscal year, or that have been irrevocably called for  
19 redemption and the redemption date has occurred or will occur in  
20 the then fiscal year, or for the full payment of which moneys or  
21 securities have been irrevocably set aside.



1           2. Revenue bonds, if the issuer thereof is obligated by  
2 law to impose rates, rentals and charges for the use and  
3 services of the public undertaking, improvement or system or the  
4 benefits of a loan program or a loan thereunder or to impose a  
5 user tax, or to impose a combination of rates, rentals and  
6 charges and user tax, as the case may be, sufficient to pay the  
7 cost of operation, maintenance and repair, if any, of the public  
8 undertaking, improvement or system or the cost of maintaining a  
9 loan program or a loan thereunder and the required payments of  
10 the principal of and interest on all revenue bonds issued for  
11 the public undertaking, improvement or system or loan program,  
12 and if the issuer is obligated to deposit [~~such~~] the revenues or  
13 tax or a combination of both into a special fund and to apply  
14 the same to [~~such~~] the payments in the amount necessary  
15 therefor.

16           3. Special purpose revenue bonds, if the issuer thereof is  
17 required by law to contract with a person obligating [~~such~~] the  
18 person to make rental or other payments to the issuer in an  
19 amount at least sufficient to make the required payment of the  
20 principal of and interest on [~~such~~] the special purpose revenue  
21 bonds.



1           4. Bonds issued under special improvement statutes when  
2 the only security for [~~such~~] the bonds is the properties  
3 benefited or improved or the assessments thereon.

4           5. General obligation bonds issued for assessable  
5 improvements, but only to the extent that reimbursements to the  
6 general fund for the principal and interest on [~~such~~] the bonds  
7 are in fact made from assessment collections available therefor.

8           6. Reimbursable general obligation bonds issued for a  
9 public undertaking, improvement or system but only to the extent  
10 that reimbursements to the general fund are in fact made from  
11 the net revenue, or net user tax receipts, or combination of  
12 both, as determined for the immediately preceding fiscal year.

13           7. Reimbursable general obligation bonds issued by the  
14 State for any political subdivision, whether issued before or  
15 after the effective date of this section, but only for as long  
16 as reimbursement by the political subdivision to the State for  
17 the payment of principal and interest on [~~such~~] the bonds is  
18 required by law; provided that in the case of bonds issued after  
19 the effective date of this section, the consent of the governing  
20 body of the political subdivision has first been obtained; [~~and~~]  
21 provided further that during the period that [~~such~~] the bonds



1 are excluded by the State, the principal amount then outstanding  
2 shall be included within the funded debt of [~~such~~] the political  
3 subdivision.

4 8. Bonds constituting instruments of indebtedness under  
5 which the State or any political subdivision incurs a contingent  
6 liability as a guarantor, but only to the extent the principal  
7 amount of [~~such~~] the bonds does not exceed seven percent of the  
8 principal amount of outstanding general obligation bonds not  
9 otherwise excluded under this section; provided that the State  
10 or political subdivision shall establish and maintain a reserve  
11 in an amount in reasonable proportion to the outstanding loans  
12 guaranteed by the State or political subdivision as provided by  
13 law.

14 9. Bonds issued by or on behalf of the State or by any  
15 political subdivision to meet appropriations for any fiscal  
16 period in anticipation of the collection of revenues for [~~such~~]  
17 that period or to meet casual deficits or failures of revenue,  
18 if required to be paid within one year, and bonds issued by or  
19 on behalf of the State to suppress insurrection, to repel  
20 invasion, to defend the State in war or to meet emergencies  
21 caused by disaster or act of God.



1       10. Tax increment bonds, but only to the extent that the  
2 principal of and interest on the bonds are in fact paid from and  
3 secured solely by the amount of real property taxes levied and  
4 collected by a political subdivision, such as a county, on the  
5 difference between the assessed value of the taxable real  
6 property located within the boundaries of a tax increment  
7 district established by a political subdivision in a given year  
8 and the assessed value of the taxable real property in the tax  
9 increment district during the year of creation of that tax  
10 increment district.

11       The total outstanding indebtedness of the State or funded  
12 debt of any political subdivision and the exclusions therefrom  
13 permitted by this section shall be made annually and certified  
14 by law or as provided by law. For the purposes of section 12  
15 and this section, amounts received from on-street parking may be  
16 considered and treated as revenues of a parking undertaking.

17       Nothing in section 12 or in this section shall prevent the  
18 refunding of any bond at any time."

19       SECTION 4. The question to be printed on the ballot shall  
20 be as follows:

21               "Shall the Constitution be amended to:



1           (1) Expressly provide that the legislature may  
2           authorize political subdivisions, such as the  
3           counties, to issue tax increment bonds to pay for  
4           specified public works, public improvements or  
5           other actions by the political subdivision within  
6           a tax increment district established by the  
7           political subdivision; and

8           (2) Exclude tax increment bonds in determining the  
9           funded debt of the political subdivisions?"

10           SECTION 5. Constitutional material to be repealed is  
11 bracketed and stricken. New constitutional material is  
12 underscored.

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





**Report Title:**

Tax Increment Bonds; Constitutional Amendment

**Description:**

Proposes amendments to the Constitution of the State of Hawaii to expressly provide that the Legislature may authorize political subdivisions, such as counties, to issue tax increment bonds and to exclude tax increment bonds in calculating the debt limit of the political subdivisions. (SD2)

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