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LRB Notes

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SPECIAL PURPOSE REVENUE BONDS

By Wendell K. Kimura

Every year, bills are introduced asking for approval of **Special Purpose Revenue Bonds** (SPRB's) for certain companies or organizations. This memo will attempt to explain what SPRB's are, why are measures to authorize their issuance introduced in the Legislature, and what is the role of the Legislature in dealing with these requests.

Q1: What are Special Purpose Revenue Bonds?

A1: They are bonds issued by the State to assist various companies or organizations. These enterprises are:

- Manufacturing enterprise
- Processing enterprise
- Industrial enterprise
- Utilities serving the general public
- Health care facilities provided to the general public by not-for profit corporations
- Early childhood education and care facilities provided to the public by not-for-profit corporations
- Low or moderate income government housing programs.

The State enters into a contract with the enterprise, called the "project party," in which the project party agrees to pay the State funds that will cover:

- The principal and interest on the SPRB
- Sufficient reserves
- All fees and expenses in connection with the SPRB issue
- All other expenses, direct or indirect, incurred by the State to carry out the SPRB issue.

The project party also agrees to operate, maintain, and repair the project and assume all costs for such operation, maintenance, and repair. The State, in turn, lends the proceeds of the bond issue to the project party for its use and application for the project.

Q2: Why are bills for SPRB's introduced in the Legislature?

A2: Proponents want SPRB's because this is a good way to get financing for their projects at a low interest rate. Since these bonds are tax-free, bond buyers are willing to buy them even if the interest they receive is very low. The entities benefit because they get capital for their projects at interest rates generally lower than the market interest rate for loans.

The State lends its tax-free bond issuing power to the private corporation or organization so that the interest on what would otherwise be a private bond issue becomes free of income tax. Thus, a low interest rate on the borrowed money is obtained.[1]

Q3: What is the role of the Legislature regarding SPRB's?

A3: The Constitution says that the Legislature must find that the issuance of SPRB's for a particular project is "in the public interest".

Q4: Does the Legislature have to act in a special manner regarding SPRB's?

A4: Yes. In order to approve the issuance of SPRB's for an entity, the Legislature must approve it by a 2/3 vote of each house of the Legislature.

[1] See 64 Am Jur 2d *Public Securities and Obligations*, sec. 107.

Q5: Who administers the SPRB's?

A5: The State Department of Budget and Finance (B&F) runs the program under Chapter 39A, Hawaii Revised Statutes. The applicant must provide B&F with the necessary information and security for the bonds. The applicant must show, by contract with the State, how rental or other payments will be made to ensure the payments to the State on the bonds. Under our Constitution, the SPRB's cannot be secured, directly or indirectly, by the general credit of the State.

Q6: Does the Legislature know the status of these SPRB's?

A6: Yes. The Constitution requires the Governor to report to the Legislature by November 30 of each year on the status of SPRB's. The report must state the purpose for which the bonds are authorized; the person who has contracted with the State to make payments to the State; the amount of SPRB's authorized and issued; and other necessary information.

Q7: Can the counties issue SPRB's?

A7: Under our Constitution, the counties may issue SPRB's only if authorized by enabling legislation by the Legislature. To date, the Legislature has enacted enabling legislation authorizing counties to issue SPRB's only for pollution control projects. (See Chapter 48E, Hawaii Revised Statutes.)