

H.B. NO. 1414

A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION FOR DEPARTMENT OF TAXATION
COUNTY SURCHARGE IMPLEMENTATION COSTS.

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

1 SECTION 1. This Act is recommended by the governor for
2 immediate passage in accordance with section 9 of article VII of
3 the Constitution of the State of Hawaii.

4 SECTION 2. The purpose of this Act is to make an emergency
5 appropriation of \$4,500,000 to the department of taxation to
6 address unbudgeted expenses incurred by the department in
7 implementing the administration of the county surcharge on state
8 general excise tax provided for under section 46-16.8, Hawaii
9 Revised Statutes.

10 SECTION 3. Act 247, Session Laws of Hawaii 2005,
11 authorized the counties to adopt a county surcharge on state
12 general excise tax, the revenue from which was to be deposited
13 for the benefit of any adopting county. The purpose of the
14 county surcharge was to provide the counties with a means of
15 financing a preferred mass transit alternative. Act 247 placed
16 the burden of administering and collecting the county surcharge
17 on the department of taxation. The burdens of administering the
18 county surcharge include assessment, collection, processing,

1 accounting, and enforcement of the surcharge for the benefit of
2 an enacting county.

3 Though Act 247 placed the administrative duties of county
4 surcharge collection on the department of taxation, Act 247
5 contained no appropriation to offset the direct costs incident to
6 administering the county surcharge.

7 The city and county of Honolulu was the only county to adopt
8 a county surcharge on state general excise tax. Adopting this
9 surcharge triggered the department of taxation's responsibilities
10 regarding assessment and collection of the surcharge.

11 Assessment, collection, processing, accounting, and
12 enforcement of the county surcharge imposed a substantial
13 financial burden on the department of taxation that was not
14 resolved by Act 247. Costs the department of taxation incurred
15 include substantial computer upgrades, substantial personnel and
16 professional time, public outreach, and additional personnel to
17 assist with the department's other obligations.

18 In response to the department of taxation's unfunded mandate
19 to assess and collect the county surcharge, the city and county
20 of Honolulu agreed to guarantee the department of taxation's
21 costs up to \$5,000,000. This guarantee is for costs that have
22 been incurred up until the legislature can consider this
23 emergency appropriation to pay the vendor and other costs. This
24 request for an appropriation is on an emergency basis because the
25 city and county of Honolulu has guaranteed the payments to the

1 computer vendor and the department of taxation's out-of-pocket
2 expenditures, up to \$5,000,000, if the legislature does not
3 appropriate moneys to the department of taxation that is signed
4 into law or otherwise takes effect by March 30, 2007, before the
5 regular session of 2007 is adjourned sine die.

6 The legislature finds that this emergency appropriation is
7 necessary and in the best interest of the public to assure that
8 the city and county of Honolulu's county surcharge on state
9 general excise tax is not adversely impacted. An adverse impact
10 could include ultimately affecting the funding of the city and
11 county of Honolulu's mass transit project, including the ability
12 of the city and county of Honolulu to obtain federal funding for
13 the mass transit project. Moreover, this emergency appropriation
14 is necessary and in the best interest of the public because
15 failure to provide this appropriation will result in the city and
16 county of Honolulu surrendering its guarantee for these costs.

17 SECTION 4. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$4,500,000, or so
19 much thereof as may be necessary, for fiscal year 2006-2007 to
20 the department of taxation to reimburse it for costs incurred in
21 implementing and administering the county surcharge on state
22 general excise tax, including the costs of the computer vendor.
23 The sum appropriated shall be expended by the department of
24 taxation for the purposes of this Act.

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1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. Y. Song

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BY REQUEST

JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR DEPARTMENT OF TAXATION COUNTY SURCHARGE IMPLEMENTATION COSTS.

PURPOSE: To provide the Department of Taxation with an emergency appropriation for the costs incurred in administering the county surcharge on state general excise tax.

MEANS: An emergency appropriation measure.

JUSTIFICATION: Act 247, Session Laws of Hawaii 2005, authorized the counties to adopt a county surcharge on state general excise, the revenue from which is to be deposited for the benefit of any adopting county. The purpose of the county surcharge was to provide the counties with a means of financing a preferred mass transit alternative. Act 247 placed the burden of administering the county surcharge on the State Department of Taxation. The burdens of administering the county surcharge include assessment, collection, processing, accounting, and enforcement for the benefit of an enacting county.

Though Act 247 placed the administrative duties of county surcharge collection on the State Department of Taxation, the Act contained no means by which the costs associated with administering the surcharge incurred by the Department of Taxation were to be funded.

The City and County of Honolulu was the only county to adopt a county surcharge on state general excise tax. Adopting this surcharge triggered the Department of Taxation's responsibilities regarding assessment and collection of the surcharge.

Assessment, collection, processing, accounting, and enforcement of the county surcharge posed a substantial financial burden on the Department of Taxation that was not resolved by the Legislature in Act 247. Costs the Department of Taxation has faced regarding implementation include substantial computer upgrades to facilitate accurate processing and accounting of the revenue because the county surcharge is a separate tax; not merely a 0.5 percent addition to the general excise tax. In addition, substantial personnel and professional time have been associated with the implementation of the surcharge to assure that the public is adequately aware of this new tax obligation. Finally, additional personnel will be necessary during the first months of the county surcharge assessment because the surcharge will be implemented simultaneously with the beginning of the 2007 regular legislative session and the income tax filing season--a time of year that taxes the Department's otherwise dedicated resources.

In response to the Department's unfunded mandate to assess and collect the county surcharge on behalf of the City and County of Honolulu, the City and County of Honolulu agreed to guarantee the Department of Taxation's costs up to \$5 million. This guarantee is for costs that have been incurred up until the Legislature can consider the emergency appropriation to pay the vendor and other costs. This request for an appropriation is on an emergency basis because the City and County of Honolulu's guarantee expires on March 30, 2007--before the 2007 legislative regular session adjourns sine die.

This emergency appropriation is necessary and in the best interest of the public to assure that the City and County of

Honolulu's county surcharge on state general excise tax is not adversely impacted, which may ultimately affect the funding of its mass transit project. Moreover, this emergency appropriation is necessary and in the best interest of the public because failure to provide this appropriation will result in the City and County of Honolulu's surrender of its guarantee for these costs.

The general fund recommendation included in this measure has been made in accordance with the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. Including appropriations made up to and including the regular session 2006, the Executive Branch appropriation ceiling for Fiscal Year 2006-2007 has already been exceeded by \$415,349,859 or 8.51 percent. Funding requested in this measure to reimburse the Department of Taxation for its unbudgeted costs incurred with administering and collecting the City and County of Honolulu county surcharge will result in the appropriation ceiling for the Executive Branch to now be exceeded in Fiscal Year 2006-2007 by \$4,500,000 or 0.09 percent. This current declaration takes into account additional general fund appropriations authorized for Fiscal Year 2006-2007 in this measure only, and does not include other general fund appropriations for Fiscal Year 2006-2007 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session 2007.

Impact on the public: Assured collection of the City and County of Honolulu's county surcharge on state general excise tax. Termination of the City and County of Honolulu's \$5 million guarantee for the Department of Taxation's costs.

Impact on the department and other agencies:
The Department of Taxation will proceed with county surcharge collection and processing nonetheless because its costs have been guaranteed.

GENERAL FUND: \$4,500,000

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: TAX 100.

OTHER AFFECTED
AGENCIES: City and County of Honolulu; Budget and Finance.

EFFECTIVE DATE: Upon approval.