
A BILL FOR AN ACT

RELATING TO THE WITHHOLDING OF TEN PER CENT OF COUNTY SURCHARGE
ON STATE TAX.

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

1 SECTION 1. The purpose of this Act is to eliminate the
2 current practice of the State government withholding ten per
3 cent of the existing 0.5 per cent general excise tax county
4 surcharge collection.

5 Act 247, Session Laws of Hawaii 2005, provides that the
6 State shall deduct ten per cent of the gross proceeds of a
7 respective county's surcharge on state tax to reimburse the
8 State for the costs of assessment, collection, and disposition
9 of the county surcharge incurred by the State.

10 The city and county of Honolulu, in enacting Ordinance
11 05-027, established a one-half per cent surcharge on the state
12 general excise tax to begin January 1, 2007, to fund a mass
13 transit project pursuant to Act 247, the proceeds of which are
14 collected by the State. The mayor of the city and county of
15 Honolulu negotiated an arrangement with the legislature and
16 agreed to the subsequent revision of Act 247, whereby the State
17 retains ten per cent of the county surcharge proceeds. The



1 Honolulu city council adopted Ordinance 05-027, believing that
2 the State would subsequently reduce the ten per cent deduction
3 to more accurately reflect the true cost of administering the
4 collection of the county surcharge.

5 An October 2007 department of taxation report, required by
6 section 121 of Act 213, Session Laws of 2007, that details the
7 level of staffing and funding necessary to administer county
8 surcharge collections identified twenty-three positions costing
9 \$749,876 for fiscal year 2008, and twenty positions costing
10 \$700,508 for fiscal year 2009, that support the collection of
11 the surcharge. That report further indicates that just sixty
12 per cent of those positions' work time was spent on general
13 excise and county surcharge tax related matters, with the other
14 forty per cent spent on individual income tax, business income
15 tax, tax clearance, and other state tax matters.

16 According to a department of taxation report, the State
17 collected \$187,903,947 of county surcharge proceeds for fiscal
18 year 2008 and retained \$18,790,395 of that amount as its
19 reimbursement for the costs of assessment, collection, and
20 disposition of the county surcharge pursuant to Act 247.

21 Based on the facts cited above, the amounts being retained
22 by the State are in excess of the funding needed to collect the



1 county surcharge, amounting to over \$18,000,000 in unwarranted
2 payments in fiscal year 2008 alone. Retention by the State of
3 millions of taxpayer dollars intended to fund a mass transit
4 system but not used for the transit system undermines the
5 justification for establishing the county surcharge, weakens the
6 city's ability to implement a successful mass transit system,
7 and disguises the use of the county surcharge to fund other
8 state programs.

9 Therefore, this Act amends Act 247 to only withhold the
10 amount necessary for the costs of assessment, collection, and
11 disposition of the county surcharges on state tax.

12 SECTION 2. Section 248-2.6, Hawaii Revised Statutes, is
13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) If adopted by county ordinance, all county surcharges
15 on state tax collected by the director of taxation shall be paid
16 into the state treasury quarterly, within ten working days after
17 collection, and shall be placed by the director of finance in
18 special accounts. Out of the revenues generated by county
19 surcharges on state tax paid into each respective state treasury
20 special account, the director of finance shall deduct up to ten
21 per cent of the gross proceeds of a respective county's
22 surcharge on state tax to reimburse the State for the costs of



1 assessment, collection, and disposition of the county surcharge
2 on state tax incurred by the State. Amounts retained shall be
3 general fund realizations of the State.

4 (b) [~~The~~] Only the amounts deducted for costs of
5 assessment, collection, and disposition of county surcharges on
6 state tax shall be withheld from payment to the counties by the
7 State out of the county surcharges on state tax collected for
8 the current calendar year."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval
12 and apply to proceeds received after December 31, 2009.

13

INTRODUCED BY: *Calvin K. Say*
By Request

JAN 26 2009



Report Title:

County Surcharge on State Tax

Description:

Clarifies the law with respect to the State's withholding of 10% of the county surcharge on state tax.

