
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- County water infrastructure surcharge on state
5 tax. (a) Each county may establish a water infrastructure
6 surcharge on state tax at the rates enumerated in sections 237-
7 and 238- . A county electing to establish this surcharge
8 shall do so by ordinance; provided that:

9 (1) No ordinance shall be adopted until the county has
10 conducted a public hearing on the proposed ordinance;
11 and

12 (2) No county water infrastructure surcharge on state tax
13 that may be authorized under this section shall be
14 levied prior to January 1, 2011.

15 Notice of the public hearing required under paragraph (1) shall
16 be published in a newspaper of general circulation within the
17 county at least twice within a period of thirty days immediately
18 preceding the date of the hearing.



1 (b) A county electing to exercise the authority granted
 2 under this section shall notify the director of taxation within
 3 ten days after the county has adopted a county water
 4 infrastructure surcharge on state tax ordinance and, beginning
 5 no earlier than January 1, 2011, the director of taxation shall
 6 levy, assess, collect, and otherwise administer the county water
 7 infrastructure surcharge on state tax.

8 (c) Each county that adopts an county water infrastructure
 9 surcharge on state tax ordinance pursuant to subsection (a)
 10 shall use the surcharges received from the State for county
 11 water infrastructure including infrastructure for reclaimed
 12 water, waste water, and drainage."

13 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
 14 amended by adding a new section to be appropriately designated
 15 and to read as follows:

16 "§237- **County water infrastructure surcharge on state**
 17 **tax.** (a) The county water infrastructure surcharge on state
 18 tax, upon the adoption of county ordinances and in accordance
 19 with the requirements of section 46- , shall be levied,
 20 assessed, and collected as provided in this section on all gross
 21 proceeds and gross income taxable under this chapter. No county
 22 shall set the county water infrastructure surcharge on state tax



1 at a rate greater than one-half per cent of all gross proceeds
2 and gross income taxable under this chapter. All provisions of
3 this chapter shall apply to the county water infrastructure
4 surcharge on state tax. With respect to the surcharge, the
5 director of taxation shall have all the rights and powers
6 provided under this chapter. In addition, the director of
7 taxation shall have the exclusive rights and power to determine
8 the county or counties in which a person is engaged in business
9 and, in the case of a person engaged in business in more than
10 one county, the director shall determine, through apportionment
11 or other means, that portion of the county water infrastructure
12 surcharge on state tax attributable to business conducted in
13 each county.

14 (b) Each county water infrastructure surcharge on state
15 tax that may be adopted pursuant to section 46- (a) shall be
16 levied beginning in the taxable year after the adoption of the
17 relevant county ordinance; provided that no county water
18 infrastructure surcharge on state tax may be levied prior to
19 January 1, 2011.

20 (c) The county water infrastructure surcharge on state
21 tax, if adopted, shall be imposed on the gross proceeds or gross
22 income of all written contracts that require the passing on of



1 the taxes imposed under this chapter; provided that if the gross
2 proceeds or gross income are received as payments beginning in
3 the taxable year in which the taxes become effective, on
4 contracts entered into before June 30 of the year prior to the
5 taxable year in which the taxes become effective, and the
6 written contracts do not provide for the passing on of increased
7 rates of taxes, the county water infrastructure surcharge on
8 state tax shall not be imposed on the gross proceeds or gross
9 income covered under the written contracts. The county water
10 infrastructure surcharge on state tax shall be imposed on the
11 gross proceeds or gross income from all contracts entered into
12 on or after June 30 of the year prior to the taxable year in
13 which the taxes become effective, regardless of whether the
14 contract allows for the passing on of any tax or any tax
15 increases.

16 (d) No county water infrastructure surcharge on state tax
17 shall be established on any:

18 (1) Gross income or gross proceeds taxable under this
19 chapter at the one-half per cent tax rate;

20 (2) Gross income or gross proceeds taxable under this
21 chapter at the 0.15 per cent tax rate; or



1 (3) Transactions, amounts, persons, gross income, or gross
2 proceeds exempt from tax under this chapter.

3 (e) The director of taxation shall revise the general
4 excise tax forms to provide for the clear and separate
5 designation of the imposition and payment of the county water
6 infrastructure surcharge on state tax.

7 (f) The taxpayer shall designate the taxation district to
8 which the county water infrastructure surcharge on state tax is
9 assigned in accordance with rules adopted by the director of
10 taxation under chapter 91. The taxpayer shall file a schedule
11 with the taxpayer's periodic and annual general excise tax
12 returns summarizing the amount of taxes assigned to each
13 taxation district.

14 (g) The penalties provided by section 231-39 for failure
15 to file a tax return shall be imposed on the amount of surcharge
16 due on the return being filed for the failure to file the
17 schedule required to accompany the return. In addition, there
18 shall be added to the tax an amount equal to ten per cent of the
19 amount of the surcharge and tax due on the return being filed
20 for the failure to file the schedule or the failure to correctly
21 report the assignment of the general excise tax by taxation
22 district on the schedule required under this subsection.



1 (h) All taxpayers who file on a fiscal year basis whose
2 fiscal year ends after December 31 of the year prior to the
3 taxable year in which the taxes become effective, shall file a
4 short period annual return for the period preceding January 1 of
5 the taxable year in which the taxes become effective. Each
6 fiscal year taxpayer shall also file a short period annual
7 return for the period starting on January 1 of the taxable year
8 in which the taxes become effective, and ending before January 1
9 of the following year."

10 SECTION 3. Chapter 238, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§238- **County water infrastructure surcharge on state**
14 **tax.** (a) The county water infrastructure surcharge on state
15 tax, upon the adoption of a county ordinance and in accordance
16 with the requirements of section 46- , shall be levied,
17 assessed, and collected as provided in this section on the value
18 of property and services taxable under this chapter. No county
19 shall set the county water infrastructure surcharge on state tax
20 at a rate greater than one-half per cent of the value of
21 property taxable under this chapter. All provisions of this
22 chapter shall apply to the county water infrastructure surcharge



1 on state tax. With respect to the surcharge, the director shall
2 have all the rights and powers provided under this chapter. In
3 addition, the director of taxation shall have the exclusive
4 rights and power to determine the county or counties in which a
5 person imports or purchases tangible personal property and, in
6 the case of a person importing or purchasing tangible property
7 in more than one county, the director shall determine, through
8 apportionment or other means, that portion of the surcharge on
9 state tax attributable to the importation or purchase in each
10 county.

11 (b) Each county water infrastructure surcharge on state
12 tax that may be adopted shall be levied beginning in the taxable
13 year after the adoption of the relevant county ordinance;
14 provided that no county water infrastructure surcharge on state
15 tax may be levied prior to January 1, 2011.

16 (c) No county water infrastructure surcharge on state tax
17 shall be established upon any use taxable under this chapter at
18 the one-half per cent tax rate or upon any use that is not
19 subject to taxation or that is exempt from taxation under this
20 chapter.

21 (d) The director of taxation shall revise the use tax
22 forms to provide for the clear and separate designation of the



1 imposition and payment of the county water infrastructure
2 surcharge on state tax.

3 (e) The taxpayer shall designate the taxation district to
4 which the county water infrastructure surcharge on state tax is
5 assigned in accordance with rules adopted by the director of
6 taxation under chapter 91. The taxpayer shall file a schedule
7 with the taxpayer's periodic and annual use tax returns
8 summarizing the amount of taxes assigned to each taxation
9 district.

10 (f) The penalties provided by section 231-39 for failure
11 to file a tax return shall be imposed on the amount of surcharge
12 due on the return being filed for the failure to file the
13 schedule required to accompany the return. In addition, there
14 shall be added to the tax an amount equal to ten per cent of the
15 amount of the surcharge and tax due on the return being filed
16 for the failure to file the schedule or the failure to correctly
17 report the assignment of the use tax by taxation district on the
18 schedule required under this subsection.

19 (g) All taxpayers who file on a fiscal year basis whose
20 fiscal year ends after December 31 of the year prior to the
21 taxable year in which the taxes become effective, shall file a
22 short period annual return for the period preceding January 1 of



1 the taxable year in which the taxes become effective. Each
2 fiscal year taxpayer shall also file a short period annual
3 return for the period starting on January 1 of the taxable year
4 in which the taxes become effective, and ending before January 1
5 of the following year."

6 SECTION 4. Chapter 248, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§248- County water infrastructure surcharge on state
10 tax; disposition of proceeds. (a) If adopted by county
11 ordinance, all county water infrastructure surcharges on state
12 tax established under section 46- and collected by the
13 director of taxation shall be paid into the state treasury
14 quarterly, within ten working days after collection, and shall
15 be placed by the director of finance in special accounts. Out
16 of the revenues generated by county water infrastructure
17 surcharges on state tax paid into each respective state treasury
18 special account, the director of finance shall deduct per
19 cent of the gross proceeds of a respective county's water
20 infrastructure surcharge on state tax to reimburse the State for
21 the costs of assessment, collection, and disposition of the
22 county water infrastructure surcharge on state tax incurred by



1 the State. Amounts retained shall be general fund realizations
2 of the State.

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

8 (c) For the purpose of this section, the costs of
9 assessment, collection, and disposition of the county water
10 infrastructure surcharges on state tax shall include any and all
11 costs, direct or indirect, that are deemed necessary and proper
12 to effectively administer this section and sections 237- and
13 238-_____.

14 (d) After the deduction and withholding of the costs under
15 subsections (a) and (b), the director of finance shall pay the
16 remaining balance on a quarterly basis to the director of
17 finance of each county that has adopted a county water
18 infrastructure surcharge on state tax under section 46-_____.
19 The quarterly payments shall be made after the county water
20 infrastructure surcharges on state tax have been paid into the
21 state treasury special accounts or after the disposition of any
22 tax appeal, as the case may be. All county water infrastructure



1 surcharges on state tax collected shall be distributed by the
2 director of finance to the county in which the county water
3 infrastructure surcharge on state tax is generated and shall be
4 a general fund realization of the county, to be used for the
5 purposes specified in section 46- by each of the counties."

6 SECTION 5. Section 248-2.6, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) If adopted by county ordinance, all county surcharges
9 on state tax established under section 46-16.8 and collected by
10 the director of taxation shall be paid into the state treasury
11 quarterly, within ten working days after collection, and shall
12 be placed by the director of finance in special accounts. Out
13 of the revenues generated by county surcharges on state tax paid
14 into each respective state treasury special account, the
15 director of finance shall deduct ten per cent of the gross
16 proceeds of a respective county's surcharge on state tax to
17 reimburse the State for the costs of assessment, collection, and
18 disposition of the county surcharge on state tax incurred by the
19 State. Amounts retained shall be general fund realizations of
20 the State."

21 SECTION 6. Section 437D-8.4, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Notwithstanding any law to the contrary, a lessor may
2 visibly pass on to a lessee:

3 (1) The general excise tax attributable to the
4 transaction;

5 (2) The vehicle license and registration fee and weight
6 taxes, prorated at 1/365th of the annual vehicle
7 license and registration fee and weight taxes actually
8 paid on the particular vehicle being rented for each
9 full or partial twenty-four-hour rental day that the
10 vehicle is rented; provided the total of all vehicle
11 license and registration fees charged to all lessees
12 shall not exceed the annual vehicle license and
13 registration fee actually paid for the particular
14 vehicle rented;

15 (3) The rental motor vehicle surcharge tax as provided in
16 section 251-2 attributable to the transaction;

17 (4) The county surcharge on state tax under section 46-
18 16.8; provided that the lessor itemizes the tax for
19 the lessee; [and]

20 (5) The county water infrastructure surcharge on state tax
21 under section 46- ; provided that the lessor
22 itemizes the tax for the lessee; and



1 [~~5~~] (6) The rents or fees paid to the department of
2 transportation under concession contracts negotiated
3 pursuant to chapter 102, service permits granted
4 pursuant to title 19, Hawaii Administrative Rules, or
5 rental motor vehicle customer facility charges
6 established pursuant to section 261-7; provided that:
7 (A) The rents or fees are limited to amounts that can
8 be attributed to the proceeds of the particular
9 transaction;
10 (B) The rents or fees shall not exceed the lessor's
11 net payments to the department of transportation
12 made under concession contract or service permit;
13 (C) The lessor submits to the department of
14 transportation and the department of commerce and
15 consumer affairs a statement, verified by a
16 certified public accountant as correct, that
17 reports the amounts of the rents or fees paid to
18 the department of transportation pursuant to the
19 applicable concession contract or service permit:
20 (i) For all airport locations; and
21 (ii) For each airport location;

1 (D) The lessor submits to the department of
2 transportation and the department of commerce and
3 consumer affairs a statement, verified by a
4 certified public accountant as correct, that
5 reports the amounts charged to lessees:

- 6 (i) For all airport locations;
- 7 (ii) For each airport location; and
- 8 (iii) For each lessee;

9 (E) The lessor includes in these reports the
10 methodology used to determine the amount of fees
11 charged to each lessee; and

12 (F) The lessor submits the above information to the
13 department of transportation and the department
14 of commerce and consumer affairs within three
15 months of the end of the preceding annual
16 accounting period or contract year as determined
17 by the applicable concession agreement or service
18 permit.

19 The respective departments, in their sole discretion,
20 may extend the time to submit the statement required
21 in this subsection. If the director determines that
22 an examination of the lessor's information is



1 inappropriate under this subsection and the lessor
2 fails to correct the matter within ninety days, the
3 director may conduct an examination and charge a
4 lessor an examination fee based upon the cost per hour
5 per examiner for evaluating, investigating, and
6 verifying compliance with this subsection, as well as
7 additional amounts for travel, per diem, mileage, and
8 other reasonable expenses incurred in connection with
9 the examination, which shall relate solely to the
10 requirements of this subsection, and which shall be
11 billed by the departments as soon as feasible after
12 the close of the examination. The cost per hour shall
13 be \$40 or as may be established by rules adopted by
14 the director. The lessor shall pay the amounts billed
15 within thirty days following the billing. All moneys
16 collected by the director shall be credited to the
17 compliance resolution fund."

18 SECTION 7. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect upon its approval;
21 provided that the amendments made to section 437D-8.4, Hawaii
22 Revised Statutes, by section 6 of this Act shall not be repealed



1 when that section is repealed and reenacted on December 31,
2 2022, by section 9(3) of Act 247, Session Laws of Hawaii 2005.
3

INTRODUCED BY: ~~_____~~ A.C. Keioh-Alana

JAN 28 2009



Report Title:

General Excise Tax; County Levy for Water Infrastructure

Description:

Authorizes a county to levy a one-half percent general excise tax to be used for water infrastructure, including drainage improvements, wastewater infrastructure, and reclaimed water infrastructure.

