

Honolulu, Hawaii

Apr 11, 2010

RE: S.B. No. 2402
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 2402, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this bill, as received by your Committee, is to clarify the authority of the Department of Taxation (DOTAX) to assess and collect a fee for any comfort letter issued by DOTAX.

DOTAX and the Tax Foundation of Hawaii commented on this bill.

Your Committee has amended this bill by deleting its substance and replacing it with the provisions of H.B. No. 2877, H.D. 1, with certain revisions. Among other things, this bill, as amended, temporarily:

- (1) Suspends the general excise and use tax exemptions for certain amounts received by certain persons; and
- (2) Requires those persons to pay the applicable tax on those amounts at a rate of one percent.

Your Committee believes that the H.D. 1 is a more equitable way to raise general revenues for the state budget than a general excise and use tax rate increase. The H.D. 1 broadens the tax



base by removing exemptions benefiting relatively few persons. Your Committee finds that this method is preferable to raising the general excise tax rate which would exacerbate the regressiveness of the tax, impact the poor more harshly than the rich, and hinder economic recovery by increasing the cost of doing business in the state. Raising the general excise tax rate to increase state budget appropriations merely shifts dollars from the private sector to the public sector. This shift would not represent economic growth.

Your Committee emphasizes that the H.D. 1 is one of a variety of House revenue enhancement measures that are targeted, rather than broad-based. The H.D. 1 is intended to avoid placing the major burden on ordinary residents and businesses. In its budget and other actions, your Committee has sought to fund services essential for public health, welfare, and education yet minimize the impact on the general public and economic recovery. The House has made many difficult decisions, after much hard work, to achieve this balance. The H.D. 1 is one result of the difficult decisions.

Your Committee notes that the H.D. 1 has the following major differences from H.B. No. 2877, as passed by the House:

- (1) Language has been added expressly stating that the county surcharge for mass transit shall not be levied, assessed, or collected on the gross income, gross proceeds, or value of the activities, the exemption for which is temporarily suspended. The language is set forth in the new section 237-A(d) and section 238-A(d), Hawaii Revised Statutes (HRS);
- (2) Language has been added authorizing the Director of Taxation (Director) to continue a use tax exemption, notwithstanding its suspension under the H.D. 1 if the subject property, services, or contracting cannot be legally taxed under the United States Constitution or other law. The language also authorizes the Director to apportion the gross value of services or contracting for the purpose of determining the value subject to the general excise tax. These provisions are set forth in section 238-A(c) and are based on section 238-3(a), HRS;
- (3) Language has been added specifying that the imposition of the one percent tax shall not apply to gross income, gross proceeds, or value of property, services, or




contracting from binding written contracts entered into prior to July 1, 2010, which do not permit the passing on of increased rates of taxes. These provisions are set forth in sections 237-A(d) and 238-A(e), HRS;

- (4) Language is added requiring the Director to require persons benefiting from exclusions and exemptions from the general excise or use tax to report information on the exclusions or exemptions. These provisions are set forth in sections 237-B and 238-B; and
- (5) The suspension of a credit and exemption under the public service company tax has not been included in the H.D. 1.

Technical, nonsubstantive amendments have also been made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2402, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2402, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Finance,


MARCUS R. OSHIRO, Chair



