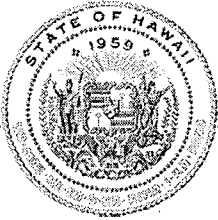


**HB 2598,
HD1, SD1
Testimony**



TOURISM LIAISON

Hawai'i State Capitol, Office of the Governor, 4th Floor
Honolulu, Hawai'i 96813

Telephone: (808) 586-2362
Fax: (808) 586-0019

Statement of
MARSHA WIENERT
Tourism Liaison
Office of the Governor
before the
SENATE COMMITTEE ON WAYS AND MEANS
Monday, March 29, 2010
9:30 a.m.
State Capitol, Conference Room 211

in consideration of
HB 2598 HD1 SD1
RELATING TO TRANSIENT ACCOMMODATIONS TAX.

Chair Kim, Vice Chair Tsutsui and Members of the Senate Committee on Ways and Means.

HB 2598 HD1 SD1 requires that the transient accommodations tax (TAT) shall be assessed and collected at a minimum rate of \$8 per day. It also places a limit on the amount of TAT revenues distributed to the counties from July 1, 2010 through June 30, 2015. This testimony relates only to assessing and collecting a minimum rate of \$8 per day in TAT.

While we appreciate the intent to explore all potential sources of revenue to help balance the budget, we cannot support establishing a minimum amount owed in TAT, notwithstanding the amount charged for the transient accommodations unit.

The average daily rate of our budget properties in calendar year 2009 was \$86.32. In January this year, the average daily rate of budget properties was \$86.13. A minimum rate of \$8 per day would result in a higher than 9.25% tax on many of these budget properties, beginning in July of this year.

Hawai'i has benefited, through the years, by having a wide variety of accommodations and pricing that can fit everyone's budget.

During these highly competitive times, setting a minimum daily tax rate on our transient accommodations units should not be supported.

Market conditions dictate room rates and if the market requires a room rate that generates less than \$8 in TAT, based on the current applicable tax percentage, properties should not receive a tax punishment for trying to compete in the marketplace and bring visitors to our islands.

According to our state's 2008 Visitor Plant Inventory Report, this tax penalty could impact approximately 9% of the state's room inventory classified as "budget." The breakdown, by island, is as follows:

O'ahu: 8.6% of the room inventory is classified as budget rooms
Hawai'i Island: 16.2% of the room inventory is classified as budget rooms
Kaua'i: 8.1% of the room inventory is classified as budget rooms
Maui: 5.6% of the room inventory is classified as budget rooms
Moloka'i: 22.9% of the room inventory is classified as budget rooms
Lāna'i: 0.8% of the room inventory is classified as budget rooms

Thank you for allowing me to comment on HB 2598 HD1 SD1 and I humbly ask that this committee reconsider establishing a minimum TAT rate of \$8 per day.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

**SENATE COMMITTEE ON WAYS & MEANS
TESTIMONY REGARDING HB 2598 HD 1 SD 1
RELATING TO TRANSIENT ACCOMMODATIONS TAX**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 29, 2010
TIME: 9:30AM
ROOM: 211

As amended, this measure proposes to increase the transient accommodations tax to the greater of the current tax rate or \$8 per day. This measure also caps the amount of transient accommodations tax that is deposited to the benefit of the counties. The maximum deposit amount is \$94,355,000.

The Department of Taxation (Department) **opposes the tax increase**; however **supports the intent of capping deposits of tax to the counties**.

I. TRANSIENT ACCOMMODATIONS TAX INCREASE.

As amended, this measure has the effect of increasing the tax on lower-rate transient accommodations.

OPPOSED TO TAX INCREASES GENERALLY—The Department has concerns with the tax increase in this measure. The Department points out that it is a well-settled principle of economics that when an economy is slowing, increasing taxes is strongly discouraged because people will be less able to pay for the added costs of increased taxes. During economic slowing, economics suggests that money should remain in the economy in order to boost economic performance.

CONCERNED ABOUT TOURISM INDUSTRY—The Department is particularly concerned with the negative impact this tax increase could have on the State's already delicate tourism industry. Hawaii's tourism industry is hurting badly. Increasing the tax on this industry even further, thus making Hawaii more expensive and a less favorable destination, could force Hawaii's economy into further disarray.

II. CAP ON DEPOSITS TO THE COUNTIES

The Department **supports the intent** of the provision capping the deposit of transient accommodations tax to the counties; however recommends that this measure be amended to **insert its original contents**, which is to direct all transient accommodations taxes to the general fund for three years.

III. REVENUE IMPACT

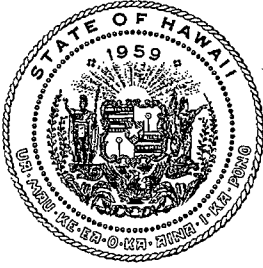
As amended, this measure will result in the following revenue impacts—

General Fund: Annual revenue gain is estimated as follows:

<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
\$ 7.4 m	\$ 12.8 m	\$ 18.4 m	\$ 24.1 m	\$ 29.8 m

Special Funds: Annual impact on special funds is estimated as follows:

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Tourism Sp Fd	\$ 1.1 m	\$ 1.1 m	\$ 1.1 m	\$ 1.1 m	\$ 1.1 m
Convention Ctr Fd	\$ 0.6 m	\$ 0.6 m	\$ 0.6 m	\$ 0.6 m	\$ 0.6 m
Counties	(\$ 7.3 m)	(\$ 12.7 m)	(\$ 18.3 m)	(\$ 24.0 m)	(\$ 29.7 m)



LINDA LINGLE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
Website: www.hawaii-tourism-authority.org

Telephone: (808) 973-2255
Fax: (808) 973-2253

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
H.B. 2598, H.D. 1, S.D. 1
Relating to Transient Accommodations Tax
Senate Committee on Ways and Means
Monday, March 29, 2010
9:30 a.m.
Conference Room 211

The Hawai'i Tourism Authority (HTA) offers comments on H.B. 2598, H.D. 1, S.D. 1, which provides that the distribution of the transient accommodations tax (TAT) to the counties shall be the lesser of 44.8 percent of TAT revenues or \$94,355,000 for five years, and requires that a minimum TAT of \$8 per day be assessed and collected.

Distribution of TAT to Counties

In 1990, Act 185 was enacted to provide a more equitable method of sharing state revenues with the counties, in lieu of grants-in-aid. In passing this law, the Legislature noted that "...many of the burdens imposed by tourism fall on the counties." The pressures of the visitor industry mean greater demands on county services, such as providing, maintaining, and upgrading police and fire protection, parks, beaches, water, roads, sewage systems, and other tourism-related infrastructure. The distribution of the TAT to the counties is meant to provide the counties with a "stable and continuing source of revenue... that will enable the counties to provide for their needs." (Conference Committee Report No. 207 (1990)).

The HTA which developed the *Hawai'i Tourism Strategic Plan: 2005-2015* in 2004, with stakeholders in government, industry and the community throughout the state, recognizes that the counties are important partners in achieving the vision of the plan. Specifically, our county partners are an integral part of maintaining and preserving the Hawai'i brand and enhancing the "experience" of our visitors. This includes the upkeep of counties' parks and beaches as well as the maintenance water, roads, and sewage systems. Additionally, the counties' police and fire departments are very important to the safety and security of Hawai'i's visitors.

Preserving the distribution of the TAT to the counties is important for the ability of the counties to provide these services to the visitor industry.

Minimum TAT

The HTA opposes the assessing of a \$8 per day minimum TAT. At the 8.25 per cent, the current TAT rate, a room rate of \$96 per day would yield \$8 per day of TAT. The minimum \$8 per day will increase the TAT daily rate on those rooms with a daily rate of less than \$96 per day. For

example on a \$90 per day room, the TAT rate would be 8.89 per cent at the minimum of \$8 per day; for a \$80 per day room the TAT rate will be 10 per cent at \$8 per day. An \$8 per day rate will raise the TAT on rooms that are usually rooms sold at the kamaaina rate to Hawaii residents, or rooms that have been discounted to attract more visitors.

HTA is very much aware of the difficult fiscal condition the states currently faces and realizes this is a ultimately a policy decision for the legislature to make.

Thank you for the opportunity to provide these comments.

HAWAII COUNCIL OF MAYORS

Testimony of the

Hawaii Council of Mayors

Bernard Carvalho, Jr., Mayor of Kauai County
Mufi Hannemann, Mayor of the City and County of Honolulu
William P. Kenoi, Mayor of Hawaii County
Charmaine Tavares, Mayor of Maui County

Before a Hearing of the
Senate Committee on Ways and Means

March 29, 2010

House Bill 2598, HD1, SD1 Relating to the Transient Accommodations Tax

The Hawaii Council of Mayors (HCOM) supports House Bill 2598, HD1, SD1 which continues the distribution of transient accommodation tax (TAT) revenues to the counties, albeit at a level capped at 44.8 percent of the total revenues collected or \$94,355,000, whichever is less.

The mayors are united in our opposition to any proposal to fully suspend the distribution of TAT revenues to the counties. However, we recognize and empathize with the State's fiscal challenges, as we face many of our own at the county level. Consequently, while HB 2598, HD1, SD1 limits the amount of TAT revenues distributed to the counties, we appreciate the fact that the bill does not fully deprive the counties of this critical revenue source.

HB 2598, HD1, SD1 acknowledges the role county governments have in supporting tourists and our visitor industry. County governments maintain the public safety services, water and sewer infrastructure, roads, transportation, parks, and public facilities that support and benefit the visitor industry. We are each submitting county-specific testimony that details the services provided by our counties.



Mayor Billy Kenoi
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720



Mayor Mufi Hannemann
City and County of Honolulu
530 South King Street
Honolulu, Hawaii 96813



Mayor Bernard Carvalho, Jr.
County of Kauai
444 Rice Street
Lihue, Hawaii 96766



Mayor Charmaine Tavares
County of Maui
200 South High Street, 9th Floor
Wailuku, Hawaii 96793

Reductions in TAT funding would have a direct impact on the very industry that generates the hotel room tax revenues. And, we might also note that those revenues partially fund our police departments, whose officers issue the traffic citations that generate millions of dollars in revenue for State coffers.

The HCOM supports HB 2598, HD1, SD1 and ask for the committees' approval.

Mahalo.

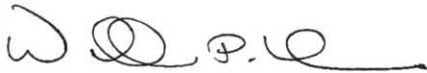
Aloha,



Bernard P. Carvalho, Jr.
Mayor of Kauai



Mufi Hannemann
Mayor of Honolulu

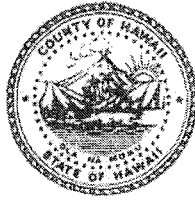


William P. Kenoi
Mayor of Hawaii



Charmaine Tavares
Mayor of Maui

William P. Kenoi
Mayor



William T. Takaba
Managing Director

Walter K.M. Lau
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 75-5722 Hanama Place, Suite 102 • Kailua-Kona, Hawai'i 96740
(808) 327-3602 • Fax (808) 326-5663

March 29, 2010

Honorable Donna Mercado Kim, Chair
And Members of the Senate Committee on Ways and Means
Hawai'i State Capitol, Room 211, 9:30 a.m.
415 South Beretania Street
Honolulu, Hawai'i 96813

TESTIMONY ON H.B. 2598 HD1, SD1 RELATING TO TRANSIENT ACCOMODATIONS TAX

Aloha, Chair Kim and Committee Members:

Thank you for this opportunity to support H.B. 2598 HD1, SD1 which would cap the four counties' share of the transient accommodation tax (TAT) at the lesser of \$94.35 million or 44.8 percent of actual TAT collections each year until June 30, 2015.

This temporary cap on the distribution of the counties' share of the TAT at the 2008-09 level represents a reasonable compromise because it shares the impact of today's unprecedented budget pain among the state and the counties. It offers the counties a degree of predictability and stability at a time when our budgets are extremely volatile, and provides a mechanism to ensure the state will quickly recoup revenue at the leading edge of the recovery when future TAT collections begin to climb.

Today you will be presented with testimony from the Mayors of all four counties, who together represent every one of your constituents. It is essential that we work cooperatively in this extremely challenging economic climate because our constituents and your constituents are exactly the same people. Both the State and Counties face unprecedented budget shortfalls, and we cannot solve these very serious problems by working at cross purposes with one another.

Honorable Donna Mercado Kim
Page 2
March 29, 2010

From the time of the establishment of the TAT in 1986, the Legislature planned to make the Counties beneficiaries of the hotel room tax because lawmakers recognized the importance of county facilities and services to support and enhance the visitor experience. It was always understood that much of the burden of mass tourism is carried by the counties.

When a visitor calls for law enforcement help, a county police officer responds. When the visitor gets into trouble in the ocean, county lifeguards or firefighters respond. When the visitor uses sewer and water service, those are county services. The visitors drive on county roads, and use county parks. The counties haul away the visitors' rubbish.

We now have more than one million tourists a year visiting the County of Hawai'i. Honolulu, Maui, Kaua'i and Hawai'i counties have relied on the TAT as a source of revenue for over 20 years and it is the second largest single source of revenue in Hawai'i County's budget – nearly \$18 million.

As you know, we in the Counties are doing our part by slashing department budgets, eliminating positions and carefully reviewing every new hire and major expenditure. I have furloughed my own staff, and will impose additional furloughs and painful budget cuts in the coming budget year.

By working together with the counties, you are helping to preserve money that pays for critical programs such as police and fire protection. HB 2598 HD1 SD1 represents the kind of cooperation and compromise that will see us through this difficult period.

Mahalo for your consideration.

Aloha.

A handwritten signature in black ink, appearing to read 'W. P. Kenoi', with a long horizontal line extending to the right.

William P. Kenoi
MAYOR

Bernard P. Carvalho Jr.
Mayor



Gary K. Heu
Administrative Assistant

OFFICE OF THE MAYOR

County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite 235, Lihue, Hawai'i 96766
TEL (808) 241-4900 FAX (808) 241-6877

March 26, 2010

Honorable Donna Mercado Kim
Chair, Senate Ways & Means Committee
Conference Room 211
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Kim and Members:

**COMMENTS FROM MAYOR BERNARD P. CARVALHO, JR.,
ON HB 2598, HD1, SD1 RELATING TO
TRANSIENT ACCOMMODATIONS TAX**

Thank you for allowing me the opportunity to submit my written testimony in support of a revised formula that maintains the Counties' share of the TAT at the lesser of 44.8 percent of the total TAT collected in a fiscal year, or \$94, 355,000 for five years and that provides for the reestablishment of the current share of TAT as provided for in section 237D-6.5, Hawai'i Revised Statutes.

Although this revised formula caps the Counties' share of the TAT for the next five years, it provides the Counties with the ability to effectively forecast their current and future TAT revenues and thereby ensures that required services which support our visitor industry can be maintained during these difficult economic times.

Over the past 20 years, the fate and distribution of the TAT has evolved. At its inception, 95% of the total TAT revenue was distributed to the Counties. Today however, the Counties' combined share represents only 44.8% of the total TAT revenue collection. For Kauai County, this amounts to approximately \$12 million or 12% of Kauai's general fund budget.

On Kaua‘i, every dollar from the TAT is used to support programs and services that are essential to the public health, safety and welfare of our visitors and residents alike as we have illustrated below. More specifically, our TAT funds that are reflected in our current fiscal year budget are appropriated in the following areas:

<u>Program Area</u>	<u>Dollar Amount</u>	<u>of TAT</u>
1. Public Safety (Police, Fire & Civil Defense services)	\$7,200,000	60.0%
2. Park & Beach Recreation (Lifeguards, Park Caretakers, etc.)	\$2,040,000	17.0%
3. Public Works	\$1,760,000	14.6%
4. Economic Development (Tourism Promotion)	\$1,000,000	8.4%

The above information clearly indicates that we are using the TAT in conformance with the original intent for which the TAT was established. The Counties need the TAT to support and fund essential services that directly benefit the visitors and residents of our State.

As Mayor, I have taken a very conservative approach to the County’s financial management and will continue to do so until this economic storm passes. In this current fiscal year because of the anticipated shortfall in real property tax collections, we made a conscious effort to reduce our budget and closely manage our expenses to avoid reducing services and/or furloughing employees.

In this current fiscal year, our County has instituted the following measures: dollar-funding vacant positions, “short-funding” positions, reducing travel budgets by 50%, consolidating cellular telephone plans, reducing our take-home vehicle fleet by 64%, severely limiting equipment purchases, freezing the salaries of the Mayor and appointed department heads, and a host of other initiatives. And I will continue to address the shortfall in revenues in future budgets. We conservatively estimate that these measures have saved the County \$3.8 million in the current fiscal year.

In our proposed 2010-2011 fiscal year budget which was recently submitted to the Kaua‘i County Council, we anticipated a \$17 million to \$29 million shortfall in revenues from last year.

How significant the revenue shortfall will be is not yet known, but we do know the following:

- Real property valuations are expected to drop roughly 10-15% versus last year
- Previously negotiated raises for the police and fire unions will add approximately \$1.2 million in expenses
- A bond float that we will be making in early 2010 will add approximately \$2 million in debt service

We are proactively planning for the shortfall by:

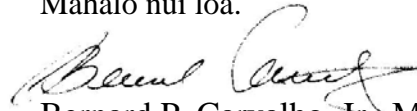
- Developing plans for a two-day per month furlough
- Restructuring our debt to facilitate a significant one-year savings
- Examining each and every program for potential savings

- Proposing the adjustment of fees upward (e.g. wastewater and vehicle registration) and implementing new user fees such as a residential solid waste collection fee
- Adjusting real property tax rates to potentially buffer the impact of reduced valuation

In closing I would like to express my continued commitment to work in partnership with the Legislature to find ways of providing the services needed in our communities so our residents and visitors alike can maintain the quality of life that they expect and deserve during this tight economy.

Thank you for allowing me the opportunity to submit my written comments on this very important issue.

Mahalo nui loa.



Bernard P. Carvalho, Jr., Mayor
County of Kaua`i

Jl/ca

Council Chair
Danny A. Mateo

Vice-Chair
Michael J. Molina

Council Members
Gladys C. Baisa
Jo Anne Johnson
Sol P. Kaho'ohalahala
Bill Kauakea Medeiros
Wayne K. Nishiki
Joseph Pontanilla
Michael P. Victorino



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

March 25, 2010

TO: Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means

FROM: Bill Kauakea Medeiros
Council Member

DATE: Monday March 29, 2010 @ 9:30am at Conference Room 211

SUBJECT: **SUPPORT OF COMMENTS ON HB 2598 H.D. 1, S.D. 1, RELATING TO
TRANSIENT ACCOMODATIONS TAX**

I support the commentary submitted by the Maui County Council Chair Danny A. Mateo on March 25, 2010 regarding HB 2598, HD1, SD1 and urge you to support this measure. Thank you.

Council Chair
Danny A. Mateo

Vice-Chair
Michael J. Molina

Council Members
Gladys C. Baisa
Jo Anne Johnson
Sol P. Kaho'ohalahala
Bill Kauakea Medeiros
Wayne K. Nishiki
Joseph Pontanilla
Michael P. Victorino




Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

March 25, 2010

TO: The Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means

FROM: Danny A. Mateo
Council Chair 

SUBJECT: **HEARING OF MARCH 29, 2010; COMMENTS ON HB 2598, HD1, SD1,
RELATING TO TRANSIENT ACCOMODATIONS TAX**

Thank you for the opportunity to provide supportive comments on this important measure. The purpose of this measure is to require the transient accommodations tax (TAT) to be assessed and collected at a minimum rate of \$8 per day and to place a limit, for the period from July 1, 2010, through June 30, 2015, on the amount of TAT revenues distributed to the counties.

On March 19, 2010 the Maui County Council adopted Resolution No. 10-19 entitled, "SUPPORTING LEGISLATION TO MAINTAIN DISTRIBUTION OF TRANSIENT ACCOMMODATIONS TAX REVENUE TO THE COUNTIES"; therefore, I offer this testimony on behalf of the Maui County Council.

The County Council supports HB 2598, HD1, SD1 for the following reasons:

1. This measure maintains the revenue distribution to the counties at Fiscal Year 2009 levels in recognition that the counties rely on TAT revenue to fund infrastructure improvements and core services.
2. This measure is instrumental in facilitating the State and counties' economic recovery and acknowledges the importance of long-term intergovernmental cooperation and vision.
3. The continued 44.8 per cent distribution (or \$94,355,00, whichever is less) of TAT revenues to the counties will allow the counties to more fully and expeditiously assist in our shared interest of a timely and effective economic recovery.
4. This measure recognizes the rational nexus between the visitors' impact on county infrastructure and distribution of county-earned TAT revenue.

For your reference, I am attaching Resolution No. 10-19

For the foregoing reasons, the Maui County Council supports this measure.

Resolution

No. 10-19

SUPPORTING LEGISLATION TO MAINTAIN DISTRIBUTION OF TRANSIENT ACCOMMODATIONS TAX REVENUE TO THE COUNTIES

WHEREAS, Chapter 237D, Hawaii Revised Statutes, currently requires that a portion of the revenues earned from the Transient Accommodations Tax ("TAT"), also known as the hotel-room tax, be returned to the counties where the money is earned; and

WHEREAS, the taxpayers of Maui County and the other counties invest heavily in infrastructure and services that are utilized by the visitors who pay the TAT; and

WHEREAS, there is a clear nexus between the visitors' impact on county infrastructure and returning a fair share of the county-earned TAT revenue to the respective county governments; and

WHEREAS, this established partnership among the State, the counties, and the visitor industry should be maintained to avoid shifting the tax burden from visitors to our own local residents; and

WHEREAS, the counties' revenue-generating authority is already minimal, largely limited to real property taxes; and

WHEREAS, returning a portion of TAT revenue to the counties also recognizes the constitutional requirement that the State share in the expense of mandated programs; and

WHEREAS, House Bill No. 2598 (2010), House Draft 1, ("HB 2598, HD 1") and House Bill No. 1744 (2009), House Draft 1, Senate Draft 1 ("HB 1744, HD 1, SD 1"), each entitled "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX", are currently pending before the Hawaii State Legislature; and

WHEREAS, HB 1744, HD 1, SD 1, would unfairly and unwisely deny TAT revenue to the counties at a time when economic emergencies demand long-term intergovernmental cooperation; and

Resolution No. 10-19

WHEREAS, in recognition that the counties rely upon TAT revenue to fund infrastructure improvements, HB 2598, HD 1, maintains revenue distribution to the counties near recent levels; and

WHEREAS, HB 2598, HD 1, represents an effective compromise to preserve the State/county/visitor-industry partnership; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it **SUPPORTS** HB 2598, HD 1, and any other legislation that similarly maintains annual TAT-revenue distribution to the counties near recent levels;
2. That it **OPPOSES** HB 1744, HD 1, SD 1, and any other legislation that similarly ceases or significantly reduces TAT-revenue distribution to the counties; and
3. That certified copies of this resolution be transmitted to the Honorable Charmaine Tavares, Mayor, County of Maui; the Honorable Linda Lingle, Governor, State of Hawaii; the Honorable Calvin Say, Speaker of the House, and the Members of the House of Representatives, State of Hawaii; the Honorable Colleen Hanabusa, President, and the Members of the Senate, State of Hawaii; the Honorable Todd K. Apo, Chair, Honolulu City Council; the Honorable Bill "Kaipo" Asing, Chair, Kauai County Council; and the Honorable J. Yoshimoto, Chair, Hawaii County Council.

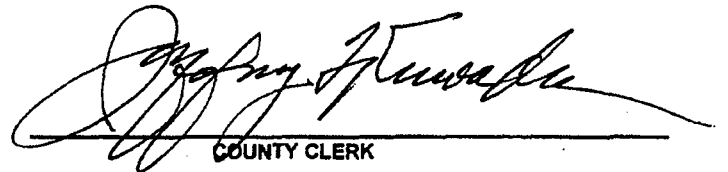
COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 10-19 was adopted by the Council of the County of Maui, State of Hawaii, on the 19th day of March, 2010, by the following vote:

MEMBERS	Dennie A. MATEO Chair	Michael J. MOLINA Vice-Chair	Gledys C. BAISA	Jo Anne JOHNSON	Solomon P. KAHO'OHALAHALA	William J. MEDEIROS	Wayne K. NISHIKI	Joseph PONTANILLA	Michael P. VICTORINO
ROLL CALL	Excused	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye


COUNTY CLERK



888 Mililani Street, Suite 601
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000
Facsimile: 808.528.4059

www.hgea.org

The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
March 15, 2010

H.B. 2598, H.D. 1, S.D. 1 –
RELATING TO TRANSIENT
ACCOMMODATIONS TAX

The Hawaii Government Employees Association supports the purpose and intent of H.B. 2598, H.D. 1, S.D. 1. However, we strongly opposed the original version of the bill. Before the amendments made by the House Committee on Finance, H.B. 2598 proposed to suspend the distribution of transient accommodations tax (TAT) revenues to the counties for a three year period (7/1/10 - 6/30/13).

H.B. 2598, H.D. 1, S.D. 1 places a limit on the counties' share of the TAT. It establishes the counties share of the TAT at 44.8% of the total tax revenues collected in a fiscal year, or \$94,355,000, whichever is less. Any income above these thresholds would be diverted to the state's general fund until June 30, 2015. H.B. 2598, H.D. 1, S.D. 1 allows the counties to retain much needed revenues while diverting future increases to the state.

The TAT is a very important source of tax revenue for all four counties. Although the counties are not currently facing as dire a fiscal situation as the state, Hawaii County and the City and County of Honolulu will need to close projected budget deficits in FY 2010 and FY 2011. The counties are encountering problems due to the decline of property valuations, resulting in lower property tax revenues. At the same time, other operating expenses are expected to rise. The complete loss of TAT revenues for any period would have a devastating impact on county government, resulting in major program cuts, layoffs of county employees and higher property taxes and fees.

It is counterproductive to shift national and state economic problems to the counties and its residents. Considering the magnitude of the state budget deficit, a balanced approach that includes raising revenues through taxes and the elimination of tax credits is necessary. Thank you for the opportunity to testify in support of H.B. 2598, H.D. 1, S.D. 1.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director



TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Distribution to counties

BILL NUMBER: HB 2598, SD-1

INTRODUCED BY: Senate Committees on Tourism and Transportation, International and Intergovernmental Affairs

BRIEF SUMMARY: Amends HRS section 237D-2 to provide that beginning on July 1, 2010, the transient accommodations tax (TAT) shall be imposed at the greater of the transient accommodations TAT tax rate or a minimum tax of \$8 per day.

Amends HRS section 237D-6.5 to provide that until June 20, 2015 the counties share of the transient accommodations tax (TAT) revenues shall be \$94,355,000; provided that if based on the actual transient accommodations tax revenues derived during the fiscal year, the counties' share for the entire fiscal year is less than \$94,355,000, the state director of finance shall pay the counties an appropriately adjusted amount.

This act shall be repealed on June 30, 2015; provided that section HRS section 237D-6.5, shall be reenacted on July 1, 2015 in the form in which it existed on the day prior to the effective date of Act 61, SLH 2009.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: The legislature by Act 61, SLH 2009, increased the TAT from 7.25% to 8.25% between 7/1/09 and 6/30/10 and to 9.25% between 7/1/10 to 6/30/15 with the proceeds attributable to the increase in the tax rate over 7.25% deposited into the general fund. While this measure would establish a minimum transient accommodations tax of \$8 per day and provide that under the TAT rate of 8.25%, transient accommodations of \$96 per day and below would be subject to the proposed minimum tax or at the 9.25% TAT rate transient accommodations of \$86 per day and below would be subject to the minimum tax, the adoption of this measure would result in a TAT rate higher than 8.25% or 9.25% on the affected transient accommodations.

The proposed measure would also temporarily limit the counties' share of the TAT revenues to the amount they received in fiscal 2009. Inasmuch as this measure assures the counties will continue to receive a share of the TAT, it holds better prospects than the original bill that would have suspended TAT distribution to the counties. However, it is also a gamble for both the state and the counties as the prospect of TAT collections increasing in the near future is unlikely. Thus, it would be wise for policymakers at both levels to exercise extreme care in banking on those revenues. While the proposed measure would postpone any drastic revenue reduction for the counties, it should be remembered that in a down economy, taxpayers are examining their spending priorities and paring back their spending - a

concept that state and local government has to adopt to regain control of their finances. At a time when taxpayers are doing more with less, government should do the same.

What this proposal underscores is the fact that both state and county governments have grown well beyond their means. The counties have justified their share of the TAT by rationalizing that the funds go to pay for the impact visitors have on county facilities and services; however, at the same time all four counties have managed to impose much higher tax rates on hotel/resort real property and in one case a special rate on resort time share property. The counties must be held accountable for their fiscal antics which have led homeowner real property taxpayers into believing they can have more county services with little or no increase in their tax burden.

The imposition of the minimum \$8 per day TAT on hotel rentals that are less than the \$96 per day that would have generated \$8 or more per room is patently unfair to those hotels catering to the bargain basement visitors, many of which are local residents paying a discounted "kama'aina" rate. Perhaps the intent of the prior committee, as evidenced by other measures introduced this session, is to capture complimentary rooms for which no revenue is received. However, it should be noted that an exemption for accommodations furnished without charge is provided for in HRS 237D-3(7) and has existed since 1988.

Generally, the TAT applies to rentals where the renter occupies the accommodation for less than 180 days. In recent years, the department has interpreted that hotel rooms which may be contracted by an airline to house its crews on layover are subject to the TAT even though the lessee is the airline and it holds the lease for such rooms for more than 180 days. In some instances this has led some contractors, like airlines or even corporations who have personnel on a temporary assignment, to enter into long-term leases of condominiums to avoid the payment of the TAT. This comes at the expense of the full-service hotels that would otherwise have secured the rental of those rooms as a dependable source of room revenue. This issue also needs to be addressed.

With respect to the sharing of the TAT with the counties, state officials should not be allowed to merely solve their fiscal dilemma by "stealing" what they have allowed the counties to believe belongs to them. Both levels of government need to resize their operations and set priorities for what limited resources taxpayers can share with government.

Digested 3/25/10

**Testimony of Christopher Tatum
Area Vice President and General Manager
Waikiki Beach Marriott Resort**

March 29, 2010

**SENATE COMMITTEE ON
WAYS AND MEANS**

Re: House Bill 2598, HD1, SD1 Relating to Transient Accommodations Tax

Chair Kim and members of the Committee on Ways and Means, I am Christopher Tatum, Area Vice President and General Manager of the Waikiki Beach Marriott Resort & Spa.

House Bill 2598, HD1, SD1 seeks to collect TAT of a minimum of \$8 per night for all occupied hotel rooms in Hawaii. This would increase the amount of tax due on any room occupied for less than \$96.

Based on information we have received, we believe that there is a mistaken belief that up to 25% of the occupied rooms at Hawaii hotels are being provided free of charge to hotel guests.

Marriott opposes HB 2598, HD1, SD1 for the following reasons:

- Currently, complimentary or free rooms offered by Marriott-branded hotels in Hawaii represent approximately 1% of total rooms occupied. A minimum tax of \$8 on these rooms simply will not generate the level of revenue which this legislature is seeking.
- Complimentary rooms are used to attract groups and individuals to Hawaii. When a guest is given a free room, it means just that – free – and the guest does not anticipate having to pay a tax for that room. Most hotels will choose to absorb the tax rather than to pass it on to the guest. In this case, a minimum tax would be an additional tax on the hotel operator and would increase the hotel's cost of providing the rooms.
- It is also possible that this legislation is an attempt to impose a tax on rooms provided through a guest's redemption of loyalty program points. It is important to note that for Marriott hotels, the loyalty rooms represent less than 15% of occupied rooms. It is unclear that the minimum tax would ever be triggered by these redemption transactions, but if it were, the tax would be borne by the loyalty program. Imposing a flat minimum tax only increases the overall costs of the program because such a tax would not be collected from the hotel guest. The additional costs could ultimately discourage further investment in Hawaii resort properties.
- Our current hotel accounting systems are not designed to impose and track a minimum tax. Hotels will incur programming costs in order to implement the change. Given the current economy, increasing a hotel's cost just to comply with changes in law when there is little economic benefit to the state does not make sense.

We urge you to oppose this measure. Thank you for the opportunity to present this testimony.



Maui Hotel & Lodging
ASSOCIATION

Testimony of
Carol Reimann
Executive Director
Maui Hotel & Lodging Association
on
HB2598 HD1 SD1
Relating to the Transient Accommodation Tax

COMMITTEE ON WAYS AND MEANS

Monday, 03-29-10 9:30AM

Conference room 211

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes approximately 120 property and allied business members – all of whom have an interest in the visitor industry. Collectively, the MHLA membership employs over 10,000 Maui County residents.

MHLA supports the section of HB2598 HD1 SD1 that limits the amount of transient accommodations tax (TAT) revenues distributed to the counties. MHLA opposes the language that was recently incorporated to charge a minimum \$8 TAT on all rooms.

This bill will allow the counties the ability to retain their fair share of the TAT which they astutely utilize to provide valuable services that offset many of the impacts and infrastructure requirements generated by visitors such as police and fire protection, parks, beaches, water, roads, sewage systems, and other tourism-related infrastructure. The visitor industry will continue to have significant impacts on our counties; and therefore these funds are integral to our county's operations. The retention of the distribution of the TAT to the counties will allow these services to continue and ultimately have a positive effect on the economic engine of our counties.

We oppose the \$8 per day minimum TAT collection. This element of the bill will adversely affect lower priced rooms – in specific, penalizing kama'aina travelers who benefit from lower room rates. In addition, during this economic downturn, many of our properties have been prudently trying to stimulate business by offering complimentary room nights and/or severely discounted rates. This measure would be especially inappropriate - as these types of offerings are being wisely used as a valuable tool to garner business for a struggling visitor industry.

MHLA urges you to support the section of HB2598 HD1 SD1 that preserves the TAT for the counties; and strongly urge you to oppose the section that calls for an \$8 minimum TAT.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: windsurf@maui.net
Subject: Testimony for HB2598 on 3/29/2010 9:30:00 AM
Date: Friday, March 26, 2010 3:55:16 PM

Testimony for WAM 3/29/2010 9:30:00 AM HB2598

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Catherine Clark
Organization: Maui Vacation Properties
Address:
Phone: 808-575-9228
E-mail: windsurf@maui.net
Submitted on: 3/26/2010

Comments:

1. I support the TAT tax being passed to the counties.
2. I oppose the \$8/day minimum TAT tax. How is this to be calculated? Do you have any idea the programming that would be involved on the individual reservation systems? I don't know of any system that has been planned with a minimum feature. Who would it apply to? An owner using his unit (rate 0.00)? The owner's friend using his unit (rate might be just a cleaning fee)? Or just any low priced room. And why in the world would we try to increase the price of a low-price room. Please remember that the largest group booking low price rooms are the locals traveling off-island. When will the State realize that the local population is already over taxed?

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: TCroly@maui.net
Subject: Testimony for HB2598 on 3/29/2010 9:30:00 AM
Date: Friday, March 26, 2010 11:54:48 AM

Testimony for WAM 3/29/2010 9:30:00 AM HB2598

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Thomas Croly
Organization: Maui Vacation Rental association
Address: 3259 Akala Drive Kihei, HI
Phone: 808-879-7044
E-mail: TCroly@maui.net
Submitted on: 3/26/2010

Comments:

The Maui Vacation Rental association opposes the current version of this measure. Specifically, we oppose the amendment that calls for a minimum of \$8/day Transient Accommodations Tax. This amendment would be onerous to comply with and would unfairly raise the TAT for properties offering lower prices lodging options.

Many of our members offer lodging rooms at rates of less than \$110/night. As written, this bill would require a TAT charge of \$8 plus 2% be assessed for all rooms that sold for \$110 or less and 9.25% for all rooms sold for more than \$110/night. This difficult and confusing calculation of the TAT would make monthly computation of required TAT payments to the State very difficult to compute without auditing each and every invoice.

Even though the intent of the amendment might be to increase TAT revenues, the end result may actually be a decrease in TAT revenue because the complexity offered by this measure may actually reduce overall compliance.

Our organization does support the portion of this measure that would continue to share a portion of the TAT revenues with the counties.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: gm@napilikai.com
Subject: Testimony for HB2598 on 3/29/2010 9:30:00 AM
Date: Friday, March 26, 2010 2:06:49 PM

Testimony for WAM 3/29/2010 9:30:00 AM HB2598

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Gregg Nelson
Organization: Napili Kai Beach Resort
Address: 5900 Honoapiilani Rd. Napili, Maui, Hi.
Phone: 808-669-9500
E-mail: gm@napilikai.com
Submitted on: 3/26/2010

Comments:

Dear Ways and Means Committee,

I am writing to you regarding HB2598 HD1 SD1. Please forgive me for not being there to testify in person on this important bill but I am working on Maui and am unable to get away at this time. I support the portion of this bill which limits the County's portion of the TAT, but very much oppose the section addressing an \$8 minimum TAT on all rooms. As I understand it, this \$8 minimum TAT would also apply to complimentary rooms as well. If this is the case, I am adamantly opposed to it. What the Committee members need to understand is that complimentary rooms are given away by myself and other hotel operators as a means of promoting more business. Recipients of these complimentary rooms include travel writers with potential story opportunities on a resort, an island or the entire State; group meeting planners or travel agents visiting a property for future business potential; or guests on special packages that include a 5th or 6th night free on a rack rate booking. All of these examples certainly benefit a resort, but they are also very beneficial to our community and State and they do not come without costs already. I don't know if there is much mention of it by anyone else or if anyone has taken this into consideration, but complimentary room nights already cost money. At my resort the cost associated with an occupied room is approximately \$75 per night. That is to say, whether a room has a rate associated with it or it is complimentary, my cost is approximately \$75/night. This is a fixed cost and is based upon the expense related to cleaning the room, laundering and replacing all of the linen and terry items, restocking bathroom amenities and a host of other miscellaneous expenses. I already absorb \$75 per complimentary room night, that I can not pass on to the customer, please don't force me to add another \$8 to that amount. On a complimentary room I would have to absorb that additional \$8/room night and I can't afford it, especially at this time when my company is losing money at the bottom line. I would be happy to discuss this with any committee members that want to speak with me further or ask questions on this subject. Thank you for your consideration.

Gregg Nelson
General Manager
Napili Kai Beach Resort

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: TCroly@maui.net
Subject: Testimony for HB2598 on 3/29/2010 9:30:00 AM
Date: Friday, March 26, 2010 11:43:38 AM

Testimony for WAM 3/29/2010 9:30:00 AM HB2598

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Thomas Croly
Organization: Individual
Address: 3259 Akala Drive Kihei, HI
Phone: 808-879-7044
E-mail: TCroly@maui.net
Submitted on: 3/26/2010

Comments:

I wish to express my opposition to the current version of this measure. The most recent amendment that calls for a minimum of \$8/day Transient Accommodations Tax would be onerous to comply with and would unfairly raise the TAT for properties offering lower prices lodging options.

For example, at my small Bed and Breakfast I offer rooms priced from \$80 to \$169. As written, this bill would require that a TAT charge of \$8 plus 2% be assessed for all rooms that I sell for \$110 or less and 9.25% for all rooms I sell for more than \$110/night. This would make monthly accounting for my required TAT payment very difficult to compute without auditing each and every invoice.

It also would increase the effective TAT rate on my least expensive room (\$80/night) to 12%. Added to this would be the 4% GET making a total tax 16%.

Creating a TAT calculation that is as complicated and complex as this one will lead to lower compliance and ultimately could lead to lower TAT revenues, even though the intent of the amendment might be to increase TAT revenues.

I do support the portion of this measure that would continue to share a portion of the TAT revenues with the counties.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: eshunter@hawaii.rr.com
Subject: Testimony for HB2598 on 3/29/2010 9:30:00 AM
Date: Friday, March 26, 2010 6:52:06 PM

Testimony for WAM 3/29/2010 9:30:00 AM HB2598

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Stewart Hunter
Organization: Individual
Address:
Phone:
E-mail: eshunter@hawaii.rr.com
Submitted on: 3/26/2010

Comments:

Hilo has a some hostels and B&B rooms that rent for about \$25 - \$80 per night. Adding \$8 per night regardless of price will drive the frugal travel business away. Stick to a percentage method!

kim5 - Deborah

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 27, 2010 6:23 PM
To: WAM Testimony
Cc: cayonon@kauai.gov
Subject: Testimony for HB2598 on 3/29/2010 9:30:00 AM
Attachments: HB 2598 HD1 SD1 TAT (Mayor)revisedfinal.doc

Follow Up Flag: Follow up
Flag Status: Completed

Testimony for WAM 3/29/2010 9:30:00 AM HB2598

Conference room: 211
Testifier position: comments only
Testifier will be present: No
Submitted by: Cyndi Ayonon
Organization: County of Kauai
Address: 4444 Rice Street Lihue, HI
Phone: 808 241-4922
E-mail: cayonon@kauai.gov
Submitted on: 3/27/2010

Comments:

Please REPLACE AND DISREGARD Kauai Mayor's comments that were previously submitted on 3/25/2010 with this submittal. If you have questions please contact me at 241-4922.
THANK YOU.

kim5 - Deborah

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 28, 2010 1:18 PM
To: WAM Testimony
Cc: gladys.baisa@mauicounty.us
Subject: Testimony for HB2598 on 3/29/2010 9:30:00 AM
Attachments: HB2598.HD1.SD1.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Testimony for WAM 3/29/2010 9:30:00 AM HB2598

Conference room: 211
Testifier position: support
Testifier will be present: No
Submitted by: Gladys C. Baisa
Organization: Individual
Address: 200 S. High Street Wailuku, Hawaii
Phone: 808-270-7939
E-mail: gladys.baisa@mauicounty.us
Submitted on: 3/28/2010

Comments: