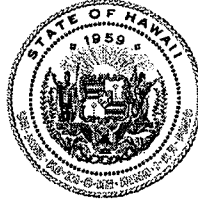
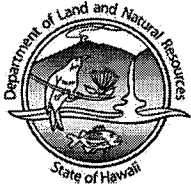


**SB 1186**

**SD 1**

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**WILLIAM J. AILA, JR.**  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committee on  
WAYS AND MEANS**

**Tuesday, March 1, 2011  
9:20 AM  
State Capitol, Conference Room 211**

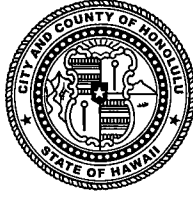
**In consideration of  
SENATE BILL 1186, SENATE DRAFT 1  
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

Senate Bill 1186, Senate Draft 1, relating to the Transient Accommodations Tax (TAT) and Tourism Special Fund applies a daily \$10 transient accommodations tax to each transient accommodation furnished on a complimentary or gratuitous basis, or otherwise at no charge; and imposes a ceiling on the amount of transient accommodation tax funds transferred to the tourism special fund and to the counties for any period ending prior to July 1, 2015. Section 2, in part, dedicates \$20,000,000 in TAT revenues to be used for environmental protection, improvements to public facilities impacted by visitors, and advancing Hawaiian culture and the arts.

The Department of Land and Natural Resources (Department) supports this bill, as long as its implementation does not adversely impact the priorities in the Executive Biennium Budget. The Department receives a portion of these funds to improve comfort stations, parking areas, walkways, water systems, signage and lighting, and to maintain trails and basic facilities at least at minimum level for use by the general public. The Executive Budget appropriates funds from the TAT for the Department's State Parks, which is consistent with the intent of this bill to help improve public facilities impacted by visitors.

OFFICE OF THE MAYOR  
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 \* HONOLULU, HAWAII 96813  
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PETER B. CARLISLE  
MAYOR

March 1, 2011

The Honorable David Ige, Chair  
and Members  
Senate Ways and Means Committee  
State Senate  
Twenty-Sixth State Legislature  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Ige and Committee Members,

**RE: S.B. 1186, S.D. 1; RELATING TO THE TRANSIENT ACCOMODATIONS  
TAX.**

The City and County of Honolulu submits the following testimony in opposition to S.B. 1186, S.D. 1 which proposes to cap the counties' portion of the Transient Accommodations Tax (TAT) at \$90 million dollars per fiscal year. Since the TAT is an integral and essential part of the counties' base budgets, this cap will have a negative effect on county budgets. We estimate that such a cap will cost the City and County at least \$20 million over the four years of the cap and without any consideration of the costs incurred by the City and County in providing services for the visitor industry.

The TAT was created as a more equitable method of sharing state revenues with the counties in recognition of the greater impact of the visitor industry on county services such as police, fire protection, parks, beaches, water, roads, sewage systems and other tourism-related infrastructure. The legislature also noted that the distribution of the TAT to the counties was meant to provide a stable and continuing source of revenue for the counties. Any cap on the TAT disregards the wide array of county services provided to tourists and the visitor industry.

For example, the Honolulu Fire Department (HFD) is responsible for ensuring our visitor accommodations and visitor entertainment centers are properly fire protected. And, it also is an integral part of our City's first responder team that responds to rescues and medical emergencies, as well as fire alarms. In 2010, HFD estimates some of the following costs to serve tourists and the tourism industry:

Annual inspection of hotels and businesses	\$150,000
Annual inspection of fire protection systems	\$15,000

Review of fire protection plans for new construction in Waikiki	\$8,000
Night inspection of hotel nightclubs	\$11,000
Evacuation, extinguisher and other training of hotel staff	\$3,000
Response to approximately 4,293 alarms in Waikiki	\$1,502,250
Response to 65 alarms at Diamond Head trail	
Tourist-related incidents in areas outside of Waikiki	\$80,000
Training costs	\$150,000

In addition to HFD services, the City and County expends approximately \$12 million a year to provide police services in police District 6 which covers Waikiki; this figure does not include indirect costs of the city in prosecuting and managing cases from Waikiki, nor salaries and benefits paid to police officers to patrol and prevent crimes, police vehicles, traffic enforcement, administrative and support services and facilities maintenance.

City lifeguards also provide services for every tourist who ventures onto Oahu's beaches. Without lifeguard services, tourists unfamiliar with local ocean conditions would be at risk at Oahu beaches. If just \$1 million were taken from the Ocean Safety Division's budget, the resultant loss would mean the potential loss of more than 30 positions and the loss of lifeguard services.

Besides the safety services provided by police, fire, lifeguards and ambulance, the City and County also provides major recreational opportunities for visitors and the tourist industry. Two major parks, Ala Moana and Kapiolani, bookend Waikiki and provide the largest green space and recreational area in Waikiki. Between 6,000 to 10,000 people per day visit these parks and the Department of Parks and Recreation (DPR) estimates that at least 75% of these park users are visitors. Given the high usage and the long hours these parks are open, DPR have multi-shift, seven day a week operations. Restrooms in these parks are cleaned as many as six times a day compared with the once a day cleanings for most other parks. Other favorite tourist destinations in city parks include Sunset Beach, Banzai Pipeline, Rock Piles, Waimea Bay, Laniakea, Chun's Reef, Puena Point, Haleiwa and Velzyland. The estimated cost of recreational and maintenance operations in Kapiolani Park and Kuhio Beach area is approximately \$3 million annual and the cost of maintain beach parks along the Windward and North Shore areas is approximately \$3.7 million annually.

The City and County also provides other recreational and entertainment venues for visitors such as the Honolulu Zoo, the Waikiki Shell, the Neal Blaisdell Center, six municipal golf courses and the Royal Hawaiian Band performances. Entrance and users fees to these venues do not cover the cost of operations; city funds subsidize the cost of running and maintaining these venues.

Tourists and the tourism industry also impact the City's infrastructure. They rent cars and tour the island on buses that use city roadways. While it is impossible to specifically determine the tourist-related cost of maintaining county roads, the city is constantly spending money for basic and emergency road repairs. Currently, the city has begun a \$6.6 million project to repave Waikiki roads and upgrade Waikiki sidewalks.

In addition, the storm water system is financed by the City and County, which has given priority to protecting recreational waters in areas such as Waikiki and Hanauma Bay. These

programs protect near shore water quality and the debt service to pay for these improvements will come from the City's general fund.

Given the number and variety of services the City and County provides to tourists and the tourist industry, any efforts to cap the counties' share of the TAT will be deleterious to the City's efforts to maintain a visitor-friendly environment. We sincerely hope that you will hold this bill in committee.

Thank you for this opportunity to present comments.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** TRANSIENT ACCOMMODATION, Tax on complimentary basis; disposition of revenue

**BILL NUMBER:** SB 1186, SD-1

**INTRODUCED BY:** Senate Committee on Tourism

**BRIEF SUMMARY:** Amends HRS section 237D-2 to provide that the transient accommodations tax (TAT) of \$10 shall be imposed on every transient accommodation that is furnished on a complimentary or gratuitous bases, or otherwise at no charge, including transient accommodations furnished as part of a package.

Amends HRS section 237D-6.5(b) to provide that of the excess revenues deposited into the general fund, \$20 million per fiscal year shall be used for environmental protection, improvements to public facilities impacted by visitors, and advancing Hawaii culture and the arts.

Of the 34.2% of TAT revenues deposited into the tourism special fund for tourism promotion and visitor industry research, beginning on July 1, 2011 and ending prior to July 1, 2015, no more than \$69 million per fiscal year shall be deposited into the tourism special fund.

Of the 44.8% of TAT transferred to the counties, the amount of revenue transferred to the counties at is capped at \$90 million between July 1, 2011 and June 30, 2015.

The amendments made by this act to HRS section 237D-6.5(b) shall be repealed on June 30, 2015 and HRS section 237D-6.5 shall be reenacted in the form in which it read on June 30, 2009.

**EFFECTIVE DATE:** July 1, 2011

**STAFF COMMENTS:** The legislature by Act 61, SLH 2009, increased the transient accommodations tax (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 impose a TAT of \$10 on every transient accommodation that is furnished on a complimentary or gratuitous bases, or otherwise at no charge, including transient accommodations furnished as part of a package, it appears that lawmakers believe that where accommodations are complimentary or accommodations are traded in a vacation club where no funds exchange hands, hotels should pay the TAT regardless of the fact that there is no revenue received. In many cases complimentary rooms are provided for familiarization tours of "fams" extended to travel agents, travel writers, VIP's, and meeting planners so that the hotel can sell its property to those who will be selling travel to their clients or who will be writing about a vacation in Hawaii. For these properties, such accommodations and amenities are charged against the hotel's marketing budget as it represents a cost of publicizing the property. Thus, no income is received from a source outside the hotel and, therefore, there is no gross income against which the TAT can properly be charged. Thus, this proposal makes little sense for those types of occupancies.

Other accommodations provided for no charge are those donated to charities for silent auctions or for use by nonprofit organizations in hosting clients of that organization. These have included those who are reunited siblings of children in fosters care, those in need of critical medical treatment because it cannot be secured at a Neighbor Island facility or as part of a package of other hotel services such as a honeymoon suite in exchange for holding the reception in the hotel. In these cases, the accommodation is gratuitous for which no gross income is realized and, therefore, not subject to the TAT. To now impose the TAT on these accommodations jeopardizes the good will of the hotel with its guests.

In the case of exchanges within a hotel's vacation club, many properties already pay the tax on those amounts where there may be a differential between what was paid as TAT on the maintenance charges and the rate that would otherwise have been charge to a non-member renting the same accommodation. Before lawmakers take action on what is unfounded perceptions, more research is needed to truly understand how the hospitality industry operates. This measure reflects a non understanding of industry practice.

This measure also amends the disposition of TAT revenues by: (1) providing that of the excess revenues deposited into the general fund, \$20 million per fiscal year shall be used for environmental protection, improvements to public facilities impacted by visitors, and advancing Hawaii culture and the arts; (2) providing that of the 34.2% of TAT revenues deposited into the tourism special fund for tourism promotion and visitor industry research, beginning on July 1, 2011 and ending prior to July 1, 2015, no more than \$69 million per fiscal year shall be deposited into the tourism special fund; (3) providing that of the 44.8% of TAT transferred to the counties, caps the amount of revenue transferred to the counties at \$90 million between July 1, 2011 and June 30, 2015.

This measure would revert to the same problem faced by those who attempted to promote the visitor industry with public funds, the micro managing by the legislature of how the money was to be spent. In this case, it appears that lawmakers know just how expend the TAT revenues. The whole point of setting a lump sum of money aside from the TAT in 1998 was that the promotion of the visitor industry should be left to professionals in the field. By earmarking TAT monies for environmental protection improvements to public facilities or tourism promotion and research, lawmakers are acknowledging that they are "professionals" in the visitor promotion business. It should be noted that when the TAT was increased in 2009, the excess funds were to be used to bolster the general fund. Now the legislature wants to spend this additional money for other purposes. No wonder the state's finances are in the condition they are - rather than being "akamai" and exercising restraint, the legislature wants to spend the excess revenue for what they consider important programs, rather than on core programs and services.

Rather than perpetuating the diversion of TAT revenues, lawmakers should replace the siphons from the tourism special fund with appropriations if they deem such programs of importance. This would make lawmakers more accountable for their actions. What should be noted here is exactly what was predicted when the legislature began setting up special funds with carve-outs from existing revenue streams. Because these funds are earmarked for specific purposes, they become targets to tack on seemingly related program expenditures either because they are of lesser priority and, therefore, could not garner support for funding out of the general fund or would meet with lesser resistance as the funds are already earmarked and out of the reach of lawmakers to be utilized for other unrelated activities.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 26, 2011 2:29 AM  
**To:** WAM Testimony  
**Cc:** swartzg001@hawaii.rr.com  
**Subject:** Testimony for SB1186 on 3/1/2011 9:20:00 AM

Testimony for WAM 3/1/2011 9:20:00 AM SB1186

Conference room: 211  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: gregory swartz  
Organization: Individual  
Address:  
Phone:  
E-mail: [swartzg001@hawaii.rr.com](mailto:swartzg001@hawaii.rr.com)  
Submitted on: 2/26/2011

**Comments:**

This is a lousy bill. There should be no exceptions from the TAT or special dedications relating to the use of TAT funds for environmental protection or other purposes.