
A BILL FOR AN ACT

RELATING TO PUBLIC FUNDS.

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

1 **PART I**

2 SECTION 1. The legislature finds that due to recent
3 worldwide economic events, the State, like the rest of the
4 nation and the world, is experiencing a severe economic crisis.
5 Although in the past, the State of Hawaii has displayed steady
6 long-term fiscal planning, prudent past decision-making
7 practices, relatively stable real property values, and
8 relatively low unemployment rates, it has still been unable to
9 avoid the negative effects of the struggling economy, and it
10 needs to find innovative ways to balance its budget for the
11 current fiscal biennium and beyond. Sizeable budget shortfalls
12 for the current and upcoming fiscal years require immediate and
13 decisive action.

14 To meet the current and future financial needs of the
15 State, the legislature believes that having the city and county
16 of Honolulu return a portion of the moneys transferred to it
17 pursuant to revenues derived from the imposition of a county
18 surcharge on state general excise and use taxes is a reasonable



1 means of achieving a balanced budget for state operations
2 without adversely impacting the city and county of Honolulu's
3 fiscal status or resorting to a drastic reduction in state
4 services or personnel.

5 The legislature further finds that the revenues already
6 derived from the county surcharge on state general excise and
7 use taxes and transferred to the city and county of Honolulu are
8 largely unencumbered and will not be needed in the immediately
9 foreseeable future. These moneys would be better utilized if
10 applied to the immediate financial needs of the State, of which
11 the city and county of Honolulu is a part.

12 To this end, the legislature finds that borrowing not more
13 than \$200,000,000 from the balance of the amount derived from
14 the county surcharge on state general excise and use taxes
15 already transferred to the city and county of Honolulu and
16 repaying the amount borrowed with revenues derived from the
17 issuance of state general obligation bonds is prudent and will
18 assist the State in maintaining current services and personnel
19 until such time as the state economy recovers. At the same
20 time, by ensuring that the loan is repaid in a timely manner
21 through revenues derived from state general obligation bonds,
22 any detrimental financial effect to the city and county of



1 Honolulu will be avoided. In addition, to help ameliorate any
2 detrimental financial impact to the city and county of Honolulu,
3 this Act extends the lifespan of the surcharge on state general
4 excise and use taxes for two additional years.

5 The purpose of this Act is to:

- 6 (1) Require the city and county of Honolulu to return to
7 the State moneys derived from the county surcharge on
8 state tax;
- 9 (2) Authorize the issuance of general obligation bonds to
10 reimburse the city and county of Honolulu; and
- 11 (3) Extend the sunset of Act 247, Session Laws of Hawaii
12 2005, to extend, for an additional two years, the
13 county surcharge on general excise and use taxes and
14 the ordinance levying that surcharge.

15 SECTION 2. The city and county of Honolulu shall return to
16 the State \$200,000,000 of the revenues transferred to the city
17 and county of Honolulu pursuant to section 248-2.6, Hawaii
18 Revised Statutes; provided that the city and county of Honolulu
19 shall not return any of those revenues to the State until the
20 State deposits in escrow the same amount of moneys, from the
21 proceeds of general obligation bonds issued pursuant to section
22 4 of this Act, for transfer to the city and county of Honolulu



1 as repayment. The State and the city and county of Honolulu
2 shall enter into a memorandum of understanding to coordinate and
3 effectuate the transfer of revenues from the city and county of
4 Honolulu to the State and the transfer of the general obligation
5 bond proceeds in escrow to the city and county of Honolulu, in
6 accordance with this Act.

7 SECTION 3. Act 247, Session Laws of Hawaii 2005, is
8 amended by amending section 9 to read as follows:

9 "SECTION 9. This Act shall take effect upon its approval;
10 provided that:

11 (1) If none of the counties of the State adopt an
12 ordinance to levy a county surcharge on state tax by
13 December 31, 2005, this Act shall be repealed and
14 section 437D-8.4, Hawaii Revised Statutes, shall be
15 reenacted in the form in which it read on the day
16 prior to the effective date of this Act;

17 (2) If any county does not adopt an ordinance to levy a
18 county surcharge on state tax by December 31, 2005, it
19 shall be prohibited from adopting such an ordinance
20 pursuant to this Act, unless otherwise authorized by
21 the legislature through a separate legislative act;



1 (3) If an ordinance to levy a county surcharge on state
2 tax is adopted by December 31, 2005:

3 (A) The ordinance shall be repealed on December 31,
4 [~~2022~~] 2024;

5 (B) This Act shall be repealed on December 31,
6 [~~2022~~] 2024; and

7 (C) Section 437D-8.4, Hawaii Revised Statutes, shall
8 be reenacted in the form in which it read on the
9 day prior to the effective date of this Act."

10 SECTION 4. The director of finance is authorized to issue
11 general obligation bonds in the sum of \$300,000,000 or so much
12 thereof as may be necessary and the same sum or so much thereof
13 as may be necessary is appropriated for fiscal year 2011-2012
14 for the purpose of replacing surcharge revenues that are
15 returned from the city and county of Honolulu to the state
16 general fund pursuant to section 2 of this Act; provided that
17 the director of finance shall not issue the general obligation
18 funds until the State receives affirmative advice from the
19 State's bond counsel on the suitability of using the proceeds
20 from the issuance of the general obligation bonds for the
21 purpose of replacing the tax revenues returned from the city and
22 county of Honolulu pursuant to section 2 of this Act.



1 The sum appropriated shall be transferred to the city and
2 county of Honolulu by the department of budget and finance
3 pursuant to this Act and section 248-2.6, Hawaii Revised
4 Statutes.

5 **PART II**

6 SECTION 5. Section 248-2.6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 " ~~[§248-2.6]~~ **County surcharge on state tax; disposition**
9 **of proceeds.** (a) If adopted by county ordinance, all county
10 surcharges on state tax collected by the director of taxation
11 shall be paid into the state treasury quarterly, within ten
12 working days after collection, and shall be placed by the
13 director of finance in special accounts. Out of the revenues
14 generated by county surcharges on state tax paid into each
15 respective state treasury special account, the director of
16 finance shall deduct ten per cent of the gross proceeds of a
17 respective county's surcharge on state tax to reimburse the
18 State for the costs of assessment, collection, and disposition
19 of the county surcharge on state tax incurred by the State.
20 Amounts retained shall be general fund realizations of the
21 State.



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

6 (c) For the purpose of this section, the costs of
7 assessment, collection, and disposition of the county surcharges
8 on state tax shall include any and all costs, direct or
9 indirect, that are deemed necessary and proper to effectively
10 administer this section and sections 237-8.6 and 238-2.6.

11 (d) After the deduction and withholding of the costs under
12 subsections (a) and (b), the director of finance shall pay
13 either the remaining balance or an equal amount to the remaining
14 balance on [+]a[+] quarterly basis to the director of finance of
15 each county that has adopted a county surcharge on state tax
16 under section 46-16.8[-] in the manner described in subsection
17 (e). The quarterly payments shall be made after the county
18 surcharges on state tax have been paid into the state treasury
19 special accounts or after the disposition of any tax appeal, as
20 the case may be. All [~~county surcharges on state tax collected~~
21 ~~shall be~~] amounts distributed under this section by the director
22 of finance to the county in which the county surcharge on state



1 tax is generated [~~and~~] shall be a general fund realization of
2 the county, to be used for the purposes specified in section
3 46-16.8 by each of the counties.

4 (e) The director of finance may make payments required
5 under subsection (d) from available sources other than the
6 remaining balance after deducting costs of assessment and
7 collection, including but not limited to general obligation bond
8 proceeds. All payments made from sources other than the state
9 treasury special accounts shall cause an equivalent amount to be
10 deducted from the state treasury special account and become a
11 general fund realization of the State."

12 **PART III**

13 SECTION 6. Act 226, Session Laws of Hawaii 2008, section
14 16, as amended by Act 11, Session Laws of Hawaii 2009, section
15 21, is amended to read as follows:

16 "SECTION 16. This Act shall take effect on July 1, 2008;
17 provided that the amendments made to section 437D-8.4(a), Hawaii
18 Revised Statutes, by this Act, shall not be repealed when
19 section 437D-8.4, Hawaii Revised Statutes, is reenacted on
20 December 31, [~~2022,~~] 2024, pursuant to Act 247, Session Laws of
21 Hawaii 2005 [~~-~~], as amended by Act , Session Laws of Hawaii
22 2011."



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PART IV

SECTION 7. The revisor of statutes shall insert the effective date of this Act in the appropriate places in section 6 of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2050.



Report Title:

County Surcharge Tax; General Obligation Bonds

Description:

Returns \$200,000,000 from the funds generated by surcharge on state general excise tax revenues transferred to the city and county of Honolulu to the State general fund. Authorizes issuance of \$300,000,000 general obligation bonds to offset loss of tax revenues to the city and county of Honolulu in fiscal year 2011-2012. Extends surcharge for two years. Requires a memorandum of understanding between the State and city and county of Honolulu to return the \$200,000,000. Provides the director of finance with the discretion to use general obligation bond proceeds to make county surcharge tax payments. Effective 7/1/2050. (SD1)

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