

HB2800, HD1

RELATING TO TRANSPORTATION.

Extends the increase in the Rental Motor Vehicle Surcharge Tax for five years. Extends the suspension of the \$4.50 per day Rental Motor Vehicle Customer Facility Charge for an additional five years. Requires the rental motor vehicle surcharge taxes assessed and collected during the fiscal years 2012-2013 to 2016-2017 to be transmitted to the Director of Finance. Requires the Director of Finance to deposit a specified amount of funds collected into the general fund and the remainder of the funds into the Rental Motor Vehicle Customer Facility Charge Special Fund. Provides the Director of Finance with the discretion to determine when the taxes assessed and collected during a fiscal year will be deposited into the specified funds. Effective June 29, 2012. (HB2800 HD1)

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

To: The Honorable J. Kalani English, Chair
and Members of the Senate Committee on Transportation and International Affairs

Date: Wednesday, March 14, 2012

Time: 1:16 p.m.

Place: Conference Room 224, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2800 H.D. 1 Relating to Transportation

The Department of Taxation (Department) offers the following comments on this measure.

H.B. 2800 H.D. 1 extends the sunset date of the Rental Motor Vehicle and Tour Vehicle Surcharge Tax (RV Tax) rate of \$7.50 per day to June 30, 2017; thereafter, it will revert back to \$3.00 per day.

This measure requires the Director of Finance to deposit the RV Tax assessed and collected during the fiscal years 2012-2013 to 2016-2017 as follows:

- a. \$50 million into the general fund and the remainder into the Rental Motor Vehicle Customer Facility Charge (RVCF) special fund in each of the fiscal years 2013 and 2014; and
- b. \$30 million into the general fund and the remainder into the RVCF special fund in each of the fiscal years 2015, 2016, and 2017.

H.B. 2800 H.D. 1 eliminates the deposit of \$3.00 per day into the Highway special fund. Instead, the taxes are deposited into the RVCF special fund for fiscal years 2013 to 2017. In fiscal year 2011, the \$3.00 per day fee that had been deposited into the Highway special fund was \$43.9 million.

The estimated impact on revenues:

- (1) general fund - revenue gain of \$50 million per year for fiscal years 2013 and 2014, and \$30 million per year for fiscal years 2015 to 2017;
- (2) RVCF special fund - revenue gain of \$59.7 million per year for fiscal years 2013 and 2014, and \$79.7 million per year for fiscal years 2015 to 2017; and
- (3) Highway special fund - revenue loss of \$43.9 million per year for fiscal years 2013 to 2017.

Thank you for the opportunity to provide comments.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON TRANSPORTATION AND
INTERNATIONAL AFFAIRS
ON
HOUSE BILL NO. 2800, H.D. 1

March 14, 2012

RELATING TO TRANSPORTATION

House Bill No. 2800, H.D. 1, proposes to cap the remittance of the rental vehicle surcharge tax to the general fund at \$50,000,000 in FY 13 and FY 14 and \$30,000,000 in FY 15, FY 16, and FY 17. Remittances exceeding this amount shall be deposited to the rental motor vehicle customer facility charge special fund.

The department supports the intent of the bill. Even though the Council on Revenues' March 7, 2012 projections reflect increased State tax revenues, the Administration is taking a cautious approach in spending and revenues. Revenue projections based on the revised Council on Revenues' advisements present a more optimistic picture of overall State revenues. The projection reduces the severity of the revenue shortfalls over the next two fiscal bienniums in the 6-year financial plan. However, the Administration is cautious to avoid an overly-optimistic position on future revenue growth because there are still a number of economic risk factors that could curtail revenue actualization.

First, there are still a number of significant economic uncertainties that could adversely effect economic growth and tax revenues, including:

- Rising oil prices due to heightened tensions in the Middle East;
- Europe's debt situation and its impact on Europe's and the world's economy;

- Tourism at near record levels – limited carrying capacity for continuous expansion; and
- Impact of pending federal spending cuts on Hawaii's economy.

Second, there are various funding considerations that are not currently accounted for in the Administration's financial plan, such as:

- Other post retirement benefit obligations (retiree health benefits) pre-funding);
- Increased debt service for additional CIP initiatives;
- Increased State funding to offset federal funding cutbacks;
- Programmatic department/agency funding (i.e., DHHL, DOH, DHS, etc.); and
- Collective bargaining.

The rental vehicle surcharge revenue is an attractive source of funds to supplement the general funds as a contingency for unexpected loss of revenues or increased expenditures. Although the bill does reduce the amount collected via the surcharge to the general fund from its current levels, the Administration is supportive of this concept.

The Administration would want further discussions through the Legislative process on this and similar bills to ensure that accessing the rental vehicle surcharge funds can be accomplished without delaying or jeopardizing the project. Input from the Department of Transportation is critical in this regards. The Department of Budget and Finance supports using a portion of the surcharge to increase general fund revenues to June 30, 2017.

We look forward to having discussions with the Legislature to determine the best course of action for the State and respectfully request that the bill be passed.

Thank you for the opportunity to provide our testimony on this bill.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: RENTAL MOTOR VEHICLE AND TOUR VEHICLE SURCHARGE, Disposition of revenue

BILL NUMBER: HB 2800, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 251-2 to extend the increase in the rental motor vehicle surcharge from \$3 to \$7.50 from June 30, 2012 to June 30, 2017.

Amends HRS section 251-5 to provide that the rental motor vehicle surcharge taxes assessed and collected during fiscal years 2013 to 2017 shall be transmitted to the director of finance, who shall deposit the money as follows: (1) in fiscal years 2013 and 2014, \$50 million deposited into the general fund and the remainder deposited into the rental motor vehicle customer facility charge special fund; and (2) in fiscal years 2015, 2016 and 2017, \$30 million deposited into the general fund and the remainder deposited into the rental motor vehicle customer facility charge special fund.

Amends Act 104, SLH 2011, to extend the suspension of the rental motor vehicle customer facility charge from June 30, 2012 to June 30, 2017.

EFFECTIVE DATE: June 29, 2012

STAFF COMMENTS: The legislature by Act 226, SLH 2010, increased the rental motor vehicle customer facility charge from \$1 to \$4.50 per day on September 1, 2010 to provide funding for the construction of consolidated car rental facilities for the car rental agencies and other related improvements for the department of transportation's airport modernization program. This fee, which is earmarked to finance the construction of coordinated rental vehicle facilities at all the state's airports, is in addition to the rental motor vehicle and tour vehicle surcharge which was adopted nearly 20 years ago to supplement the state highway fund.

Act 104, SLH 2011, suspended the imposition of the \$4.50 passenger facility charge under HRS section 261-7 and increased the rental motor vehicle surcharge by \$4.50 under HRS section 251-2, and diverted \$4.50 of the rental motor vehicle surcharge to the general fund between July 1, 2011 and June 30, 2012.

This measure proposes to extend the increase of the rental motor vehicle surcharge from June 30, 2012 for another five years and continue the diversion of a portion of the revenues collected to the general fund. While this measure would deposit the first \$50 million of surcharge taxes into the general fund for fiscal 2013 and 2014, with the remainder deposited into the rental motor vehicle customer facility charge special fund, it should be remembered that the original intent of the charge is to facilitate the construction of a consolidated car rental facility and provide funds to modernize the airport. Inasmuch as this measure prioritizes revenue to the general first with any remaining revenue put toward the

construction of a consolidated rental motor vehicle facility, the message is that the construction of the consolidated rental car facility is not a priority.

Although the advocates of the coordinated rental car facility and the related charge may have believed that these funds could not be raided because the facility was linked to the airport funds which are shielded by federal prohibitions from being used for any other use, little did they suspect that the charge itself would be suspended and another fee on rental cars be raised by the same amount for the purpose of funding the general fund. Lessons learned from the past - such as the hotel industry acquiescing to being taxed on hotel room rentals for the building of a convention center - should not be forgotten.

It should also be noted that the rental motor vehicle customer facility charge is based on the number of cars rented and as visitor counts fluctuate, so will the amount of revenues in the fund which may make the car rental customer facility charge an undependable source of revenue. As a result, if this measure is adopted and does not generate sufficient revenue for the stated purposes, there is no doubt that the amount of the surcharge will be increased again to generate the necessary revenues. If the legislature considers the construction of a consolidated rental motor vehicle facility a high priority, then the surcharge should be repealed and funds appropriated for its construction. This would ensure that the facility would be constructed and not provide a special fund which would entice the legislature to raid again. While the issuance of bonds to could be used to borrow the money to build this facility, such a strategy will only increase the cost of construction as funds must be repaid with interest.

It should be noted that while these provisions were adopted to generate additional revenues for the state general fund and address the state's budgetary mess, it should be remembered that these "revenue enhancement" provisions will not work unless state spending is also curtailed. The long and short of this measure is that it is a continued tax increase designed to maintain the status quo in state government. As such, it is a siphoning off of money that would otherwise be circulating in the economy to help create the jobs Hawaii's people need.

Digested 3/12/12

**SENATE COMMITTEE
ON
TRANSPORTATION AND INTERNATIONAL AFFAIRS**

March 14, 2012

House Bill 2800, HD 1 Relating to Transportation

Chair English and members of the Senate Committee on Transportation and International Affairs, I am Rick Tsujimura, representing The Hertz Corporation (“Hertz”).

Hertz opposes House Bill 2800, HD 1 Relating to Transportation, which extends the rental motor vehicle surcharge from 2012 to 2017. While we recognize the current fiscal situation, we also understand that the state administration is optimistic about the ability of the state’s economy to turn around sooner than 2017. Secondly, and more importantly, the Department of Transportation is committed to the construction of car rental facilities on Maui and Oahu, and is using current funds in the rental car facility fund (CFC) for engineering and planning studies. We also understand that the state is embracing the EB5 program to construct the facilities in lieu of capturing funds prior to construction. However, the state has also made it clear that it intends to fund the debt service for the facilities from the CFC. That debt service could begin as early as 2013.

Thus, we believe an amendment to Act 104 (SLH 2011) should be made which revives the CFC portion of the Act before the end of this year in order to fund the debt service for the facilities, which is currently anticipated to begin in 2013. If this section of Act 104 is not revived, the funding for the debt service will need to be made from either the highway fund or the general fund. Unfortunately, House Bill 2800, HD 1 does not revive the repealed CFC portion of Act 104 (SLH 2011) although it deposits monies into that fund. Thus, we believe that the funds designated to be deposited may be void as the fund does not exist.

Thank you for the opportunity to present this testimony.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM
GARY M. SLOVIN
MIHOKO E. ITO
CHRISTINE OGAWA KARAMATSU
ANNE T. HORIUCHI

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
meito@goodsill.com
ckaramatsu@goodsill.com
ahoriuchi@goodsill.com

TO: Senator J. Kalani English
Chair, Committee on Transportation and International Affairs
Hawaii State Capitol, Room 205
Via Email: TIAtestimony@capitol.hawaii.gov and Hand Delivery

FROM: Gary M. Slovin

DATE: March 13, 2012

RE: **H.B. 2800, HD1 – Relating to Transportation**
Hearing Date: Wednesday, March 14, 2012 at 1:16 pm
Conference Room 224

Dear Chair English and Members of the Committee on Transportation and International Affairs:

I am Gary Slovin, testifying on behalf of EAN Holdings, LLC, operating Enterprise Rent-A-Car, Alamo Rent-A-Car and National Car Rental in Hawaii (collectively referred to as "Enterprise").

Enterprise expresses concerns regarding H.B. 2800, HD1 as drafted, which would: (1) extend the increase in the Rental Motor Vehicle Surcharge Tax for five years; (2) extend the suspension of the \$4.50 per day Rental Motor Vehicle Customer Facility Charge for an additional five years; (3) require the rental motor vehicle surcharge taxes assessed and collected during the fiscal years 2012-2013 to 2016-2017 to be transmitted to the Director of Finance; (4) require the Director of Finance to deposit a specified amount of funds collected into the general fund and the remainder of the funds into the Rental Motor Vehicle Customer Facility Charge Special Fund; and (5) provide the Director of Finance with the discretion to determine when the taxes assessed and collected during a fiscal year will be deposited into the specified funds.

The fee that is the subject of this bill was originally imposed to provide funding for the construction of a consolidated rental car facility at Honolulu International Airport and similar facilities at other state airports. Because of the uncertain economic times and the budget deficit in 2011, the Legislature in 2011 suspended the rental car facility surcharge and instead diverted the money to the highway fund and the general fund. That

March 13, 2012

Page 2

legislation provided that the diversion of these funds would expire on June 30, 2012. The proposed H.B. 2800, HD1, would extend the diversion of the surcharge to the year 2017, but give the Director of Finance the ability to deposit some of the funds back into the Rental Motor Vehicle Customer Facility Charge Special Fund.

While we appreciate that the current version of the bills directs a portion of the funds back into the Rental Motor Vehicle Customer Facility Charge Special Fund as originally intended, we note that the original surcharge was also intended to apply to only those rentals made at the airport. Pursuant to the legislation described above, the full \$7.50 charge, including the additional \$4.50 surcharge, was not imposed only upon tourists at airport facilities, the original intent, but upon everyone in the state renting a car, including, inevitably, local residents.

Enterprise believes that the imposition of the surcharge has caused, and will continue to cause, a hardship to many local residents. We believe the legislation should be modified to relieve that fiscal impact, particularly given the fact that the bill now proposes to extend the surcharge to 2017.

Many local residents rent cars for extended periods of time for a variety of reasons. Some rent cars for business purposes while some rent cars for extended periods because they cannot afford a car or do not have the need to own a car. The economic recession that hit the state in 2008 is continuing and, despite some encouraging news, the everyday citizen in this community is still struggling and may well be struggling for several more years.

While an additional \$4.50 a day may not seem very much, for many people in the community it is a significant amount of money. For those persons who need to rent cars for an extended period, this charge is burdensome. For example, it is not unusual for persons to rent cars for more than two weeks. A local person renting a car for family or business purposes for 30 days is now required to pay an additional \$135.00 in order to rent a car. For many people in this community, an additional \$135.00 of expense that the person did not formerly have to pay is very significant and can make a difference in the quality of their lives.

Accordingly, Enterprise believes that consideration should be given to lessening the impact of the fee on local residents. There is a distinct and specific difference between a person renting a car for pleasure travel and a person using a car for business or personal reasons who is a local resident. Enterprise therefore proposes that there be a limitation of

March 13, 2012

Page 3

14 days beyond which the \$4.50 surcharge would no longer apply. Statistics indicate that the average traveler coming to Hawaii rents a car for 6 days.

Therefore, setting a limitation that would assist the local residents who need to rent cars for longer periods treats both that resident and a tourist in an equal manner.

This approach would still enable the Legislature to continue to divert a most of these funds into the general fund and the highway fund for the purposes identified in the law, but provide some relief to local residents who are being burdened by this additional fee.

While Enterprise has general concerns about the impacts of the surcharge on the rental car industry, tourism and local business people and residents, if it is the decision of the committee that the surcharge continues to be diverted, we respectfully ask the committee to consider including a provision relieving payment of the surcharge after 14 days.

Thank you for the opportunity to submit testimony on this measure.



Martin Mylott
Hawaii Regional Manager

808 840 5500 T
808 836 7830 F
Martin.Mylott@avisbudget.com

Senator Kalani English, Chair
Senate Committee on Transportation and International Affairs

March 14, 2012; 1:16 PM
Hawaii State Capitol; Conference Room 224

RE: HB 2800 HD1– Relating to Transportation – In Opposition

Chair English, Vice Chair Espero, and Members of the Committee:

My name is Martin Mylott, Hawaii Regional Manager for Avis Budget Group. We are in opposition to HB 2800 HD1, which extends the increase in the rental motor vehicle surcharge tax and the suspension of the rental motor vehicle customer facility charge (CFC) for an additional five years.

We are aware that last year's legislative action to suspend the collection of the CFCs for one year, increase the rental car surcharge tax by \$4.50 and deposit said amount to the general fund, was to address the budget deficit facing the State. We request that consideration be given to extend the sunset date for Act 104 for only one year more as this should not be a continued practice to address the budget shortfall.

The industry and the Department of Transportation (DOT) agreed to the CFC financing concept to support the construction of consolidated rental car facilities. CFC funds are currently committed to completing design and preliminary projects.

Although DOT has stated it remains committed to construction of the consolidated facilities and is working on a plan of finance, we should not move forward on construction until there is an identified and secured source of repaying the debt. Therefore, the CFC needs to be reinstated. We believe it was the intention to do so as the HD1 deposits monies into that fund.

Thank you for the opportunity to testify.

Martin Mylott
Regional Manager, Hawaii
Avis Budget Group, Inc.