SB 2445

RELATING TO TAXATION

Description:

Authorizes each county to establish a retail sales tax of up to two per cent on sales of tangible personal property from a retailer to a consumer; requires the retail sales tax to take effect two years after the date of the adoption of the tax in that county.

NEIL ABERCROMBIE
GOVERNOR

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To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

Date: February 7, 2012
Time: 2:45 p.m.
Place: Room 224

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 2445 Relating to Taxation

The Department of Taxation appreciates the intent of S.B. 2445 and offers the following comments for the committee's consideration.

S.B. 2445 grants counties the authority to enact a retail sales tax on sales of tangible personal property and further allows that the county may enter into an agreement with the Department for the Department to collect the tax on the county's behalf.

While the Department understands that funding county operations is difficult in the current economic climate, the Department notes that without significant additional financial and staffing resources, the Department would not be able to effectively assess and collect a new tax for three different counties. Additionally, based on the Department's previous experience implementing the Honolulu county rail surcharge, the Department estimates that it could take up to three years to implement this new sales tax for the additional counties.

The Department also notes that any county sales tax could be in direct conflict with the Streamline Sales Tax Project provisions which require that the state and each county agree on a single tax rate.

Thank you for the opportunity to provide comments.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
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February 6, 2012

TESTIMONY OF COUNCILMEMBER STANLEY CHANG
ON
S.B. NO. 2445, RELATING TO TAXATION

Chair Espero and members of the Senate Committee on Public Safety, Government Operations, and Military Affairs:

Thank you for this opportunity to provide comment on S.B. 2445 relating to taxation. As the Honolulu City Council's appointed representative to the Hawaii State Association of Counties, I have worked with my colleagues here and abroad on a myriad of legislative issues that include advocacy for more home rule for counties and to protection for key county resources. At face value, the spirit of S.B. 2445 seems to support the notion of greater home rule for counties by providing an additional tool for taxation not previously available.

At current, our constituents are burdened with the difficulties of increased fees and taxes on multiple fronts, and it would not be my preference to increase taxes to our constituents at this time. While this additional tool would be welcomed, it is imperative that The City and County of Honolulu maintain the current resources available to us that do not include levying additional taxes on our constituents, especially the maintenance of our county's share of the transient accommodation tax which was created as an equitable method of compensating the counties for the impacts of tourism on county services such as the use of county property such as parks, beaches, and roads.

I greatly appreciate this opportunity to testify before you and for your strong consideration of this testimony.

Respectfully,

Stanley Chang
Councilmember – District 4

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February 7, 2012

The Honorable Will Espero, Chair
Senate Committee on Public Safety, Government Operations,
And Military Affairs
State Capitol, Room 224
Honolulu, Hawaii 96813

RE: S.B. 2445, Relating To Taxation

HEARING: Tuesday, February 7, 2012, at 2:45 p.m.

Aloha Chair Espero, Vice Chair Kidani, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR **opposes S.B. 2445**, which authorizes each county to establish a retail sales tax of up to two percent on sales of tangible personal property from a retailer to a consumer and requires the retail sales tax to take effect two years after the date of the adoption of the tax in that county.

Hawaii's businesses and residents are the engine behind our economy. Businesses continue to struggle to keep up with the cost of doing business in Hawai'i, and authorizing the counties to add a new tax will only contribute to this burden.

HAR believes that, in the current economic environment, businesses and residents are particularly sensitive to additional financial burdens imposed by government. HAR further believes that S.B. 2445 will be especially burdensome for low-income families, who have the least ability to afford a new tax which may apply broadly to a family's basic needs such as food and clothing.

For the foregoing reasons, HAR respectfully requests that this committee hold S.B. 2445.

Mahalo for the opportunity to testify.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, County retail sales tax

BILL NUMBER: SB 2445

INTRODUCED BY: Kim, Dela Cruz, Galuteria, Kidani, Kouchi, Tokuda and 5 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 46 to allow any county to impose a retail sales tax of 2% on the retail sale of tangible personal property. The retail sales tax shall be levied and assessed on, and collected from the consumer for the county by the retail seller of tangible personal property provided that the retail sales tax shall be levied on the price of tangible personal property sold to a consumer before the imposition of the general excise tax. The retail sales tax collected from the consumer by the retail seller shall not be subject to the general excise tax. Each county that adopts a retail sales tax shall immediately notify the department of taxation. The retail sales tax shall take effect two years after the date of the adoption of a retail sales tax ordinance in that county.

Each county shall be responsible for the assessment and collection of the retail sales tax provided that a county may authorize the department of taxation to assess and collect the retail sales tax. If a county authorizes the department of taxation to assess and collect the retail sales tax, the department of taxation shall retain five percent of the amount assessed and collected as reimbursement for the costs of the assessment and collection. The department of taxation may adopt rules pursuant to chapter 91 and create forms necessary to carry out the purposes of this section.

Defines "retail sales" and "tangible personal property" for purposes of the measure.

EFFECTIVE DATE: July 1, 2012

STAFF COMMENTS: The proposed measure authorizes any of the counties to impose a county sales tax on the sale of tangible personal property. This measure, if adopted, will provide the counties with another source of revenue in addition to its largest source of revenue, the real property tax.

There are two points for lawmakers to consider: (1) the blurring of the lines of accountability when a tax source is shared by two levels of government, a point raised by the 1989 Tax Review Commission; and (2) the allocation of gross income for companies doing business in more than one county. An example of the latter is a store that may be based on Oahu but has customers on the Neighbor Islands.

If this measure is adopted and the counties impose the tax, the tax will more than likely be collected along with the state's general excise tax and consumers will still blame the state and, more importantly, state lawmakers for raising taxes. This is the very point the 1989 Tax Review Commission made about the sharing of a tax resource. That is, sharing blurs the accountability for the imposition of the tax as well as the expenditures made from the taxes collected.

Note well that this is a "retail sales" tax that would be imposed only on goods and then only for final consumption. So it will not have the same revenue generating power as does the general excise tax. Because the counties would have to opt for the adoption and levy, it puts the onus squarely on the shoulders of local government officials. It should be remembered that the counties begged the 1978 Constitutional Convention to hand over the complete control of the real property tax to the counties, promising never to again come back to the legislature for grants or other appropriations. That promise lasted not more than two or three years when county officials returned once more with hat in hand asking for state grants and subsidies.

When the legislature attempted to repeal what was known as the Act 155 grant-in-aid program, the counties fought vehemently to save that program. The legislature in the mid-1980's attempted to take away the sting of the real property tax by proposing to raise the general excise tax to 6% and in return mandating that the real property tax be suspended. The counties did not want to assume the blame for the increase in that tax and the plan failed to gain approval. Then in 1989 when the state coffers were flush with the windfall from the TAT which had yet to be earmarked for the building of the convention center, lawmakers decided to share the largesse from the TAT first with an outright grant-in-aid to the counties and later when the TAT was earmarked for the convention center did the counties get a more generous earmarked portion of the TAT. Then in 1997, the counties had the audacity to beg the legislature to share a part of the general excise tax revenue in return for the counties assuming certain services that were duplicated at the state and county level. Thus, the litany for state "bailouts" of the counties has been an annual parade of beggars believing they can get another dime in their tin cups. Thus, it appears that this proposal puts the ball back into the court of homerule. If the counties think that they can continue to feed at the trough while not taking the responsibility for raising the taxes they like to spend, then giving the counties yet another source by which they can raise their own resources seems only fair.

On the other hand, this proposal represents just another way taxpayers will be nickeled and dimed to death. Real property taxpayers should be insulted as this proposal represents county governments that are unwilling to be held accountable for the runaway spending that county officials have been allowed to undertake over the past two decades. In the end, it is the taxpayers who will come out of this with even bigger holes in their pockets.

But the bottom line is the same across the board, it is not a matter of not having enough revenue as it is the unwillingness of elected officials to tighten the counties' or the state's purse strings in bringing expenditures into line with resources. Instead of doing the fiscally responsible thing, especially in a struggling economy, the response is to just raise more taxes.

Digested 2/3/12

Senator Will Espero, Chair
Senator Michelle Kidani, Vice Chair
Committee on Public Safety, Government Operations & Military Affairs
State Capitol, Honolulu, Hawaii 96813

HEARING Tuesday, February 07, 2012
2:45 pm
Conference Room 224

RE **SB 2445, Relating to Taxation**

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

Retail Merchants of Hawaii (RMH) is a state-wide not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH strongly opposes SB2445, which authorizes each county to establish a retail sales tax of up to two percent on sales of tangible personal property from a retailer to a consumer and requires the retail sales tax to take effect two years after the date of the adoption of the tax in that county.

This measure will impose huge costly and prohibitive burdens:

- On **retailers** to update and continually adjust POS systems and train personnel, and to collect, report and remit the tax either to the respective county or to the state Department of Taxation.
- On **county governments** which will have to promulgate rules to implement, including cataloguing the items from the hundreds of thousands of products (SKUs) in the marketplace to which the tax would apply, developing forms for reporting/remitting, and collecting and processing payments.
- Most importantly, on our **residents** who ultimately will pay increased prices for consumer goods.

Should the counties elect to take advantage of this opportunity to establish a retail sales tax, we respectfully request an amendment to establish a vendor allowance, as is in place in many states with similar sales tax structures, that will allocate a certain percentage of the taxes collected as compensation to the retailers which essentially are acting as agents of the government in collecting and remitting this tax.

The members of the Retail Merchants of Hawaii respectfully request that you hold SB2445. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill

Carol Pregill, President

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