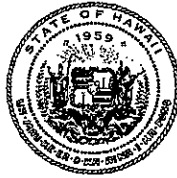


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To: The Honorable Marcus R. Oshiro, Chair
and Members of the House Committee on Finance

Date: Thursday, March 29, 2012
Time: 12:00 p.m.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2946, S.D. 2, H.D. 1, Relating to Transportation

The Department of Taxation (Department) offers the following comments for the Committee's consideration.

S.B. 2946, S.D. 2, H.D. 1 extends the Rental Motor Vehicle and Tour Vehicle Surcharge Tax (RV Tax) of \$7.50 per day to June 30, 2016; thereafter, the tax reverts to \$3 per day. The Department notes that it will be able to implement this bill by the time of its June 29, 2012 effective date.

The Department notes the following changes in the HD1:

- The allocation of the RV Tax revenue collected in fiscal years 2012-2014 and 2014-2016, has changed. The Department defers to the Department of Budget and Finance and the Department of Transportation on the merits of these allocation changes.
- As currently written, this bill would result in all RV Tax revenue, collected after fiscal year 2016, being deposited into the general fund.

This measure also authorizes the issuance of rental motor vehicle customer facility revenue bonds. The Department defers to the Department of Transportation and Department of Budget and Finance on the merits of this issuance.

Thank you for the opportunity to provide comments.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2946, S.D. 2, H.D. 1

March 29, 2012

RELATING TO TRANSPORTATION

Senate Bill No. 2946, S.D. 2, H.D. 1, extends the increase in the rental motor vehicle surcharge tax of \$7.50 per day from June 30, 2012 to June 30, 2016; deposits \$50 million into the general fund for FY 13 and FY 14 from the rental motor vehicle surcharge tax; deposits \$30 million into the general fund for FY 15 and FY 16 from the rental motor vehicle surcharge tax; and authorizes the Department of Transportation (DOT) to issue \$500 million in rental motor vehicle customer facility revenue bonds for the enhancement, renovation and development of rental motor vehicle customer facility projects.

The department supports this bill. Act 104, SLH 2011, increased the rental motor vehicle surcharge from \$3.00 to \$7.50 per day, for one year, and deposited the extra \$4.50 into the general fund. Based on Act 104, the general fund has already collected \$37.5 million through January 2012, and the Department of Taxation projects that general fund collections from the surcharge will total \$64.4 million for FY 12. This bill, while extending the \$7.50 per day surcharge tax, will scale back the general fund deposits from the surcharge to \$50 million for FY 13 and FY 14 and \$30 million for FY 15 and FY 16, with any additional revenues

collected beyond those levels to be deposited into the rental motor vehicle customer facility charge fund. This will help build fund reserves for the rental motor vehicle facility project over the course of the next four years and contribute to the ability of the Department of Transportation to undertake construction for a facility on their projected timeline.

Although 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 affect 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 but 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 from its current levels the general fund collections from the surcharge, the Administration is supportive of this concept.

Regarding Section 5 of the bill, we defer to the DOT relating to revenue bond authorization using deposits into the rental motor vehicle customer facility charge special fund. The Administration would support whatever structure is most palatable to the Legislature as long as the strategy does not delay or compromise the projects for the DOT.

The Administration has worked with the Legislature on this measure and concept during the process. We are prepared to continue any discussions the Legislature feels necessary to determine the best course of action for the State. The Administration is comfortable with the current version of the bill and respectfully request that the bill be passed.

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

TAXBILLSERVICE

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SUBJECT: RENTAL MOTOR VEHICLE AND TOUR VEHICLE SURCHARGE, Amend dates; disposition of revenue

BILL NUMBER: SB 2946, HD-1

INTRODUCED BY: House Committee on Transportation

BRIEF SUMMARY: Amends HRS section 251-2 to extend the increase in the rental motor vehicle surcharge of \$3 to \$7.50 from June 30, 2012 to June 30, 2016.

Amends Act 104, SLH 2011, to extend the suspension of the rental motor vehicle customer facility charge from June 30, 2012 to June 30, 2016.

Amends HRS section 251-5 to provide that the rental motor vehicle surcharge taxes assessed and collected shall be transmitted to the director of finance, who shall deposit the money as follows: (1) in fiscal years 2013 and 2014, an amount equal to \$3 per day per rental transaction shall be deposited into the state highway fund; \$10 million shall be deposited into the rental motor vehicle customer facility charge fund; \$50 million shall be 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 and 2016, an amount equal to \$3 per day per rental transaction shall be deposited into the state highway fund; \$30 million shall be deposited into the rental motor vehicle customer facility charge fund; \$30 million shall be deposited into the general fund and the remainder deposited into the rental motor vehicle customer facility charge special fund. This section shall take effect on July 1, 2012.

Authorizes the department of transportation to issue \$500 million in rental motor vehicle customer facility revenue bonds for the enhancement and renovation of existing rental motor vehicle customer facilities and the development of new rental motor vehicle customer facilities. This section shall take effect on July 1, 2012.

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 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 that 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 proposed to extend the June 30, 2012 expiration date until June 30, 2016. While this

measure would prioritize and deposit revenues derived from the rental motor vehicle surcharge into the: (1) the highway fund; (2) the rental motor vehicle customer facility charge fund; (3) the general fund; with (4) any remainder deposited into the rental motor vehicle customer facility charge 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. It should also be noted that while these provisions were adopted to generate additional revenues for the state general fund and address the state's budgetary mess, these "revenue enhancement" provisions will not work unless state spending is curtailed.

While the rental motor vehicle customer facility charge was enacted to provide funds to develop and construct a consolidated car rental facility and other related improvements for the department of transportation's airport modernization program, it now has morphed into another way to raise funds for the general fund. Hopefully, the car rental industry has learned a very important lesson about trusting lawmakers.

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 that 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 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.

Digested 3/27/12

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TO: Representative Marcus R. Oshiro
Chair, Committee on Finance
Hawaii State Capitol, Room 306
Via Capitol Web Page and Hand Delivery

FROM: Gary M. Slovin

DATE: March 28, 2012

RE: **S.B. No. 2946, SD2, HD1 – Relating to Transportation**
Hearing Date: Monday, March 29, 2012 at 12:00 p.m.
Conference Room 308

Dear Chair Oshiro and Members of the Committee on Finance:

I am Gary Slovin, submitting comments 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 **submits comments in opposition** to S.B. 2946, SD2, HD1, which extends 1) the increase in the rental motor vehicle surcharge tax to \$7.50 per day; 2) the deposit of \$4.50 per day of the tax into the general fund; and 3) the suspension of the rental motor vehicle customer facility charges until 6/30/2016. Beginning in FY2013, the bill proposes a gradual increase of monies into the rental motor vehicle facility fund through FY 2016 from \$10M to \$30M. The measure also authorizes the issuance of airport revenue bonds.

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 legislation provided that the diversion of these funds would expire on June 30, 2012. The proposed S.B. 2946, SD2 would extend the diversion of the surcharge to the year 2015.

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The original surcharge was 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 renters 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.

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 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 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.

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Enterprise also has general concerns about the impacts of the surcharge on the rental car industry, tourism and local business people and residents. While we appreciate that this bill in its present language proposes a gradual return of a portion of the fee over 4 years, if it is the decision of the committee that the surcharge should continue to be diverted, we strongly recommend that the surcharge be continued for no more than one year. We also 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

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Representative Marcus Oshiro, Chair
House Committee on Finance

March 29, 2012; 12:00 p.m.
Hawaii State Capitol; Conference Room 308; Agenda #3

RE: SB 2946 SD2 HD1 – Relating to Transportation – Comments

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

My name is Martin Mylott, Hawaii Regional Manager for Avis Budget Group. Thank you for giving us this opportunity to comment on SB 2946 SD2 HD1, which extends the increase in the rental motor vehicle surcharge tax and the suspension of the rental motor vehicle customer facility charge (CFC) until June 30, 2016.

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. This bill continues the practice of depositing a portion of the tax into the general fund until 2016.

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.

While we appreciate DOT's commitment to the construction of the consolidated facilities and understand they are preparing a plan of finance, which includes the issuance of facility revenue bonds to finance it, it remains unclear to us how the bond market will respond when the revenue source for repayment is not clear and certain. Also, typically, special facility bonds have a much higher interest rate, which is also a concern. As we are currently unaware of the details of the plan of finance, there is uncertainty whether the current allocations in this bill adequately addresses payment of the debt service. However, it is a step in the right direction and, therefore, one which we support.

Thank you again for the opportunity to provide comments.

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

**HOUSE COMMITTEE
ON
FINANCE**

March 29, 2012

Senate Bill 2946, SD 2, HD 1 Relating to Transportation

Chair Oshiro and members of the House Committee on Finance, I am Rick Tsujimura, representing The Hertz Corporation (“Hertz”).

Hertz opposes Senate Bill 2946, SD 2, HD 1 Relating to Transportation, which extends the rental motor vehicle surcharge from 2012 to 2016. While we recognize the current fiscal situation, we also understand that the state administration is optimistic about the state’s ability to turn around the economy. 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. We also understand that the amount necessary for debt service is unclear. Hertz wants the facilities to be built and is seeking the mechanism to accomplish that purpose. We don’t believe this bill as presently written accomplishes that purpose.

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, Senate Bill 2946, SD 2, 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.