MAR 1 3 2013

SENATE RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT AN AUDIT OF THE DEPARTMENT OF TAXATION AND DEPARTMENT OF BUDGET AND FINANCE TO ADDRESS CONCERNS REGARDING THE COLLECTION OF THE COUNTY SURCHARGE ON STATE TAX AND TIMELY DISTRIBUTION OF THE TAX TO THE CITY AND COUNTY OF HONOLULU.

WHEREAS, section 237-8.6, Hawaii Revised Statutes, provides authority for counties to collect a county surcharge on state excise tax of up to one-half percent; and

WHEREAS, section 46-16.8, Hawaii Revised Statutes, specifies that the county surcharge on excise tax shall be used for operating or capital costs of a locally preferred alternative to a mass transit project and for related expenses in complying with the Americans with Disabilities Act of 1990, which in the case of the City and County of Honolulu applies to the Honolulu Authority for Rapid Transportation (HART) rail project; and

WHEREAS, section 248-2.6, Hawaii Revised Statutes, provides in pertinent part:

"[A]11 county surcharges on state tax collected by the director of taxation shall be paid into the state treasury quarterly, within ten working days after collection, and shall be placed by the director of finance in special accounts. Out of the revenues generated by county surcharges on state tax paid into each respective state treasury special account, the director of finance shall deduct ten per cent of the gross proceeds of a respective county's surcharge on state tax to reimburse the State for the costs of assessment, collection, and disposition of the county surcharge on state tax incurred by the State.

After the deduction and withholding of the costs under subsections (a) and (b), the director of finance shall pay the remaining balance on [a] quarterly basis to the director of finance of each county that has adopted a county surcharge on state tax under section 46-16.8"; and

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WHEREAS, Ordinance No. 05-27 authorized the City and County of Honolulu to assess the one-half percent general excise tax surcharge, which became effective on January 1, 2007; and

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WHEREAS, in 2012, the \$21,200,000 in general excise tax surcharge administrative fees collected by the State amounted to nearly the entire budget of \$23,700,000 to operate the Department of Taxation; and

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WHEREAS, the ten percent administrative fee deducted from the one-half percent general excise tax surcharge appears to exceed the reasonable costs of assessment, collection, and disposition of the surcharge; and

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WHEREAS, HART is concerned that it may not be timely receiving from the State the general excise tax surcharge and is further concerned about the accuracy of the deducted administrative fees; now, therefore,

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BE IT RESOLVED by the Senate of the Twenty-seventh Legislature of the State of Hawaii, Regular Session of 2013, that the Auditor is requested to conduct an audit of the Department of Taxation and Department of Budget and Finance to address concerns regarding the collection and timely distribution of the county surcharge on state tax to the City and County of Honolulu, as described herein; and

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BE IT FURTHER RESOLVED that the Auditor is requested to submit the findings and recommendations of the audit, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2014; and

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BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of Taxation, Director of Finance, Mayor of the City and County of Honolulu, Director of Finance of the City and County of Honolulu, and Executive Director and Chief Executive Officer of the Honolulu Authority for Rapid Transportation.

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