

# HB2434

**Measure Title:** RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

**Report Title:** Transient Accommodations Tax; Special Land and Development Fund; Beach Restoration Special Fund; State Parks Special Fund

**Description:** Specifies the distribution and allowable uses, subject to agreement between the Hawaii Tourism Authority and the Board of Land and Natural Resources, of Transient Accommodations Tax funds allocated to the Special Land and Development Fund for resource and facilities management costs related to Hawaii Tourism Authority's Strategic Plan. Effective July 1, 2030. (HB2434 HD2)

**Companion:** [SB2430](#)

**Package:** None

**Current Referral:** TSM/WTL, WAM

**Introducer(s):** BROWER, AQUINO, AWANA, CACHOLA, CARROLL, EVANS, HANOHANO, HASHEM, ICHIYAMA, KOBAYASHI, MCKELVEY, MIZUNO, MORIKAWA, NAKASHIMA, OHNO, TAKAYAMA, TAKUMI, YAMASHITA

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committees on  
TOURISM  
and  
WATER AND LAND**

**Wednesday, March 19, 2014  
2:35 PM  
State Capitol, Conference Room 229**

**In consideration of  
HOUSE BILL 2434, HOUSE DRAFT 2  
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

House Bill 2434, House Draft 2, proposes to specify the distribution and allowable uses, subject to agreement between the Hawaii Tourism Authority (HTA) and the Board of Land and Natural Resources (BLNR), of Transient Accommodations Tax (TAT) funds allocated to the Special Land and Development Fund. **The Department of Land and Natural Resources (Department) strongly supports this measure but requests that this measure be amended to take effect upon approval in order to allow the Department to make use of the current fiscal year's funds.**

Last Session, the Legislature passed Senate Bill 1194, Conference Draft 1, which was signed into law by the Governor as Act 161, Session Laws of Hawaii 2013. Prior to this bill being enacted into law, \$1,000,000 from TAT revenues budgeted for the HTA was deposited into the Department's State Parks Special Fund, and the Special Land and Development Fund for the Hawaii Statewide Trail and Access Program. Act 161 in part left that \$1,000,000 in the HTA budget and instead allocated \$3,000,000 subject to the mutual agreement of the BLNR and the Board of Directors of the HTA in accordance with the HTA Strategic Plan for the same purposes outlined in this measure. Act 161 specified an amount "of the excess revenue deposited into the general fund", but did not provide authority to expend the funds. Thus, to date, the Department has received none of the funding intended for it by the Act in the current fiscal year.

House Bill 2434, House Draft 1 specified that the Act take effect upon approval, which could allow the Department to access funds intended for use in the current fiscal year. House Draft 2 however, changed that effective date. The Department supports House Draft 2, but requests that the measure be amended to take effect upon approval.

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**JESSE K. SOUKI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



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**Neil Abercrombie**  
*Governor*

**Mike McCartney**  
*President and Chief Executive Officer*

Testimony of  
**Mike McCartney**  
President and Chief Executive Officer  
Hawai'i Tourism Authority  
on  
**H.B. No. 2434, H.D.2**  
**Relating to the Transient Accommodations Tax**  
Senate Committee on Tourism  
Senate Committee on Water and Land  
Wednesday, March 19, 2014  
2:35 p.m.  
Conference Room 229

The Hawaii Tourism Authority (HTA) supports H.B. No. 2434, H.D.2, which corrects an administrative problem caused by the wording of Act 161, SLH 2013, authorizes the transient accommodations tax revenues allocated to be used for the land and programs under the control of the Department of Land and Natural Resources pursuant to Title 12, HRS. It makes conforming amendments to various funds, including the Conservation and Resources Enforcement Special Fund.

Act 161, SLH 2013, provided that \$3 million of the excess TAT revenues deposited into the general fund be allocated for programs to support the protection, preservation, and enhancement of natural resources important to the visitor industry, including planning, construction, and repair of facilities, and operation and maintenance costs for public lands connected with enhancing the visitor experience.

Because the Act requires the money to be “deposited into the general fund,” however, it creates a problem because it then requires that those funds be further appropriated.

H.B. 2434, as originally introduced, corrected the error by providing that the \$3 million be allocated to the Special Land and Development Fund, and authorizes that the monies in the Fund can be used for the “planning, development, management, operations or maintenance of all lands and improvements under the control and management” of the Board of Land and Natural Resources under Title 12, HRS, provided that TAT funds allocated to the Fund are expended according to a mutual agreement of the BLNR and the HTA board.

H.B. 2434, H.D.2, makes conforming amendments to sections 171-156, the Beach Restoration Special Fund; 184-3.4, the State Parks Special Fund; and 199-1.5, the Conservation and Resources Enforcement Special Fund.

We agree with the Department of Land and Natural Resources that the effective date should be amended to “upon its approval” so funds budget for the current fiscal year may be expended.

Thank you for the opportunity to offer these comments.

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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**SUBJECT:** TRANSIENT ACCOMMODATIONS, Disposition for special land and development fund

**BILL NUMBER:** HB 2434, HD-2

**INTRODUCED BY:** House Committee on Finance

**BRIEF SUMMARY:** Amends HRS section 237D-6.5(b)(4) to specify that \$3 million of transient accommodations tax (TAT) revenues shall be allocated to the special land and development fund, subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority.

**EFFECTIVE DATE:** July 1, 2030

**STAFF COMMENTS:** The legislature by Act 161, SLH 2013, made permanent the TAT rate of 9.5% and changed the allocations of TAT from a percentage basis to a specific dollar amount. Currently, TAT revenues are allocated as follows: (1) \$33 million is deposited into the convention center enterprise special fund; (2) \$82 million into the tourism special fund; (3) \$93 million is transferred to the various counties; and (4) any remaining revenues deposited into the general fund. This measure would delete the phrase “of the excess revenues deposited into the general fund pursuant to this subsection” and provide that \$3 million of TAT revenues shall be allocated to the special land and development fund. Thus, it would appear that any excess revenues after all allocations of TAT revenues are made will still be deposited into the general fund since HRS section 237D-6.5(b) states that TAT revenues shall be distributed as follows with excess revenues to be deposited into the general fund.

The proposed measure would add another siphon of TAT revenues and would perpetuate the earmarking of TAT revenues. While proponents of earmarking of the TAT argue that if these projects or programs are not funded, none of the pristine beauty that visitors come to see will be preserved, one could make the argument on the other side - if there are insufficient funds to promote the industry, then visitor counts will drop and so will the income that fuels the state’s economy. Lawmakers seem to have lost sight of the fact that visitors also contribute to state coffers directly through the 4% on everything they purchase including hotel rooms, visitor activities and purchases of food and souvenirs. To that extent, a good part of the general fund tax collections is contributed by visitors. If the argument is that visitors should pay for other “visitor related” programs, then paying for those programs out of general funds would be more appropriate than stealing the money from what is identified as a tax paid specifically by the visitor.

Rather than the continual earmarking of TAT revenues, a direct appropriation of general funds would be preferable. Earmarking the TAT revenues for these programs that not only benefit the visitors but the community at large, is an abdication on the part of the legislature to set priorities among general fund resources and is an indication that the legislature truly does not believe this is an important enough issue for an appropriation. In addition, revenues earmarked into a special fund will not be counted against the state’s debt limit and will not reflect the state’s true financial condition.

Digested 3/18/14