
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. Section 46-16.8, Hawaii Revised Statutes, is
3 amended as follows:

4 1. By amending subsection (a) to read:

5 "(a) Each county may establish a surcharge on state tax at
6 the rates enumerated in sections 237-8.6 and 238-2.6. A county
7 electing to establish this surcharge shall do so by ordinance;
8 provided that:

9 (1) No ordinance shall be adopted until the county has
10 conducted a public hearing on the proposed ordinance;

11 [~~(2)~~ ~~The ordinance shall be adopted prior to December 31,~~
12 ~~2005, and~~

13 ~~(3)] (2) No county surcharge on state tax that may be
14 authorized under this section shall be levied prior to
15 January 1, 2007 ~~[]~~; and~~

16 (3) Collection of any county surcharge on state tax that
17 is authorized under this section on or after the



1 effective date of this Act, shall commence on
2 January 1 of the year following the year in which the
3 ordinance authorizing the county surcharge is adopted.

4 Notice of the public hearing required under paragraph (1) shall
5 be published in a newspaper of general circulation within the
6 county at least twice within a period of thirty days immediately
7 preceding the date of the hearing."

8 2. By amending subsection (c) to read:

9 "(c) Each county with a population greater than five
10 hundred thousand that adopts a county surcharge on state tax
11 ordinance pursuant to subsection (a) shall use the surcharges
12 received from the State for:

13 (1) Operating or capital costs of a locally preferred
14 alternative for a mass transit project; [and]

15 (2) Costs to maintain and expand a mass transit project
16 established pursuant to paragraph (1);

17 (3) Costs to integrate a mass transit project established
18 pursuant to paragraph (1) with other components of the
19 transportation system that exists within the county;

20 and



1 ~~[-(2)-]~~ (4) ~~[Expenses in complying]~~ Costs incurred to comply
2 with the Americans with Disabilities Act of 1990 with
3 respect to ~~[paragraph (1)-]~~ paragraphs (1) to (3).
4 ~~[The]~~ For revenues derived by a county surcharge on state tax
5 prior to January 1, 2023, the county surcharge on state tax
6 shall not be used to build or repair public roads or highways,
7 bicycle paths, or support public transportation systems already
8 in existence prior to July 12, 2005."

9 SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) The county surcharge on state tax, upon the adoption
12 of county ordinances and in accordance with the requirements of
13 section 46-16.8, shall be levied, assessed, and collected as
14 provided in this section on all gross proceeds and gross income
15 taxable under this chapter. ~~[No county shall set the surcharge~~
16 ~~on state tax at a rate greater than one half per cent of all~~
17 ~~gross proceeds and gross income taxable under this chapter.]~~

18 All provisions of this chapter shall apply to the county
19 surcharge on state tax. With respect to the surcharge, the
20 director of taxation shall have all the rights and powers
21 provided under this chapter. In addition, the director of



1 taxation shall have the exclusive rights and power to determine
2 the county or counties in which a person is engaged in business
3 and, in the case of a person engaged in business in more than
4 one county, the director shall determine, through apportionment
5 or other means, that portion of the surcharge on state tax
6 attributable to business conducted in each county.

7 With respect to any county ordinance that authorizes a
8 county surcharge on state tax and adopted prior to December 31,
9 2005, no county shall set the surcharge on state tax at a rate
10 greater than one-half per cent of all gross proceeds and gross
11 income taxable under this chapter; provided that, after December
12 31, 2022, a county that established a surcharge on state tax by
13 adopting an ordinance prior to December 31, 2005, may continue
14 to levy the surcharge but at a rate no greater than one-quarter
15 of one per cent of all gross proceeds and gross income taxable
16 under this chapter.

17 With respect to any county ordinance that authorizes a
18 county surcharge on state tax and adopted on or after the
19 effective date of this Act, no county shall set the surcharge on
20 state tax at a rate greater than one-quarter of one per cent of
21 all gross proceeds and gross income taxable under this chapter."



1 SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The county surcharge on state tax, upon the adoption
4 of a county ordinance and in accordance with the requirements of
5 section 46-16.8, shall be levied, assessed, and collected as
6 provided in this section on the value of property and services
7 taxable under this chapter[-]; provided that the county
8 ordinance is adopted prior to December 31, 2005. No county
9 shall set the surcharge on state tax at a rate greater than one-
10 half per cent of the value of property taxable under this
11 chapter. All provisions of this chapter shall apply to the
12 county surcharge on state tax. With respect to the surcharge,
13 the director shall have all the rights and powers provided under
14 this chapter. In addition, the director of taxation shall have
15 the exclusive rights and power to determine the county or
16 counties in which a person imports or purchases tangible
17 personal property and, in the case of a person importing or
18 purchasing tangible property in more than one county, the
19 director shall determine, through apportionment or other means,
20 that portion of the surcharge on state tax attributable to the
21 importation or purchase in each county."



1 SECTION 4. Section 248-2.6, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) If adopted by county ordinance, all county surcharges
4 on state tax collected by the director of taxation shall be paid
5 into the state treasury quarterly, within ten working days after
6 collection, and shall be placed by the director of finance in
7 special accounts. Out of the revenues generated by county
8 surcharges on state tax paid into each respective state treasury
9 special account, the director of finance shall deduct [~~ten per~~
10 ~~cent of~~] from the gross proceeds of a respective county's
11 surcharge on state tax [~~to reimburse the State for~~] the costs of
12 assessment, collection, and disposition of the county surcharge
13 on state tax incurred by the State. Amounts retained shall be
14 general fund realizations of the State."

15 SECTION 5. Act 247, Session Laws of Hawaii 2005, is
16 amended by amending section 9 to read as follows:

17 "SECTION 9. This Act shall take effect upon its approval;
18 provided that[+]

19 ~~(1) If none of the counties of the State adopt an~~
20 ~~ordinance to levy a county surcharge on state tax by~~
21 ~~December 31, 2005, this Act shall be repealed and~~



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1 ~~section 437D-8.4, Hawaii Revised Statutes, shall be~~
 2 ~~reenacted in the form in which it read on the day~~
 3 ~~prior to the effective date of this Act;~~

4 ~~(2) If any county does not adopt an ordinance to levy a~~
 5 ~~county surcharge on state tax by December 31, 2005, it~~
 6 ~~shall be prohibited from adopting such an ordinance~~
 7 ~~pursuant to this Act, unless otherwise authorized by~~
 8 ~~the legislature through a separate legislative act;~~

9 ~~(3) If] if an ordinance to levy a county surcharge on~~
 10 ~~state tax is adopted [by December 31, 2005]:~~

11 ~~[(A)] (1) The ordinance shall be repealed on December 31,~~
 12 ~~[2022+] 2052;~~

13 ~~[(B)] (2) This Act shall be repealed on December 31,~~
 14 ~~[2022+] 2052; and~~

15 ~~[(C)] (3) Section 437D-8.4, Hawaii Revised Statutes, shall~~
 16 ~~be reenacted in the form in which it read on the~~
 17 ~~day prior to the effective date of this Act."~~

PART II

18 SECTION 6. Section 237-13, Hawaii Revised Statutes, is
 19 amended to read as follows:
 20



1 "§237-13 Imposition of tax. There is hereby levied and
2 shall be assessed and collected annually privilege taxes against
3 persons on account of their business and other activities in the
4 State measured by the application of rates against values of
5 products, gross proceeds of sales, or gross income, whichever is
6 specified, as follows:

7 (1) Tax on manufacturers.

8 (A) Upon every person engaging or continuing within
9 the State in the business of manufacturing,
10 including compounding, canning, preserving,
11 packing, printing, publishing, milling,
12 processing, refining, or preparing for sale,
13 profit, or commercial use, either directly or
14 through the activity of others, in whole or in
15 part, any article or articles, substance or
16 substances, commodity or commodities, the amount
17 of the tax to be equal to the value of the
18 articles, substances, or commodities,
19 manufactured, compounded, canned, preserved,
20 packed, printed, milled, processed, refined, or
21 prepared for sale, as shown by the gross proceeds



1 derived from the sale thereof by the manufacturer
2 or person compounding, preparing, or printing
3 them, multiplied by one-half of one per cent.

4 (B) The measure of the tax on manufacturers is the
5 value of the entire product for sale, regardless
6 of the place of sale or the fact that deliveries
7 may be made to points outside the State.

8 (C) If any person liable for the tax on manufacturers
9 ships or transports the person's product, or any
10 part thereof, out of the State, whether in a
11 finished or unfinished condition, or sells the
12 same for delivery to points outside the State
13 (for example, consigned to a mainland purchaser
14 via common carrier f.o.b. Honolulu), the value of
15 the products in the condition or form in which
16 they exist immediately before entering interstate
17 or foreign commerce, determined as hereinafter
18 provided, shall be the basis for the assessment
19 of the tax imposed by this paragraph. This tax
20 shall be due and payable as of the date of entry
21 of the products into interstate or foreign



1 commerce, whether the products are then sold or
2 not. The department shall determine the basis
3 for assessment, as provided by this paragraph, as
4 follows:

5 (i) If the products at the time of their entry
6 into interstate or foreign commerce already
7 have been sold, the gross proceeds of sale,
8 less the transportation expenses, if any,
9 incurred in realizing the gross proceeds for
10 transportation from the time of entry of the
11 products into interstate or foreign
12 commerce, including insurance and storage in
13 transit, shall be the measure of the value
14 of the products;

15 (ii) If the products have not been sold at the
16 time of their entry into interstate or
17 foreign commerce, and in cases governed by
18 clause (i) in which the products are sold
19 under circumstances such that the gross
20 proceeds of sale are not indicative of the
21 true value of the products, the value of the



1 products constituting the basis for
2 assessment shall correspond as nearly as
3 possible to the gross proceeds of sales for
4 delivery outside the State, adjusted as
5 provided in clause (i), or if sufficient
6 data are not available, sales in the State,
7 of similar products of like quality and
8 character and in similar quantities, made by
9 the taxpayer (unless not indicative of the
10 true value) or by others. Sales outside the
11 State, adjusted as provided in clause (i),
12 may be considered when they constitute the
13 best available data. The department shall
14 prescribe uniform and equitable rules for
15 ascertaining the values;

16 (iii) At the election of the taxpayer and with the
17 approval of the department, the taxpayer may
18 make the taxpayer's returns under clause (i)
19 even though the products have not been sold
20 at the time of their entry into interstate
21 or foreign commerce; and



1 (iv) In all cases in which products leave the
2 State in an unfinished condition, the basis
3 for assessment shall be adjusted so as to
4 deduct the portion of the value as is
5 attributable to the finishing of the goods
6 outside the State.

7 (2) Tax on business of selling tangible personal property;
8 producing.

9 (A) Upon every person engaging or continuing in the
10 business of selling any tangible personal
11 property whatsoever (not including, however,
12 bonds or other evidence of indebtedness, or
13 stocks), there is likewise hereby levied, and
14 shall be assessed and collected, a tax equivalent
15 to four and one-quarter per cent of the gross
16 proceeds of sales of the business; provided that,
17 in the case of a wholesaler, the tax shall be
18 equal to one-half of one per cent of the gross
19 proceeds of sales of the business; and provided
20 further that insofar as the sale of tangible
21 personal property is a wholesale sale under



1 section 237-4(a)(8), the sale shall be subject to
2 section 237-13.3. Upon every person engaging or
3 continuing within this State in the business of a
4 producer, the tax shall be equal to one-half of
5 one per cent of the gross proceeds of sales of
6 the business, or the value of the products, for
7 sale, if sold for delivery outside the State or
8 shipped or transported out of the State, and the
9 value of the products shall be determined in the
10 same manner as the value of manufactured products
11 covered in the cases under paragraph (1)(C).

12 (B) Gross proceeds of sales of tangible property in
13 interstate and foreign commerce shall constitute
14 a part of the measure of the tax imposed on
15 persons in the business of selling tangible
16 personal property, to the extent, under the
17 conditions, and in accordance with the provisions
18 of the Constitution of the United States and the
19 Acts of the Congress of the United States which
20 may be now in force or may be hereafter adopted,
21 and whenever there occurs in the State an



1 activity to which, under the Constitution and
2 Acts of Congress, there may be attributed gross
3 proceeds of sales, the gross proceeds shall be so
4 attributed.

5 (C) No manufacturer or producer, engaged in such
6 business in the State and selling the
7 manufacturer's or producer's products for
8 delivery outside of the State (for example,
9 consigned to a mainland purchaser via common
10 carrier f.o.b. Honolulu), shall be required to
11 pay the tax imposed in this chapter for the
12 privilege of so selling the products, and the
13 value or gross proceeds of sales of the products
14 shall be included only in determining the measure
15 of the tax imposed upon the manufacturer or
16 producer.

17 (D) When a manufacturer or producer, engaged in such
18 business in the State, also is engaged in selling
19 the manufacturer's or producer's products in the
20 State at wholesale, retail, or in any other
21 manner, the tax for the privilege of engaging in



1 the business of selling the products in the State
2 shall apply to the manufacturer or producer as
3 well as the tax for the privilege of
4 manufacturing or producing in the State, and the
5 manufacturer or producer shall make the returns
6 of the gross proceeds of the wholesale, retail,
7 or other sales required for the privilege of
8 selling in the State, as well as making the
9 returns of the value or gross proceeds of sales
10 of the products required for the privilege of
11 manufacturing or producing in the State. The
12 manufacturer or producer shall pay the tax
13 imposed in this chapter for the privilege of
14 selling its products in the State, and the value
15 or gross proceeds of sales of the products, thus
16 subjected to tax, may be deducted insofar as
17 duplicated as to the same products by the measure
18 of the tax upon the manufacturer or producer for
19 the privilege of manufacturing or producing in
20 the State; provided that no producer of
21 agricultural products who sells the products to a



1 purchaser who will process the products outside
2 the State shall be required to pay the tax
3 imposed in this chapter for the privilege of
4 producing or selling those products.

5 (E) A taxpayer selling to a federal cost-plus
6 contractor may make the election provided for by
7 paragraph (3)(C), and in that case the tax shall
8 be computed pursuant to the election,
9 notwithstanding this paragraph or paragraph (1)
10 to the contrary.

11 (F) The department, by rule, may require that a
12 seller take from the purchaser of tangible
13 personal property a certificate, in a form
14 prescribed by the department, certifying that the
15 sale is a sale at wholesale; provided that:

16 (i) Any purchaser who furnishes a certificate
17 shall be obligated to pay to the seller,
18 upon demand, the amount of the additional
19 tax that is imposed upon the seller whenever
20 the sale in fact is not at wholesale; and



1 (ii) The absence of a certificate in itself shall
2 give rise to the presumption that the sale
3 is not at wholesale unless the sales of the
4 business are exclusively at wholesale.

5 (3) Tax upon contractors.

6 (A) Upon every person engaging or continuing within
7 the State in the business of contracting, the tax
8 shall be equal to four and one-quarter per cent
9 of the gross income of the business.

10 (B) In computing the tax levied under this paragraph,
11 there shall be deducted from the gross income of
12 the taxpayer so much thereof as has been included
13 in the measure of the tax levied under
14 subparagraph (A), on:

15 (i) Another taxpayer who is a contractor, as
16 defined in section 237-6;

17 (ii) A specialty contractor, duly licensed by the
18 department of commerce and consumer affairs
19 pursuant to section 444-9, in respect of the
20 specialty contractor's business; or



1 (iii) A specialty contractor who is not licensed
2 by the department of commerce and consumer
3 affairs pursuant to section 444-9, but who
4 performs contracting activities on federal
5 military installations and nowhere else in
6 this State;

7 provided that any person claiming a deduction
8 under this paragraph shall be required to show in
9 the person's return the name and general excise
10 number of the person paying the tax on the amount
11 deducted by the person.

12 (C) In computing the tax levied under this paragraph
13 against any federal cost-plus contractor, there
14 shall be excluded from the gross income of the
15 contractor so much thereof as fulfills the
16 following requirements:

17 (i) The gross income exempted shall constitute
18 reimbursement of costs incurred for
19 materials, plant, or equipment purchased
20 from a taxpayer licensed under this chapter,
21 not exceeding the gross proceeds of sale of



1 the taxpayer on account of the transaction;

2 and

3 (ii) The taxpayer making the sale shall have
4 certified to the department that the
5 taxpayer is taxable with respect to the
6 gross proceeds of the sale, and that the
7 taxpayer elects to have the tax on gross
8 income computed the same as upon a sale to
9 the state government.

10 (D) A person who, as a business or as a part of a
11 business in which the person is engaged, erects,
12 constructs, or improves any building or
13 structure, of any kind or description, or makes,
14 constructs, or improves any road, street,
15 sidewalk, sewer, or water system, or other
16 improvements on land held by the person (whether
17 held as a leasehold, fee simple, or otherwise),
18 upon the sale or other disposition of the land or
19 improvements, even if the work was not done
20 pursuant to a contract, shall be liable to the
21 same tax as if engaged in the business of



1 contracting, unless the person shows that at the
2 time the person was engaged in making the
3 improvements the person intended, and for the
4 period of at least one year after completion of
5 the building, structure, or other improvements
6 the person continued to intend to hold and not
7 sell or otherwise dispose of the land or
8 improvements. The tax in respect of the
9 improvements shall be measured by the amount of
10 the proceeds of the sale or other disposition
11 that is attributable to the erection,
12 construction, or improvement of such building or
13 structure, or the making, constructing, or
14 improving of the road, street, sidewalk, sewer,
15 or water system, or other improvements. The
16 measure of tax in respect of the improvements
17 shall not exceed the amount which would have been
18 taxable had the work been performed by another,
19 subject as in other cases to the deductions
20 allowed by subparagraph (B). Upon the election
21 of the taxpayer, this paragraph may be applied



1 notwithstanding that the improvements were not
2 made by the taxpayer, or were not made as a
3 business or as a part of a business, or were made
4 with the intention of holding the same. However,
5 this paragraph shall not apply in respect of any
6 proceeds that constitute or are in the nature of
7 rent; all such gross income shall be taxable
8 under paragraph (9); provided that insofar as the
9 business of renting or leasing real property
10 under a lease is taxed under section 237-16.5,
11 the tax shall be levied by section 237-16.5.

12 (4) Tax upon theaters, amusements, radio broadcasting
13 stations, etc.

14 (A) Upon every person engaging or continuing within
15 the State in the business of operating a theater,
16 opera house, moving picture show, vaudeville,
17 amusement park, dance hall, skating rink, radio
18 broadcasting station, or any other place at which
19 amusements are offered to the public, the tax
20 shall be equal to four and one-quarter per cent
21 of the gross income of the business, and in the



1 case of a sale of an amusement at wholesale under
2 section 237-4(a)(13), the tax shall be subject to
3 section 237-13.3.

4 (B) The department may require that the person
5 rendering an amusement at wholesale take from the
6 licensed seller a certificate, in a form
7 prescribed by the department, certifying that the
8 sale is a sale at wholesale; provided that:

9 (i) Any licensed seller who furnishes a
10 certificate shall be obligated to pay to the
11 person rendering the amusement, upon demand,
12 the amount of additional tax that is imposed
13 upon the seller whenever the sale is not at
14 wholesale; and

15 (ii) The absence of a certificate in itself shall
16 give rise to the presumption that the sale
17 is not at wholesale unless the person
18 rendering the sale is exclusively rendering
19 the amusement at wholesale.

20 (5) Tax upon sales representatives, etc. Upon every
21 person classified as a representative or purchasing

1 agent under section 237-1, engaging or continuing
2 within the State in the business of performing
3 services for another, other than as an employee, there
4 is likewise hereby levied and shall be assessed and
5 collected a tax equal to four and one-quarter per cent
6 of the commissions and other compensation attributable
7 to the services so rendered by the person.

8 (6) Tax on service business.

9 (A) Upon every person engaging or continuing within
10 the State in any service business or calling
11 including professional services not otherwise
12 specifically taxed under this chapter, there is
13 likewise hereby levied and shall be assessed and
14 collected a tax equal to four and one-quarter per
15 cent of the gross income of the business, and in
16 the case of a wholesaler under section 237-
17 4(a)(10), the tax shall be equal to one-half of
18 one per cent of the gross income of the business.
19 Notwithstanding the foregoing, a wholesaler under
20 section 237-4(a)(10) shall be subject to section
21 237-13.3.



1 (B) The department may require that the person
2 rendering a service at wholesale take from the
3 licensed seller a certificate, in a form
4 prescribed by the department, certifying that the
5 sale is a sale at wholesale; provided that:
6 (i) Any licensed seller who furnishes a
7 certificate shall be obligated to pay to the
8 person rendering the service, upon demand,
9 the amount of additional tax that is imposed
10 upon the seller whenever the sale is not at
11 wholesale; and
12 (ii) The absence of a certificate in itself shall
13 give rise to the presumption that the sale
14 is not at wholesale unless the person
15 rendering the sale is exclusively rendering
16 services at wholesale.
17 (C) Where any person is engaged in the business of
18 selling interstate or foreign common carrier
19 telecommunication services within and without the
20 State, other than as a home service provider, the
21 tax shall be imposed on that portion of gross



1 income received by a person from service which is
2 originated or terminated in this State and is
3 charged to a telephone number, customer, or
4 account in this State notwithstanding any other
5 state law (except for the exemption under section
6 237-23(a)(1)) to the contrary. If, under the
7 Constitution and laws of the United States, the
8 entire gross income as determined under this
9 paragraph of a business selling interstate or
10 foreign common carrier telecommunication services
11 cannot be included in the measure of the tax, the
12 gross income shall be apportioned as provided in
13 section 237-21; provided that the apportionment
14 factor and formula shall be the same for all
15 persons providing those services in the State.

16 (D) Where any person is engaged in the business of a
17 home service provider, the tax shall be imposed
18 on the gross income received or derived from
19 providing interstate or foreign mobile
20 telecommunications services to a customer with a
21 place of primary use in this State when such



1 services originate in one state and terminate in
2 another state, territory, or foreign country;
3 provided that all charges for mobile
4 telecommunications services which are billed by
5 or for the home service provider are deemed to be
6 provided by the home service provider at the
7 customer's place of primary use, regardless of
8 where the mobile telecommunications originate,
9 terminate, or pass through; provided further that
10 the income from charges specifically derived from
11 interstate or foreign mobile telecommunications
12 services, as determined by books and records that
13 are kept in the regular course of business by the
14 home service provider in accordance with section
15 239-24, shall be apportioned under any
16 apportionment factor or formula adopted under
17 subparagraph (C). Gross income shall not
18 include:
19 (i) Gross receipts from mobile
20 telecommunications services provided to a



1 customer with a place of primary use outside
2 this State;

3 (ii) Gross receipts from mobile
4 telecommunications services that are subject
5 to the tax imposed by chapter 239;

6 (iii) Gross receipts from mobile
7 telecommunications services taxed under
8 section 237-13.8; and

9 (iv) Gross receipts of a home service provider
10 acting as a serving carrier providing mobile
11 telecommunications services to another home
12 service provider's customer.

13 For the purposes of this paragraph, "charges for
14 mobile telecommunications services", "customer",
15 "home service provider", "mobile
16 telecommunications services", "place of primary
17 use", and "serving carrier" have the same meaning
18 as in section 239-22.

19 (7) Tax on insurance producers. Upon every person engaged
20 as a licensed producer pursuant to chapter 431, there
21 is hereby levied and shall be assessed and collected a



1 tax equal to 0.15 per cent of the commissions due to
2 that activity.

3 (8) Tax on receipts of sugar benefit payments. Upon the
4 amounts received from the United States government by
5 any producer of sugar (or the producer's legal
6 representative or heirs), as defined under and by
7 virtue of the Sugar Act of 1948, as amended, or other
8 Acts of the Congress of the United States relating
9 thereto, there is hereby levied a tax of one-half of
10 one per cent of the gross amount received; provided
11 that the tax levied hereunder on any amount so
12 received and actually disbursed to another by a
13 producer in the form of a benefit payment shall be
14 paid by the person or persons to whom the amount is
15 actually disbursed, and the producer actually making a
16 benefit payment to another shall be entitled to claim
17 on the producer's return a deduction from the gross
18 amount taxable hereunder in the sum of the amount so
19 disbursed. The amounts taxed under this paragraph
20 shall not be taxable under any other paragraph,
21 subsection, or section of this chapter.



1 (9) Tax on other business. Upon every person engaging or
2 continuing within the State in any business, trade,
3 activity, occupation, or calling not included in the
4 preceding paragraphs or any other provisions of this
5 chapter, there is likewise hereby levied and shall be
6 assessed and collected, a tax equal to four and one-
7 quarter per cent of the gross income thereof. In
8 addition, the rate prescribed by this paragraph shall
9 apply to a business taxable under one or more of the
10 preceding paragraphs or other provisions of this
11 chapter, as to any gross income thereof not taxed
12 thereunder as gross income or gross proceeds of sales
13 or by taxing an equivalent value of products, unless
14 specifically exempted."

15 SECTION 7. Section 237-15, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§237-15 **Technicians.** When technicians supply dentists or
18 physicians with dentures, orthodontic devices, braces, and
19 similar items which have been prepared by the technician in
20 accordance with specifications furnished by the dentist or
21 physician, and such items are to be used by the dentist or



1 physician in the dentist's or physician's professional practice
2 for a particular patient who is to pay the dentist or physician
3 for the same as a part of the dentist's or physician's
4 professional services, the technician shall be taxed as though
5 the technician were a manufacturer selling a product to a
6 licensed retailer, rather than at the rate of four and one-
7 quarter per cent which is generally applied to professions and
8 services."

9 SECTION 8. Section 237-16.5, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) This section relates to the leasing of real property
12 by a lessor to a lessee. There is hereby levied, and shall be
13 assessed and collected annually, a privilege tax against persons
14 engaging or continuing within the State in the business of
15 leasing real property to another, equal to four and one-quarter
16 per cent of the gross proceeds or gross income received or
17 derived from the leasing; provided that where real property is
18 subleased by a lessee to a sublessee, the lessee, as provided in
19 this section, shall be allowed a deduction from the amount of
20 gross proceeds or gross income received from its sublease of the



1 real property. The deduction shall be in the amount allowed
2 under this section.

3 All deductions under this section and the name and general
4 excise tax number of the lessee's lessor shall be reported on
5 the general excise tax return. Any deduction allowed under this
6 section shall only be allowed with respect to leases and
7 subleases in writing and relating to the same real property."

8 SECTION 9. Section 237-18, Hawaii Revised Statutes, is
9 amended by amending subsection (f) to read as follows:

10 "(f) Where tourism related services are furnished through
11 arrangements made by a travel agency or tour packager and the
12 gross income is divided between the provider of the services and
13 the travel agency or tour packager, the tax imposed by this
14 chapter shall apply to each such person with respect to such
15 person's respective portion of the proceeds, and no more.

16 As used in this subsection "tourism related services" means
17 catamaran cruises, canoe rides, dinner cruises, lei greetings,
18 transportation included in a tour package, sightseeing tours not
19 subject to chapter 239, admissions to luaus, dinner shows,
20 extravaganzas, cultural and educational facilities, and other
21 services rendered directly to the customer or tourist, but only



1 if the providers of the services other than air transportation
2 are subject to a four and one-quarter per cent tax under this
3 chapter or chapter 239."

4 SECTION 10. Section 237-31, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§237-31 Remittances. (a) All remittances of taxes
7 imposed by this chapter shall be made by money, bank draft,
8 check, cashier's check, money order, or certificate of deposit
9 to the office of the department of taxation to which the return
10 was transmitted.

11 (b) The department shall issue its receipts therefor to
12 the taxpayer and shall pay the moneys into the state treasury as
13 a state realization, to be kept and accounted for as provided by
14 law; provided that:

15 (1) A sum, not to exceed \$5,000,000, from all general
16 excise tax revenues realized by the State shall be
17 deposited in the state treasury in each fiscal year to
18 the credit of the compound interest bond reserve fund;

19 (2) A sum from all general excise tax revenues realized by
20 the State that is equal to one-half of the total
21 amount of funds appropriated or transferred out of the



1 hurricane reserve trust fund under sections 4 and 5 of
 2 Act 62, Session Laws of Hawaii 2011, shall be
 3 deposited into the hurricane reserve trust fund in
 4 fiscal year 2013-2014 and in fiscal year 2014-2015;
 5 provided that the deposit required in each fiscal year
 6 shall be made by October 1 of that fiscal year; and
 7 ~~(f)~~ (3) ~~(+)~~ Commencing with fiscal year 2018-2019, a sum from all
 8 general excise tax revenues realized by the State that
 9 represents the difference between the state public
 10 employer's annual required contribution for the
 11 separate trust fund established under section 87A-42
 12 and the amount of the state public employer's
 13 contributions into that trust fund shall be deposited
 14 to the credit of the State's annual required
 15 contribution into that trust fund in each fiscal year,
 16 as provided in section 87A-42.

17 (c) Notwithstanding subsection (b), beginning on July 1,
 18 2015, the additional revenues generated and collected from the
 19 increase in general excise tax rates imposed by sections 6, 7,
 20 8, and 9 of Act _____, Session Laws of Hawaii 2015, shall be
 21 deposited into a special account in the general fund for



1 appropriation to and expenditure for operations, including
2 salaries and maintenance costs, of the department of education
3 under chapter 302A; provided that the moneys budgeted for the
4 department of education from sources of funding other than the
5 special account shall remain equal to or greater than the
6 inflation-adjusted minimum level of funding.

7 For the purposes of this subsection, "inflation-adjusted
8 minimum level of funding" means the total amount of funding
9 provided to the department of education in the fiscal year that
10 Act _____, Session Laws of Hawaii 2015, was enacted; provided
11 that this amount shall increase by three per cent for each
12 subsequent fiscal year.

13 If funding levels of the department of education are less
14 than the inflation-adjusted minimum level of funding established
15 pursuant to this subsection, an amount equal to the difference
16 between the inflation-adjusted minimum level of funding and the
17 actual level of funding shall be distributed to the counties
18 that have adopted a county surcharge on state tax under section
19 46-16.8. Each county that has adopted a county surcharge on
20 state tax under section 46-16.8 shall receive an amount computed
21 by multiplying the difference between the inflation-adjusted



1 minimum level of funding and the actual level of funding
 2 appropriated for the department of education by a fraction, the
 3 numerator of which is the population of the respective county,
 4 and the denominator of which is the total population of all the
 5 counties that have adopted a county surcharge on state tax.
 6 Population amounts shall be based upon the results of the most
 7 recent census. Amounts distributed to a county under this
 8 subsection shall be a general fund realization of the county, to
 9 be used for the purposes specified in section 46-16.8."

PART III

11 SECTION 11. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 12. This Act shall take effect on July 1, 2015;
 14 provided that part II shall be repealed on December 31, 2052,
 15 and sections 237-13, 237-15, 237-16.5, 237-18, and 237-31,
 16 Hawaii Revised Statutes, shall be reenacted in the form in which
 17 they read on the day before the effective date of this Act.

18
 INTRODUCED BY: Kal Rhoan
Boali

JAN 28 2015



H.B. NO. 1240

Report Title:

County Surcharge on State Tax; General Excise Tax; Increase;
Department of Education

Description:

Allows counties that have adopted a 0.5% surcharge on the general excise tax to continue to levy the surcharge beyond 12/31/22 at a lower rate. Allows counties that have not yet adopted a surcharge on the general excise tax to do so at the lower rate. Surcharge to sunset on 12/31/2052. Increases the general excise tax by 0.25% to provide a dedicated funding source for the department of education. Requires that other funding sources for the department of education not drop below a minimum level.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

