

JAN 20 2016

---

---

# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

PART I

SECTION 1. (a) The legislature finds that:

(1) Pursuant to Act 174, Session Laws of Hawaii 2014, the state-county functions working group was convened to evaluate the division of duties and responsibilities between the State and counties relating to the provision of public services and to recommend an appropriate allocation of the transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provision of public services;

(2) Though the transient accommodations tax has evolved to meet the needs and purposes of the times, its structure and frequent amendment, combined with the cyclical nature of the visitor industry and the tax revenues it generates, has resulted in ongoing



1 discussions among the various stakeholders, including  
2 the State, the counties, the visitor industry, the  
3 Hawaii tourism authority, and other recipients or  
4 potential recipients of transient accommodations tax  
5 revenues;

6 (3) The state-county functions working group, composed of  
7 state, county, and visitor industry representatives  
8 and other knowledgeable and concerned citizens, and  
9 which has been aided by experts, considered the  
10 legislature's assignment for over a year and delivered  
11 to the legislature its final unanimous report,  
12 inclusive of analysis, findings, conclusions, and  
13 recommendations;

14 (4) In particular, the state-county functions working  
15 group found and concluded that:

16 (A) The application of the transient accommodations  
17 tax and the allocation of its revenues should be  
18 simplified and stabilized so as to be clear,  
19 consistent, and predictable over time, in view of  
20 the need to invest in tourism as a premier  
21 industry;



- 1 (B) The tourism special fund should be provided a  
2 priority distribution of the transient  
3 accommodations tax revenues at an assured minimum  
4 level, adjusted for inflation, and regardless of  
5 overall transient accommodations tax collections;
- 6 (C) After the priority distribution of the transient  
7 accommodations tax revenues to the tourism  
8 special fund, existing allocations to the Turtle  
9 Bay conservation easement special fund,  
10 convention center enterprise special fund, and  
11 special land and development fund should be  
12 maintained at their current levels, with any  
13 additional state funding of these efforts made  
14 out of state general funds by separate  
15 appropriation;
- 16 (D) Based on a review of state and county functions,  
17 including tourism expenditures, an appropriate  
18 allocation of the remaining transient  
19 accommodations tax revenues is fifty-five per  
20 cent to the state general fund and forty-five per  
21 cent to the counties; and



1           (E) There should be no fixed dollar amounts, caps,  
2           floors, or similar restrictions on allocations to  
3           the State and counties of the remaining revenues;  
4           instead, both the State and the county  
5           allocations should increase or decrease  
6           proportionately with increasing or decreasing  
7           transient accommodations tax revenues; and

8           (5) The state-county functions working group  
9           recommendations reflect a fair, balanced, and  
10          reasonable compromise of competing needs for scarce  
11          resources and provide a sound policy base for the  
12          further administration of the transient accommodations  
13          tax and its revenues.

14          (b) The purpose of this Act is to:

15          (1) Provide a fair, consistent, and predictable priority  
16          allocation of transient accommodations tax revenues,  
17          of an assured minimum amount, to the tourism special  
18          fund;

19          (2) Maintain allocation of transient accommodations tax  
20          revenues to existing obligations at present levels;



1 (3) Provide a fair, consistent, and predictable allocation  
2 of the balance of the transient accommodations tax  
3 revenues between the State and the counties; and

4 (4) Provide flexibility to the tourism special fund,  
5 State, and counties in the utilization of their  
6 respective allocations.

7 PART II

8 SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10 "(b) Revenues collected under this chapter shall be  
11 distributed in the following priority, with the excess revenues  
12 to be deposited into the general fund:

13 ~~[(1) \$1,500,000 shall be allocated to the Turtle Bay~~  
14 ~~conservation easement special fund beginning July 1,~~  
15 ~~2015, for the reimbursement to the state general fund~~  
16 ~~of debt service on reimbursable general obligation~~  
17 ~~bonds, including ongoing expenses related to the~~  
18 ~~issuance of the bonds, the proceeds of which were used~~  
19 ~~to acquire the conservation easement and other real~~  
20 ~~property interests in Turtle Bay, Oahu, for the~~  
21 ~~protection, preservation, and enhancement of natural~~



1           ~~resources important to the State, until the bonds are~~  
2           ~~fully amortized,]~~

3           (1) \$82,000,000 shall be allocated to the tourism special  
4           fund established under section 201B-11; provided that,  
5           beginning July 1, 2016, and in each fiscal year  
6           thereafter, the dollar amount of revenues allocated to  
7           the tourism special fund under this paragraph shall be  
8           adjusted by an amount equal to the dollar amount  
9           multiplied by the percentage, if any, by which the  
10           Honolulu region consumer price index for all urban  
11           consumers (CPI-U), or a successor index, as calculated  
12           by the United States Department of Labor, for the  
13           preceding calendar year exceeds the consumer price  
14           index for the calendar year 2015; and provided further  
15           that:

16           (A) Of the revenues allocated to the tourism special  
17           fund:

18           (i) \$1,000,000 shall be allocated for the  
19           operation of a Hawaiian center and the  
20           museum of Hawaiian music and dance at the  
21           Hawaii convention center; and



# S.B. NO. 2028

1                   (ii) 0.5 per cent shall be transferred to a sub-  
2                               account in the tourism special fund to  
3                               provide funding for a safety and security  
4                               budget, in accordance with the Hawaii  
5                               tourism strategic plan; and

6                   (B) Of the revenues remaining in the tourism special  
7                               fund after revenues have been deposited as  
8                               provided in this paragraph and except for any sum  
9                               authorized by the legislature for expenditure  
10                              from revenues subject to this paragraph,  
11                              beginning July 1, 2007, funds shall be deposited  
12                              into the tourism emergency special fund,  
13                              established in section 201B-10, in a manner  
14                              sufficient to maintain a fund balance of  
15                              \$5,000,000 in the tourism emergency special fund;

16                   (2) \$26,500,000 shall be allocated to the convention  
17                               center enterprise special fund established under  
18                               section 201B-8;

19                   ~~[(3) \$82,000,000 shall be allocated to the tourism special~~  
20                               ~~fund established under section 201B-11; provided that:~~



## S.B. NO. 2028

1           ~~(A) Beginning on July 1, 2012, and ending on June 30,~~  
2           ~~2015, \$2,000,000 shall be expended from the~~  
3           ~~tourism special fund for development and~~  
4           ~~implementation of initiatives to take advantage~~  
5           ~~of expanded visa programs and increased travel~~  
6           ~~opportunities for international visitors to~~  
7           ~~Hawaii;~~

8           ~~(B) Of the \$82,000,000 allocated:~~

9           ~~(i) \$1,000,000 shall be allocated for the~~  
10           ~~operation of a Hawaiian center and the~~  
11           ~~museum of Hawaiian music and dance at the~~  
12           ~~Hawaii convention center; and~~

13           ~~(ii) 0.5 per cent of the \$82,000,000 shall be~~  
14           ~~transferred to a sub account in the tourism~~  
15           ~~special fund to provide funding for a safety~~  
16           ~~and security budget, in accordance with the~~  
17           ~~Hawaii tourism strategic plan 2005-2015; and~~

18           ~~(C) Of the revenues remaining in the tourism special~~  
19           ~~fund after revenues have been deposited as~~  
20           ~~provided in this paragraph and except for any sum~~  
21           ~~authorized by the legislature for expenditure~~





1           ~~from revenues subject to this paragraph,~~  
2           ~~beginning July 1, 2007, funds shall be deposited~~  
3           ~~into the tourism emergency special fund,~~  
4           ~~established in section 201B-10, in a manner~~  
5           ~~sufficient to maintain a fund balance of~~  
6           ~~\$5,000,000 in the tourism emergency special~~  
7           ~~fund.]~~

8           (3) \$3,000,000 shall be allocated to the special land and  
9           development fund established under section 171-19;  
10          provided that the allocation shall be expended in  
11          accordance with the Hawaii tourism authority strategic  
12          plan for:

13          (A) The protection, preservation, maintenance, and  
14          enhancement of natural resources, including  
15          beaches, important to the visitor industry;

16          (B) Planning, construction, and repair of facilities;  
17          and

18          (C) Operation and maintenance costs of public lands,  
19          including beaches, connected with enhancing the  
20          visitor experience;



1       (4) \$1,500,000 shall be allocated to the Turtle Bay  
2       conservation easement special fund beginning July 1,  
3       2015, for the reimbursement to the state general fund  
4       of debt service on reimbursable general obligation  
5       bonds, including ongoing expenses related to the  
6       issuance of the bonds, the proceeds of which were used  
7       to acquire the conservation easement and other real  
8       property interests in Turtle Bay, Oahu, for the  
9       protection, preservation, and enhancement of natural  
10       resources important to the State, until the bonds are  
11       fully amortized; and

12       ~~[-(4)] (5) [\$103,000,000 for fiscal year 2014-2015,~~  
13       ~~\$103,000,000 for fiscal year 2015-2016, and~~  
14       ~~\$93,000,000 for each fiscal year thereafter]~~ Of the  
15       remaining revenues collected under this chapter,  
16       forty-five per cent shall be allocated to the counties  
17       and shall be distributed as follows: Kauai county  
18       shall receive 14.5 per cent, Hawaii county shall  
19       receive 18.6 per cent, city and county of Honolulu  
20       shall receive 44.1 per cent, and Maui county shall  
21       receive 22.8 per cent; provided that commencing with



# S.B. NO. 2028

1           fiscal year 2018-2019, a sum that represents the  
2           difference between a county public employer's annual  
3           required contribution for the separate trust fund  
4           established under section 87A-42 and the amount of the  
5           county public employer's contributions into that trust  
6           fund shall be retained by the state director of  
7           finance and deposited to the credit of the county  
8           public employer's annual required contribution into  
9           that trust fund in each fiscal year, as provided in  
10          section 87A-42, if the respective county fails to  
11          remit the total amount of the county's required annual  
12          contributions, as required under section 87A-43 [~~;~~and  
13          ~~(5) \$3,000,000 shall be allocated to the special land and~~  
14          ~~development fund established under section 171-19;~~  
15          ~~provided that the allocation shall be expended in~~  
16          ~~accordance with the Hawaii tourism authority strategic~~  
17          ~~plan for:~~  
18          ~~(A) The protection, preservation, maintenance, and~~  
19                 ~~enhancement of natural resources, including~~  
20                 ~~beaches, important to the visitor industry;~~



- 1             ~~(B) Planning, construction, and repair of facilities,~~
- 2   and
- 3             ~~(C) Operation and maintenance costs of public lands,~~
- 4   including beaches, connected with enhancing the
- 5   visitor experience].

6             All transient accommodations taxes shall be paid into the

7 state treasury each month within ten days after collection and

8 shall be kept by the state director of finance in special

9 accounts for distribution as provided in this subsection.

10            As used in this subsection, "fiscal year" means the twelve-

11 month period beginning on July 1 of a calendar year and ending

12 on June 30 of the following calendar year."

13   PART III

14            SECTION 3. Section 87A-42, Hawaii Revised Statutes, is

15 amended by amending subsection (d) to read as follows:

16            "(d) In any fiscal year subsequent to the 2017-2018 fiscal

17 year in which a county public employer's contributions into the

18 fund are less than the amount of the annual required

19 contribution, the amount that represents the excess of the

20 annual required contribution over the county public employer's

21 contributions shall be deposited into the fund from a portion of

1 all transient accommodations tax revenues collected by the  
2 department of taxation under section [~~237D-6.5(b)(4)~~.] 237D-  
3 6.5(b)(5). The director of finance shall deduct the amount  
4 necessary to meet the county public employer's annual required  
5 contribution from the revenues derived under section [~~237D-~~  
6 ~~6.5(b)(4)~~] 237D-6.5(b)(5) and transfer the amount to the board  
7 for deposit into the appropriate account of the separate trust  
8 fund."

9 SECTION 4. Section 171-19, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) There is created in the department a special fund to  
12 be designated as the "special land and development fund".  
13 Subject to the Hawaiian Homes Commission Act of 1920, as  
14 amended, and section 5(f) of the Admission Act of 1959, all  
15 proceeds of sale of public lands, including interest on deferred  
16 payments; all moneys collected under section 171-58 for mineral  
17 and water rights; all rents from leases, licenses, and permits  
18 derived from public lands; all moneys collected from lessees of  
19 public lands within industrial parks; all fees, fines, and other  
20 administrative charges collected under this chapter and chapter  
21 183C; a portion of the highway fuel tax collected under chapter



1 243; all moneys collected by the department for the commercial  
2 use of public trails and trail accesses under the jurisdiction  
3 of the department; transient accommodations tax revenues  
4 collected pursuant to section [~~237D-6.5(b)(5);~~] 237D-6.5(b)(3);  
5 and private contributions for the management, maintenance, and  
6 development of trails and accesses shall be set apart in the  
7 fund and shall be used only as authorized by the legislature for  
8 the following purposes:

- 9 (1) To reimburse the general fund of the State for  
10 advances made that are required to be reimbursed from  
11 the proceeds derived from sales, leases, licenses, or  
12 permits of public lands;
- 13 (2) For the planning, development, management, operations,  
14 or maintenance of all lands and improvements under the  
15 control and management of the board pursuant to title  
16 12, including but not limited to permanent or  
17 temporary staff positions who may be appointed without  
18 regard to chapter 76; provided that transient  
19 accommodations tax revenues allocated to the fund  
20 shall be expended as provided in section [~~237D-~~  
21 ~~6.5(b)(5);~~] 237D-6.5(b)(3);



- 1           (3) To repurchase any land, including improvements, in the  
2           exercise by the board of any right of repurchase  
3           specifically reserved in any patent, deed, lease, or  
4           other documents or as provided by law;
- 5           (4) For the payment of all appraisal fees; provided that  
6           all fees reimbursed to the board shall be deposited in  
7           the fund;
- 8           (5) For the payment of publication notices as required  
9           under this chapter; provided that all or a portion of  
10          the expenditures may be charged to the purchaser or  
11          lessee of public lands or any interest therein under  
12          rules adopted by the board;
- 13          (6) For the management, maintenance, and development of  
14          trails and trail accesses under the jurisdiction of  
15          the department;
- 16          (7) For the payment to private land developers who have  
17          contracted with the board for development of public  
18          lands under section 171-60;
- 19          (8) For the payment of debt service on revenue bonds  
20          issued by the department, and the establishment of



# S.B. NO. 2028

- 1           debt service and other reserves deemed necessary by
- 2           the board;
- 3           (9) To reimburse the general fund for debt service on
- 4           general obligation bonds issued to finance
- 5           departmental projects, where the bonds are designated
- 6           to be reimbursed from the special land and development
- 7           fund;
- 8           (10) For the protection, planning, management, and
- 9           regulation of water resources under chapter 174C; and
- 10          (11) For other purposes of this chapter."

PART IV

12          SECTION 5. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14          SECTION 6. This Act shall take effect on July 1, 2016.

15

INTRODUCED BY:

*[Handwritten Signature]*  
 \_\_\_\_\_  
 By Request





# S.B. NO. 2028

**Report Title:**

State-County Functions Working Group; Transient Accommodations Tax; Allocation; Tourism Special Fund; Counties

**Description:**

Adjusts allocation of transient accommodations tax revenues to the tourism special fund for inflation. Adjusts allocation to the counties to equal 45% of the amount of revenues remaining after all other allocations are made.

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

