
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 by amending subsections (b) and (c) to read as follows:

4 "(b) Each county that has established a surcharge on state
5 tax prior to [†]July 1, 2015, [†] under authority of subsection
6 (a) may extend the surcharge [~~from January 1, 2023,~~] until
7 December 31, [~~2027,~~] 2028, at the same rates. A county electing
8 to extend this surcharge shall do so by ordinance; provided
9 that:

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

12 and

13 (2) The ordinance shall be adopted prior to [~~July~~]
14 January 1, [~~2016, but no earlier than July 1, 2015.~~]
15 2018.

16 A county electing to exercise the authority granted under
17 this subsection shall notify the director of taxation within ten
18 days after the county has adopted an ordinance extending the



1 surcharge on state tax. [~~Beginning on January 1, 2023, the~~] The
2 director of taxation shall levy, assess, collect, and otherwise
3 administer the extended surcharge on state tax.

4 (c) Each county that has not established a surcharge on
5 state tax prior to [~~+~~]July 1, 2015, [~~+~~] may establish the
6 surcharge at the rates enumerated in sections 237-8.6 and 238-
7 2.6. A county electing to establish this surcharge shall do so
8 by ordinance; 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 [~~July~~]
12 January 1, [2016,] 2018 [~~but no earlier than July 1,~~
13 ~~2015]~~; and

14 (3) No county surcharge on state tax that may be
15 authorized under this subsection shall be levied prior
16 to January 1, [~~2018,] 2019, or after December 31,
17 [~~2027,] 2028.~~~~

18 A county electing to exercise the authority granted under
19 this subsection shall notify the director of taxation within ten
20 days after the county has adopted a surcharge on state tax
21 ordinance. Beginning on January 1, [~~2018,] 2019, the director~~



1 of taxation shall levy, assess, collect, and otherwise
2 administer the county surcharge on state tax."

3 SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Each county surcharge on state tax that may be
6 adopted or extended pursuant to section 46-16.8 shall be levied
7 beginning in [~~the~~] a taxable year after the adoption of the
8 relevant county ordinance; provided that no surcharge on state
9 tax may be levied:

10 (1) Prior to:

11 (A) January 1, 2007, if the county surcharge on state
12 tax was established by an ordinance adopted prior
13 to December 31, 2005; or

14 (B) January 1, [~~2018,~~] 2019, if the county surcharge
15 on state tax was established by the adoption of
16 an ordinance after June 30, 2015, but prior to
17 [~~July 1, 2016;~~] January 1, 2018; and

18 (2) After December 31, [~~2027.~~] 2028."

19 SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) Each county surcharge on state tax that may be
2 adopted or extended shall be levied beginning in [~~the~~] a taxable
3 year after the adoption of the relevant county ordinance;
4 provided that no surcharge on state tax may be levied:

5 (1) Prior to:

6 (A) January 1, 2007, if the county surcharge on state
7 tax was established by an ordinance adopted prior
8 to December 31, 2005; or

9 (B) January 1, [~~2018,~~] 2019, if the county surcharge
10 on state tax was established by the adoption of
11 an ordinance after June 30, 2015, but prior to
12 [~~July 1, 2016;~~] January 1, 2018; and

13 (2) After December 31, [~~2027.~~] 2028."

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

16 "(a) If adopted by county ordinance, all county surcharges
17 on state tax collected by the director of taxation shall be paid
18 into the state treasury quarterly, within ten working days after
19 collection, and shall be placed by the director of finance in
20 special accounts. Out of the revenues generated by county
21 surcharges on state tax paid into each respective state treasury



1 special account, the director of finance shall deduct [~~ten~~] one
2 per cent of the gross proceeds of a respective county's
3 surcharge on state tax to reimburse the State for the costs of
4 assessment, collection, [~~and~~] disposition, and oversight of the
5 county surcharge on state tax incurred by the State. Amounts
6 retained shall be general fund realizations of the State."

7 SECTION 5. Act 247, Session Laws of Hawaii 2005, as
8 amended by Act 240, Session Laws of Hawaii 2015, is amended by
9 amending section 9 to read as follows:

10 "SECTION 9. This Act shall take effect upon its approval;
11 provided that:

12 (1) If none of the counties of the State adopt an
13 ordinance to levy a county surcharge on state tax by
14 December 31, 2005, this Act shall be repealed and
15 section 437D-8.4, Hawaii Revised Statutes, shall be
16 reenacted in the form in which it read on the day
17 prior to the effective date of this Act;

18 (2) If any county does not adopt an ordinance to levy a
19 county surcharge on state tax by December 31, 2005, it
20 shall be prohibited from adopting such an ordinance
21 pursuant to this Act, unless otherwise authorized by



1 the legislature through a separate legislative act;
2 and

3 (3) If an ordinance to levy a county surcharge on state
4 tax is adopted by December 31, 2005:

5 (A) The ordinance shall be repealed on December 31,
6 2022; provided that the repeal of the ordinance
7 shall not affect the validity or effect of an
8 ordinance to extend a surcharge on state tax
9 adopted pursuant to [~~Act 240, Session Laws of~~
10 ~~Hawaii 2015;~~] an act of the legislature; and

11 (B) This Act shall be repealed on December 31,
12 [~~2027;~~] 2028; and

13 [~~(C) Section~~] section 437D-8.4, Hawaii Revised
14 Statutes, shall be reenacted in the form in which
15 it read on the day prior to the effective date of
16 this Act; provided that the amendments made to
17 section 437D-8.4, Hawaii Revised Statutes, by Act
18 226, Session Laws of Hawaii 2008, as amended by
19 Act 11, Session Laws of Hawaii 2009, and Act 110,
20 Session Laws of Hawaii 2014, shall not be
21 repealed."



1 PART II

2 SECTION 6. Section 46-16.8, Hawaii Revised Statutes, is
3 amended by amending subsection (e) to read as follows:

4 "(e) Each county with a population greater than five
5 hundred thousand that adopts or extends a county surcharge on
6 state tax ordinance pursuant to subsection (a) or (b) shall use
7 the surcharges received from the State for[÷

8 ~~(1) Capital]~~ capital costs of a locally preferred
9 alternative for a mass transit project[÷~~and~~

10 ~~(2) Expenses in complying with the Americans with~~
11 ~~Disabilities Act of 1990 with respect to paragraph~~
12 ~~(1).~~

13 ~~The];~~ provided that revenues derived from the county surcharge
14 on state tax shall not be used [÷

15 (1) To build or repair public roads or highways, bicycle
16 paths, or support public transportation systems
17 already in existence prior to July 12, 2005[-];

18 (2) For operating costs of the mass transit project or any
19 purpose not consistent with this subsection; or

20 (3) For administrative or operating costs, including
21 personnel costs, of a rapid transportation authority



1 in section 46-16.8(e) or (f), Hawaii Revised Statutes,
2 as applicable.

3 Notwithstanding any other law to the contrary, if there is
4 an existing ordinance that violates paragraph (1) or (2), or
5 both, in effect on the effective date of this Act, the county
6 shall repeal the ordinance before December 31, 2017.

7 (c) The mayor of a county shall notify the director of
8 taxation within ten days of the mayor's approval of the repeal
9 of an ordinance that violates subsection (b)(1), (b)(2), or
10 both.

11 PART IV

12 SECTION 8. Section 237D-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§237D-2 Imposition and rates.** (a) There is levied and
15 shall be assessed and collected each month a tax of:

16 (1) Five per cent for the period beginning on January 1,
17 1987, to June 30, 1994;

18 (2) Six per cent for the period beginning on July 1, 1994,
19 to December 31, 1998;

20 (3) 7.25 per cent for the period beginning on January 1,
21 1999, to June 30, 2009;



1 (4) 8.25 per cent for the period beginning on July 1,
2 2009, to June 30, 2010; and

3 (5) 9.25 per cent for the period beginning on July 1,
4 2010, and thereafter;

5 on the gross rental or gross rental proceeds derived from
6 furnishing transient accommodations.

7 (b) Every operator shall pay to the State the tax imposed
8 by subsection (a), as provided in this chapter.

9 (c) There is levied and shall be assessed and collected
10 each month, on the occupant of a resort time share vacation
11 unit, a transient accommodations tax of:

12 (1) 7.25 per cent on the fair market rental value until
13 December 31, 2015;

14 (2) 8.25 per cent on the fair market rental value for the
15 period beginning on January 1, 2016, to December 31,
16 2016; and

17 (3) 9.25 per cent on the fair market rental value for the
18 period beginning on January 1, 2017, and thereafter.

19 (d) Every plan manager shall be liable for and pay to the
20 State the transient accommodations tax imposed by subsection (c)
21 as provided in this chapter. Every resort time share vacation



1 plan shall be represented by a plan manager who shall be subject
2 to this chapter.

3 (e) Notwithstanding the tax rates established in
4 subsection (a)(5) and subsection (c)(3), the tax rates levied,
5 assessed, and collected pursuant to subsections (a) and (c)
6 shall be 10.25 per cent for the period beginning on January 1,
7 2018, to December 31, 2028; provided that of the tax revenues
8 collected pursuant to this section that are in excess of a 9.25
9 per cent tax:

10 (1) \$25,000,000 per year shall be allocated to the new
11 start education special fund established under section
12 302A- ; and

13 (2) The remainder shall be remitted to a county with a
14 population greater than five hundred thousand that
15 adopts or extends a county surcharge on state tax
16 ordinance pursuant to section 46-16.8, and shall be
17 used only for the capital costs of a locally preferred
18 alternative for a mass transit project; provided that
19 revenues remitted pursuant to this paragraph shall not
20 be used for:



- 1 (A) Operating costs of the mass transit project or
- 2 any purpose not consistent with this paragraph;
- 3 or
- 4 (B) Administrative or operating costs, including
- 5 personnel costs, of a rapid transportation
- 6 authority charged with the responsibility for
- 7 constructing or operating the mass transit
- 8 project, or both."

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

11 "(b) [~~Revenues~~] Except for the revenues collected pursuant
 12 to section 237D-2(e), revenues collected under this chapter
 13 shall be distributed in the following priority, with the excess
 14 revenues to be deposited into the general fund:

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



1 property interests in Turtle Bay, Oahu, for the
2 protection, preservation, and enhancement of natural
3 resources important to the State, until the bonds are
4 fully amortized;

5 (2) \$26,500,000 shall be allocated to the convention
6 center enterprise special fund established under
7 section 201B-8;

8 (3) \$82,000,000 shall be allocated to the tourism special
9 fund established under section 201B-11; provided that:

10 (A) Beginning on July 1, 2012, and ending on June 30,
11 2015, \$2,000,000 shall be expended from the
12 tourism special fund for development and
13 implementation of initiatives to take advantage
14 of expanded visa programs and increased travel
15 opportunities for international visitors to
16 Hawaii;

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

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



1 (ii) 0.5 per cent of the \$82,000,000 shall be
2 transferred to a sub-account in the tourism
3 special fund to provide funding for a safety
4 and security budget, in accordance with the
5 Hawaii tourism strategic plan 2005-2015; and

6 (C) 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 (4) \$103,000,000 for fiscal year 2014-2015 [~~7~~, ~~\$103,000,000~~
17 ~~for fiscal year 2015-2016, \$103,000,000 for fiscal~~
18 ~~year 2016-2017,~~] and for every fiscal year thereafter
19 until and including fiscal year 2027-2028, and
20 \$93,000,000 for [~~each~~] fiscal year 2028-2029 and each
21 fiscal year thereafter shall be allocated as follows:



1 Kauai county shall receive 14.5 per cent, Hawaii
2 county shall receive 18.6 per cent, city and county of
3 Honolulu shall receive 44.1 per cent, and Maui county
4 shall receive 22.8 per cent; provided that
5 ~~[commencing]~~:

- 6 (A) Commencing with fiscal year 2018-2019, a sum that
7 represents the difference between a county public
8 employer's annual required contribution for the
9 separate trust fund established under section
10 87A-42 and the amount of the county public
11 employer's contributions into that trust fund
12 shall be retained by the state director of
13 finance and deposited to the credit of the county
14 public employer's annual required contribution
15 into that trust fund in each fiscal year, as
16 provided in section 87A-42, if the respective
17 county fails to remit the total amount of the
18 county's required annual contributions, as
19 required under section 87A-43; and
20 (B) For fiscal year 2018-2019, and for every fiscal
21 year thereafter until and including fiscal year



1 2027-2028, all revenues derived from the 44.1 per
2 cent of revenues allocated each year to the city
3 and county of Honolulu pursuant to this paragraph
4 shall be expended only for the capital costs of a
5 locally preferred alternative for a mass transit
6 project; provided that revenues remitted pursuant
7 to this subparagraph shall not be used for:
8 (i) Operating costs of the mass transit project
9 or any purpose not consistent with this
10 subparagraph; or
11 (ii) Administrative or operating costs, including
12 personnel costs, of a rapid transportation
13 authority charged with the responsibility
14 for constructing or operating the mass
15 transit project, or both;
16 provided further that if a county public employer
17 does not meet its annual required contribution
18 obligation pursuant to subparagraph (A) and
19 section 87A-42, then the contribution required
20 under subparagraph (A) shall take priority over



1 the allocation made pursuant to this
2 subparagraph; and

3 (5) \$3,000,000 shall be allocated to the special land and
4 development fund established under section 171-19;
5 provided that the allocation shall be expended in
6 accordance with the Hawaii tourism authority strategic
7 plan for:

8 (A) The protection, preservation, maintenance, and
9 enhancement of natural resources, including
10 beaches, important to the visitor industry;

11 (B) Planning, construction, and repair of facilities;
12 and

13 (C) Operation and maintenance costs of public lands,
14 including beaches, connected with enhancing the
15 visitor experience.

16 All transient accommodations taxes shall be paid into the
17 state treasury each month within ten days after collection and
18 shall be kept by the state director of finance in special
19 accounts for distribution as provided in this subsection.



1 Accordingly, the purpose of this part is to prohibit a
2 county that is collecting a general excise tax surcharge to fund
3 capital costs of a locally preferred alternative for a mass
4 transit project from using public funds to reconstruct or
5 redevelop an event venue that is within a Hawaii community
6 development authority community development district or in a
7 manner that requires Hawaii community development authority
8 approval.

9 It is not the intent of the legislature in enacting this
10 part to prohibit any county from reconstructing or redeveloping
11 an event venue within a Hawaii community development district
12 with other than public financing.

13 SECTION 11. A county that receives revenues from a county
14 surcharge on state tax established pursuant to section 46-16.8,
15 Hawaii Revised Statutes, is prohibited from using public funds
16 to reconstruct or redevelop an event venue, including its
17 associated infrastructure and appurtenances, that is within a
18 Hawaii community development authority community development
19 district or in a manner that requires Hawaii community
20 development authority approval, from the effective date of this
21 Act to December 31, 2028; provided that this section shall not



1 apply to aggregated expenditures that total no more than what is
2 necessary from the effective date of this Act to December 31,
3 2028, for the operation or maintenance and repair of an event
4 venue.

5 As used in this section, "maintenance and repair" means
6 ordinary maintenance and repair that is necessary to keep a
7 facility clean, safe, accessible, and operational, but excludes
8 the construction of new facilities or the reconstruction or
9 redevelopment of existing facilities.

10 PART VI

11 SECTION 12. Chapter 302A, Hawaii Revised Statutes, is
12 amended by adding a new section to part I to be appropriately
13 designated and to read as follows:

14 **"§302A- New start education special fund; established.**

15 (a) There is established the new start education special fund
16 to be administered by the department.

17 (b) Transient accommodations tax revenues allocated to the
18 new start education special fund pursuant to section
19 237D-2(e)(1) shall be deposited into the new start education
20 special fund.



1 and all of the conditions set out in sections 7(b) and 11 of
2 this Act, then effective January 1, 2018, the director of
3 taxation may levy, assess, and collect the transient
4 accommodations tax at the increased rate established under part
5 IV of this Act; provided that:

6 (1) If on December 31, 2017, the county is not in
7 compliance with all of the conditions set out in
8 section 46-16.8(b), Hawaii Revised Statutes, as
9 amended in section 1 of this Act, and all of the
10 conditions set out in sections 7(b) and 11 of this
11 Act, the increase in transient accommodations tax
12 rates and the remittance of the revenues thereof to a
13 qualifying county, pursuant to part IV of this Act,
14 shall not take effect; and

15 (2) If at any time between January 1, 2018, and
16 December 31, 2028, the county is not in compliance
17 with all of the conditions set out in section
18 46-16.8(b), Hawaii Revised Statutes, as amended in
19 section 1 of this Act, and all of the conditions set
20 out in sections 7(b) and 11 of this Act, the increase
21 in transient accommodations tax rates and the



1 remittance of the revenues thereof to a qualifying
2 county, pursuant to part IV of this Act, shall be
3 immediately suspended until the county is in
4 compliance with all of the conditions set out in
5 section 46-16.8(b), Hawaii Revised Statutes, as
6 amended in section 1 of this Act, and sections 7(b)
7 and 11 of this Act.

8 (c) For each county establishing a surcharge on state tax
9 pursuant to section 46-16.8(c), Hawaii Revised Statutes, as
10 amended in section 1 of this Act, if on December 31, 2018, the
11 county is in compliance with all of the conditions pertaining to
12 the surcharge adoption authority under section 46-16.8(c),
13 Hawaii Revised Statutes, as amended in section 1 of this Act,
14 and all of the conditions set out in section 7(b) of this Act,
15 then effective January 1, 2019, the director of taxation may
16 levy, assess, and collect the surcharge on state tax and
17 disburse surcharge revenues pursuant to part I of this Act;
18 provided that:

19 (1) If on December 31, 2018, the county is not in
20 compliance with all of the conditions set out in
21 section 46-16.8(c), Hawaii Revised Statutes, as



1 amended in section 1 of this Act, and all of the
2 conditions set out in section 7(b) of this Act, the
3 authorization to levy, assess, and collect a surcharge
4 on state tax and the disbursement of surcharge
5 revenues, pursuant to part I of this Act, shall not
6 take effect; and

7 (2) If at any time between January 1, 2019, and
8 December 31, 2028, the county is not in compliance
9 with all of the conditions set out in section
10 46-16.8(c), Hawaii Revised Statutes, as amended in
11 section 1 of this Act, and all of the conditions set
12 out in section 7(b) of this Act, the authorization to
13 levy, assess, and collect a surcharge on state tax and
14 the disbursement of surcharge revenues, pursuant to
15 part I of this Act, shall be immediately suspended
16 until the county is in compliance with all of the
17 conditions set out in section 46-16.8(c), Hawaii
18 Revised Statutes, as amended in section 1 of this Act,
19 and all of the conditions set out in section 7(b) of
20 this Act.



Report Title:

County Surcharge on State Tax

Description:

Authorizes a county that has adopted a surcharge on state tax to extend the surcharge for one additional year, to 12/31/2028. Authorizes a county to adopt a surcharge on state tax before 1/1/2018, provided that certain conditions are met. Increases the transient accommodations tax by 1.0 per cent from 1/1/2018 to 12/31/2028 and provides that \$25,000,000 of the annual revenue shall be allocated to the New Start Education Special Fund and the remainder shall be remitted to a county with a population greater than five hundred thousand to be used only for capital costs of a locally preferred alternative for a mass transit project. Provides that all revenue from the portion of transient accommodations tax revenues that is otherwise allocated to the City and County of Honolulu shall be used only for capital costs of a locally preferred alternative for a mass transit project. Prohibits a county from using public funds to renovate or redevelop an event venue within a Hawaii Community Development Authority community development district while the county is collecting a surcharge on state tax to finance capital costs of a locally preferred alternative for a mass transit project. Establishes the New Start Education Special Fund.
(CD2)

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

