

JAN 25 2017

A BILL FOR AN ACT

RELATING TO TAXATION.

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

- 1 SECTION 1. The purpose of this Act is to address the
2 county surcharge on state general excise and use taxes by:
- 3 (1) Authorizing a county with a pre-existing surcharge on
4 state general excise and use taxes to permanently
5 extend its surcharge at a lower rate of one-fourth of
6 one per cent;
- 7 (2) Authorizing counties that have not adopted an
8 ordinance to establish a surcharge on state general
9 excise and use taxes prior to the effective date of
10 this Act to establish a surcharge at the rate of one-
11 fourth of one per cent;
- 12 (3) Reducing the amount deducted from the county surcharge
13 on state tax for the State's costs of assessment,
14 collection, and disposition from ten per cent to the
15 actual costs incurred by the State; and



1 (4) For counties with a population greater than five
2 hundred thousand, authorizing use of surcharge
3 revenues to include "operating costs".

4 SECTION 2. This Act shall not affect the validity or
5 effect of any surcharge on state tax adopted pursuant to Act
6 247, Session Laws of Hawaii 2005, or Act 240, Session Laws of
7 Hawaii 2015, prior to the effective date of this Act.

8 SECTION 3. Section 46-16.8, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§46-16.8 County surcharge on state tax.** (a) Each county
11 may establish a surcharge on state tax at the rates enumerated
12 in sections 237-8.6 and 238-2.6. A county electing to establish
13 this surcharge shall do so by ordinance; provided that:

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

16 (2) The ordinance shall be adopted prior to December 31,
17 2005; and

18 (3) No county surcharge on state tax that may be
19 authorized under this subsection shall be levied prior
20 to January 1, 2007 [~~, or after December 31, 2022,~~
21 ~~unless extended pursuant to subsection (b)]].~~



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

5 A county electing to exercise the authority granted under
6 this subsection shall notify the director of taxation within ten
7 days after the county has adopted a surcharge on state tax
8 ordinance and, beginning no earlier than January 1, 2007, the
9 director of taxation shall levy, assess, collect, and otherwise
10 administer the county surcharge on state tax.

11 (b) Each county that has established a surcharge on state
12 tax prior to ~~[+]July 1, 2015, [+]~~ under authority of subsection

13 (a) may extend the surcharge ~~[from January 1, 2023, until~~
14 ~~December 31, 2027,]~~ at the ~~[same]~~ rates~~[-]~~ enumerated in
15 sections 237-8.6 and 238-2.6. A county electing to extend this

16 surcharge shall do so by ordinance; provided that~~[-]~~

17 ~~(1) No]~~ no ordinance shall be adopted until the county has
18 conducted a public hearing on the proposed ordinance~~[-]~~
19 ~~and~~

20 ~~(2) The ordinance shall be adopted prior to July 1, 2016,~~
21 ~~but no earlier than July 1, 2015].~~



1 A county electing to exercise the authority granted under
2 this subsection shall notify the director of taxation within ten
3 days after the county has adopted an ordinance extending the
4 surcharge on state tax. Beginning on January 1, 2023, the
5 director of taxation shall levy, assess, collect, and otherwise
6 administer the extended surcharge on state tax.

7 (c) Each county that has not established a surcharge on
8 state tax prior to [+]July 1, 2015,[+] may establish the
9 surcharge at the rates enumerated in sections 237-8.6 and
10 238-2.6. A county electing to establish this surcharge shall do
11 so by ordinance; provided that:

- 12 (1) No ordinance shall be adopted until the county has
13 conducted a public hearing on the proposed ordinance;
- 14 (2) The ordinance shall be adopted prior to July 1, 2016,
15 but no earlier than July 1, 2015; and
- 16 (3) No county surcharge on state tax that may be
17 authorized under this subsection shall be levied prior
18 to January 1, 2018[~~, or after December 31, 2027~~].

19 A county electing to exercise the authority granted under
20 this subsection shall notify the director of taxation within ten
21 days after the county has adopted a surcharge on state tax



1 ordinance. Beginning on January 1, 2018, the director of
2 taxation shall levy, assess, collect, and otherwise administer
3 the county surcharge on state tax.

4 (d) Each county that has not established a surcharge on
5 state tax prior to July 1, 2017, may establish the surcharge 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 and

12 (2) No county surcharge on state tax that is authorized
13 under this subsection shall be levied prior to
14 January 1, 2023.

15 A county electing to exercise the authority granted under
16 this subsection shall notify the director of taxation within ten
17 days after the county has adopted a surcharge on state tax
18 ordinance. Beginning on January 1, 2023, the director of
19 taxation shall levy, assess, collect, and otherwise administer
20 the county surcharge on state tax.



S.B. NO. 1242

1 ~~(d)~~ (e) Notice of the public hearing required under
2 subsection (b) ~~(e)~~, (c), or (d) before adoption of an ordinance
3 establishing or extending the surcharge on state tax shall be
4 published in a newspaper of general circulation within the
5 county at least twice within a period of thirty days immediately
6 preceding the date of the hearing.

7 ~~(e)~~ (f) Each county with a population greater than five
8 hundred thousand that adopts or extends a county surcharge on
9 state tax ordinance pursuant to subsection (a) or (b) shall use
10 the surcharges received from the State for:

- 11 (1) ~~Capital~~ Operating or capital costs of a locally
12 preferred alternative for a mass transit project; and
13 (2) Expenses in complying with the Americans with
14 Disabilities Act of 1990 with respect to paragraph
15 (1).

16 The county surcharge on state tax shall not be used to build or
17 repair public roads or highways, bicycle paths, or support
18 public transportation systems already in existence prior to July
19 12, 2005.

20 ~~(f)~~ (g) Each county with a population equal to or less
21 than five hundred thousand that adopts a county surcharge on



1 state tax ordinance pursuant to this section shall use the
2 surcharges received from the State for:

3 (1) Operating or capital costs of public transportation
4 within each county for public transportation systems,
5 including public roadways or highways, public buses,
6 trains, ferries, pedestrian paths or sidewalks, or
7 bicycle paths; and

8 (2) Expenses in complying with the Americans with
9 Disabilities Act of 1990 with respect to paragraph
10 (1).

11 [~~g~~] (h) As used in this section, "capital costs" means
12 nonrecurring costs required to construct a transit facility or
13 system, including debt service, costs of land acquisition and
14 development, acquiring of rights-of-way, planning, design, and
15 construction, and including equipping and furnishing the
16 facility or system. For a county with a population greater than
17 five hundred thousand, capital costs also include non-recurring
18 personal services and other overhead costs that are not intended
19 to continue after completion of construction of the minimum
20 operable segment of the locally preferred alternative for a mass
21 transit project."



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

3 "(a) The county surcharge on state tax, upon the adoption
4 of county ordinances 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 all gross proceeds and gross income
7 taxable under this chapter. No county shall set the surcharge
8 on state tax at a rate greater than:

9 (1) [~~one-half~~] One-half per cent if prior to January 1,
10 2028; and

11 (2) One-fourth per cent if after December 31, 2027;

12 of all gross proceeds and gross income taxable under this
13 chapter. All provisions of this chapter shall apply to the
14 county surcharge on state tax. With respect to the surcharge,
15 the director of taxation shall have all the rights and powers
16 provided under this chapter. In addition, the director of
17 taxation shall have the exclusive rights and power to determine
18 the county or counties in which a person is engaged in business
19 and, in the case of a person engaged in business in more than
20 one county, the director shall determine, through apportionment



1 or other means, that portion of the surcharge on state tax
2 attributable to business conducted in each county.

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

8 ~~(1) Prior]~~ prior to:

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

12 [~~B)] (2) January 1, 2018, if the county surcharge on
13 state tax was established by the adoption of an
14 ordinance after June 30, 2015, but prior to July 1,
15 2016[~~and~~~~

16 ~~(2) After December 31, 2027]."~~

17 SECTION 5. Section 238-2.6, Hawaii Revised Statutes, is
18 amended by amending subsections (a) and (b) to read as follows:

19 "(a) The county surcharge on state tax, upon the adoption
20 of a county ordinance and in accordance with the requirements of
21 section 46-16.8, shall be levied, assessed, and collected as



1 provided in this section on the value of property and services
2 taxable under this chapter. No county shall set the surcharge
3 on state tax at a rate greater than:

4 (1) ~~[one-half]~~ One-half per cent if prior to January 1,
5 2028; and

6 (2) One-fourth per cent if after December 31, 2027;

7 of the value of property taxable under this chapter. All
8 provisions of this chapter shall apply to the county surcharge
9 on state tax. With respect to the surcharge, the director shall
10 have all the rights and powers provided under this chapter. In
11 addition, the director of taxation shall have the exclusive
12 rights and power to determine the county or counties in which a
13 person imports or purchases tangible personal property and, in
14 the case of a person importing or purchasing tangible property
15 in more than one county, the director shall determine, through
16 apportionment or other means, that portion of the surcharge on
17 state tax attributable to the importation or purchase in each
18 county.

19 (b) Each county surcharge on state tax that may be adopted
20 or extended shall be levied beginning in the taxable year after



1 the adoption of the relevant county ordinance; provided that no
2 surcharge on state tax may be levied[+]

3 ~~(1)~~ ~~Prior~~] prior to:

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

7 [~~B~~] (2) January 1, 2018, if the county surcharge on
8 state tax was established by the adoption of an
9 ordinance after June 30, 2015, but prior to July 1,
10 2016[+~~and~~

11 ~~(2)~~ ~~After December 31, 2027]~~."

12 SECTION 6. Section 248-2.6, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) If adopted by county ordinance, all county surcharges
15 on state tax collected by the director of taxation shall be paid
16 into the state treasury quarterly, within ten working days after
17 collection, and shall be placed by the director of finance in
18 special accounts. Out of the revenues generated by county
19 surcharges on state tax paid into each respective state treasury
20 special account, the director of finance shall deduct [~~ten per~~
21 ~~cent of the gross proceeds of~~] from a respective county's



1 surcharge on state tax [~~to reimburse the State for~~] the actual
2 costs of assessment, collection, and disposition of the county
3 surcharge on state tax incurred by the State. Amounts retained
4 shall be general fund realizations of the State."

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

8 "SECTION 9. This Act shall take effect upon its approval[~~+~~
9 ~~provided that:~~

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

16 ~~(2) If any county does not adopt an ordinance to levy a~~
17 ~~county surcharge on state tax by December 31, 2005, it~~
18 ~~shall be prohibited from adopting such an ordinance~~
19 ~~pursuant to this Act, unless otherwise authorized by~~
20 ~~the legislature through a separate legislative act;~~
21 and



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

3 ~~(A) The ordinance shall be repealed on December 31,~~
4 ~~2022; provided that the repeal of the ordinance~~
5 ~~shall not affect the validity or effect of an~~
6 ~~ordinance to extend a surcharge on state tax~~
7 ~~adopted pursuant to Act 240, Session Laws of~~
8 ~~Hawaii 2015;~~

9 ~~(B) This Act shall be repealed on December 31, 2027;~~
10 ~~and~~

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

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



S.B. NO. 1242

1 SECTION 9. This Act shall take effect on July 1, 2017.

2

INTRODUCED BY:

Kal Rhoach

Breem Hain
Breem Hain



S.B. NO. 1242

Report Title:

County Surcharge on State Tax; Reimbursement

Description:

Changes the amount deducted from the county surcharge on state tax to reimburse the State for costs of assessment, collection, and disposition from 10% of gross proceeds to the actual costs incurred by the State. Allows counties that have established a county surcharge on state tax to permanently extend the surcharge at a lower rate of 0.25%. Allows surcharge to be used for operating costs. Allows counties that have not yet established a surcharge to do so at a rate of 0.25%.

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

