



IN REPLY REFER TO:  
CMS-AP00-02421

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Andrew S. Robbins  
EXECUTIVE DIRECTOR AND CEO

Krishniah N. Murthy  
SENIOR ADVISOR

**HOUSE COMMITTEE ON FINANCE**

BOARD OF DIRECTORS

Thursday, February 22, 2018  
11:00 AM  
Conference Room 308, State Capitol

Damien T.K. Kim  
CHAIR

Terrence M. Lee  
VICE CHAIR

Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance:

Jade Butay  
John Henry Felix  
Wes Frysztacki  
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Kamani Kuala'au  
Wesley K. Machida  
Tobias Martyn  
Glenn M. Nohara  
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Kathy Sokugawa  
Kalbert K. Young  
Hoyt H. Zia

The Honolulu Authority for Rapid Transportation (HART) provides **comments** on **HB2403, HD1, Relating to the Mass Transit Special Fund**. HB2403, HD1 proposes to provide the Hawaii State Department of Transportation an annual credit of an unspecified amount from the mass transit special fund for a period beginning January 1, 2018, to December 31, 2030.

This proposed credit to the Hawaii State Department of Transportation would send a wrong message to the Federal Transit Administration (FTA) regarding the local commitment to fund the Honolulu Rail Transit Project.

The FTA is currently in the process of reviewing HART's "baseline" financial plan submitted with HART's Recovery Plan on September 15, 2017. FTA's review is to ensure, among other things, adequate dedicated funding is available to complete the Project and that HART's cost estimates are reasonable. Under Act 1, revenues would be deposited into a Mass Transit Special Fund, subject to the State Comptroller certification of invoices that included:

- A dedicated 0.5% general excise tax (GET) surcharge, with the City and HART receiving 99% of the gross GET proceeds effective September 5, 2017 through December 31, 2030; and
- A dedicated 1.0% of the State-wide Transient Accommodations Tax, with the City and HART receiving 100% of the gross proceeds beginning January 1, 2018 through December 31, 2030.

Any annual credit or deduction from the Mass Transit Special Fund as currently proposed in HB2403, HD1 would renew concerns of the FTA regarding the local funding commitment for the Honolulu Rail Transit Project only five (5) months after the approval of additional funding generated from the provisions of Act 1 (2017).

Finally, HART requests a correction to House Standing Committee Report 365-18 which should have read "The Honolulu Authority for Rapid Transportation provided comments" on HB2403. HART did not testify in support of this measure. The HART Board of Directors will be discussing a draft Board resolution at its February 22, 2018 Board of Directors meeting, which proposes to take a position on this measure and its companion bill. Following such action by the HART Board and should this measure move forward, HART will be prepared to submit testimony that reflects a position of the HART Board.

Thank you for this opportunity to provide written testimony.

**HB-2403-HD-1**

Submitted on: 2/21/2018 8:44:17 AM

Testimony for FIN on 2/22/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

**OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

**DEMOCRATIC PARTY OF HAWAI'I**

TO THE COMMITTEE ON FINANCE

THE HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Thursday, February 22, 2018

11:00 AM

Hawaii State Capitol, Conference Room 308

RE: Testimony in Support of HB 2403 HD1 RELATING TO THE MASS TRANSIT SPECIAL FUND

To the Honorable Sylvia Luke, Chair; the Honorable Ty J.K. Cullen, Vice-Chair, and Members of the Committee on Finance:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No. 2403 HD1, relating to Safety Oversight; Mass Transit Special Fund; and Department of Transportation.

The OCC Legislative Priorities Committee is in support of House Bill No. 2403 HD1 and supports its passage.

House Bill No. 2403 HD1 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH") as it provides funds to the Department of Transportation for the safety oversight of the rail fixed guideway system.

Specifically, the DPH Platform provides that we "[i]mprovements to infrastructure are critical to providing a healthy base to the Hawaiian economy. Upgrading publicly-owned water works, preserving agricultural water sources, **improving public transportation, redesigning mass transit**, and supporting universal basic education for all children are key elements in maintaining a strong, sustainable economy in Hawai'i." (Platform of the DPH, P. 1, Lines 50-53 (2016)).

We seek to achieve energy sustainability based on renewable energy sources. We must encourage the use of clean alternative fuel sources to include our public transportation systems. We must increase the use of **public transit**, telecommuting, car and vanpooling, ridesharing, biking, walking, and other forms of transportation thereby reducing traffic congestion and air pollution. We must also urgently develop the use of a variety of cost-effective energy providing systems, encourage transit-oriented development, and 448 support tax incentives that encourage renewable energy initiatives. (Platform of the DPH, PP. 8-9, Lines 443-448 (2016)).

Given that House Bill No.2403 HD1 provides funds to the Department of Transportation for the safety oversight of the rail fixed guideway system, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Raid Mass Transit Special Fund

BILL NUMBER: HB 2403, HD-1

INTRODUCED BY: House Committee on Transportation

EXECUTIVE SUMMARY: Takes \$\_\_\_\_\_ a year from the Mass Transit Special Fund that was established to hold county surcharge collections. The Department of Transportation says that its services are required by federal law; but the law provides federal money to pay for them, so why is the diversion needed?

SYNOPSIS: Amends section 26-19, HRS, to state that the Department of Transportation shall adopt and enforce safety oversight of rail fixed guideway public transportation systems in Hawaii, and to protect and promote safety and welfare.

Amends section 248-2.7, HRS, to credit \$\_\_\_\_\_ from the mass transit special fund to the Department of Transportation annually.

EFFECTIVE DATE: July 1, 2050.

STAFF COMMENTS: This measure is an Administration-sponsored bill introduced by the Department of Transportation and designated TRN-07 (18).

The mass transit special fund at issue was created by Act 1, SLH 2017 (1st Special Session). It receives (1) the GET surcharge collected on behalf of any county that adopts the surcharge by ordinance, as Oahu and Kauai have; and (2) one percentage point of Transient Accommodations Tax revenues allocated under section 237D-2(e), HRS.

Of these two items, the first is money belonging to the counties. The State has delegated power to impose a surcharge, but the county adopts the ordinance actually imposing it. The second, of course, is State money because the TAT is a state tax.

Section 248-2.6, HRS, already skims off 1% of the county surcharge “to reimburse the State for the costs of assessment, collection, disposition, and oversight of the county surcharge on state tax incurred by the State.”

In its testimony before the House Committee on Transportation, DOT mentions that its safety oversight responsibility is required by a Federal statute, 49 U.S.C. section 5329(e). That statute establishes a state safety oversight program, but it also contemplates federal money to support it. As the Federal Transit Administration states on its website (<https://www.transit.dot.gov/state-safety-oversight>):

### **State Safety Oversight (SSO) Program**

The purpose of the State Safety Oversight program is to oversee safety at rail transit systems. The SSO program is administered by eligible states with rail transit systems in their jurisdiction. FTA provides federal funds through the SSO Formula Grant Program for eligible states to develop or carry out their SSO programs. Under 49 U.S.C. Section 5329(e), as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21), FTA is required to certify each state's program to ensure compliance with MAP-21. Review the list of SSO agencies [Hawaii DOT is included].

The FTA's website also states that the Hawaii DOT has achieved three out of four stages toward having a federally certified SSO program, and that if it is so certified its estimated FTA funding would be in excess of \$45 million. (Please see attached chart, available at <https://www.transit-dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/safety/63491/sso-certification-status-table-012518.pdf>).

It is curious that DOT's request for this half million dollars per year is coming now, a decade after the Honolulu rail project surcharge was enacted. Did no one know then, or at any time before now, that the Department of Transportation would need to be paid for safety oversight? Nothing about the project has recently changed that would make it fundamentally more unsafe.

Digested 2/20/2018

## Status of State Safety Oversight Program Certification

By Federal public transportation safety law, 30 states with rail transit systems are required to establish an FTA-certified State Safety Oversight (SSO) Program by April 15, 2019. If a state does not obtain certification by this deadline, Federal law does not allow FTA to award any Federal public transportation funds to any public transportation agencies throughout that state until certification is achieved. This tracking table depicts each state's progress toward FTA certification.

State	Certification Stage <sup>1</sup>	Estimated FTA Formula Funding (FY2019) <sup>2</sup>
Minnesota	Certified	\$113,535,596
Ohio	Certified	\$190,956,911
Utah	Certified	\$76,951,916
Arizona	3	\$117,005,463
Arkansas	3	\$33,585,909
California	3	\$1,399,901,100
Colorado	3	\$122,239,166
District of Columbia	3	\$210,465,763
DC, MD, VA (Metrorail Safety Commission)	3	\$638,233,977
Florida	3	\$393,569,020
Georgia	3	\$194,509,592
Hawaii	3	\$45,307,477
Louisiana	3	\$65,058,832
Maryland	3	\$252,138,184
Massachusetts	3	\$377,572,975
Missouri	3	\$104,260,944
New Jersey	3	\$630,788,783
North Carolina	3	\$124,046,200
Oregon	3	\$104,230,003
Pennsylvania	3	\$438,670,071
Puerto Rico	3	\$74,078,304
Virginia	3	\$175,630,030
Washington	3	\$261,144,863
West Virginia	3	\$27,796,756
Wisconsin	3	\$88,028,303
Texas	3	\$444,293,604
<b>States that still require state legislative or executive action</b>		
Illinois*	1	\$609,101,428
Michigan*	1	\$142,597,929
New York*	1	\$1,523,909,156
Oklahoma*	1	\$52,170,951
Tennessee*	1	\$92,833,519

**Note 1:** The status shows the SSO certification process in four stages:

Stage 1 – State is working on its submissions to FTA. Where applicable, all required legislation has not yet been enacted.

Stage 2 – State has submitted some requirements to FTA.

Stage 3 – State has submitted all required documents to FTA and is engaged in a dialogue with FTA to address comments and questions. Where applicable, all required legislation has been enacted.

Stage 4 (Certified) – State has successfully met all SSO Program requirements, including the resources to carry out the requirements, and has received FTA certification.

**Note 2:** Federal transit program (49 U.S.C. 53) formula amounts are based on Fixing America's Surface Transportation (FAST) Act estimated apportionments for FY 2019. These funds illustrate the minimum annual funding amounts that FTA is prohibited from awarding if a state's SSO Program has not been certified by April 15, 2019.

\* States with an asterisk still require state legislative or executive action prior to FTA certification. States cannot advance past Stage 1 without necessary laws enacted. States should act promptly to ensure all necessary actions are taken with sufficient time to meet the April 2019 deadline.



Testimony by:  
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IN REPLY REFER TO:

February 22, 2018  
11:00 a.m.  
State Capitol, Room 308

**H.B. 2403, H.D. 1  
RELATING TO THE MASS TRANSIT SPECIAL FUND**

House Committee on Finance

The Department of Transportation (DOT) **supports H.B. 2403, H.D. 1 with comments and a requested amendment.**

Section 1 of H.B. 2403, H.D. 1, amends HRS § 26-19, relating to the Department of Transportation, to add to the DOT’s responsibilities safety oversight of rail fixed guideway public transportation systems in the State of Hawaii as required by federal law, 49 U.S.C. Section 5329(e).

Section 2 of H.B. 2403, H.D. 1, amends HRS § 248-2.7 relating to the Mass Transit Special Fund, to provide that DOT “shall be credited \$\_\_\_\_\_ annually” for utilization by the DOT for the purpose of safety oversight of rail fixed guideway public transportation systems as described in Section 1 of the bill..

The DOT requests that section 2 of the bill, which amends HRS § 248-2.7(b), be revised as follows:

(b) For the period beginning on January 1, 2018, to December 31, 2030, the first \$500,000 annually of the transient accommodations tax and surcharge on state tax revenues allocated to the mass transit special fund pursuant to sections 237D-2(e) and 248-2.6 shall be deposited into the [special] state department of transportation General Administration fund[-], with such moneys to be used for the purpose of safety oversight of rail fixed guideway systems pursuant to section 26-19. [The department of transportation shall be credited \$\_\_\_\_\_ annually.] All interest earned on the moneys in the special fund shall be credited to the general fund. The mass transit special fund shall be exempt from the central service expenses deduction under section 36-27

and departmental administrative expenses deduction under section 36-30.

Thank you for the opportunity to provide testimony.