

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Friday, February 16, 2018
Time: 4:00 P.M.
Place: Conference Room 308, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 2587, Relating to Taxation

The Department of Taxation (Department) offers the following comments on H.B. 2587, for the Committee's consideration.

H.B. 2587, extends the deadline for a county to adopt an ordinance to establish a general excise tax surcharge (CS) from March 31, 2018 to September 30, 2018. The bill is effective upon approval. To date, only Honolulu and Kauai Counties have adopted a CS. Thus, this measure would provide Hawaii and Maui Counties with the extension.

The Department first notes that current law requires that the county ordinance be adopted prior to March 31, 2018 with imposition and collection of the CS to begin January 1, 2019. This provides the Department with a minimum of nine months to prepare. H.B. 2587 extends the ordinance adoption deadline, but does not extend the date on which the imposition and collection begins. The Department respectfully requests that the deadline to adopt an ordinance be extended to June 30, 2018 instead of September 30, 2018. This will provide the Department a minimum of six months to prepare.

In the alternative, the Committee may want to consider providing a one-year extension to adopt an ordinance with imposition and collection to begin on January 1, 2020, similar to S.B. 2614, S.D. 1. In order to extend the deadline for Hawaii and Maui Counties to adopt an ordinance and to start the imposition and collection for Kauai County on January 1, 2019, the last sentence of Hawaii Revised Statutes (HRS) section 46-16.8, may be amended to read as follows:

For a county that has adopted an ordinance before
March 31, 2018, the director of taxation shall levy
assess, collect, and otherwise administer the county

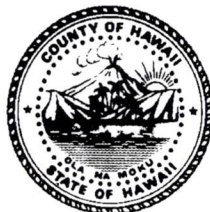
surcharge on state tax starting on January 1, 2019. For a county that has adopted an ordinance before March 31, 2019, the director of taxation shall levy assess, collect, and otherwise administer the county surcharge on state tax starting on January 1, 2020.

If the Committee wishes to provide a one-year extension, the Department also suggests leaving HRS sections 237-8.6(b)(1)(B) and 238-2.6(b)(1)(B) unamended, and inserting the following subparagraph as HRS sections 237-8.6(b)(1)(C) and 238-2.6(b)(1)(C) respectively:

January 1, 2020, if the county surcharge on state tax was established by the adoption of an ordinance after June 30, 2015, but prior to March 31, 2019;

Thank you for the opportunity to provide comments.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i
Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

February 15, 2018

Representative Sylvia Luke, Chair
Committee on Finance
Hawai'i State Capitol, Room 308
Honolulu, HI 96813

Dear Chair Luke and Committee Members:

Re: HB 2587 Relating to GET Surcharge
Hearing Date: 02/16/18 – 4:00 pm; House Conference Room 308

Please accept this testimony in support of HB 2587 extending the opportunity for a county to add a surcharge to the State GET.

As you may know, I have been opposed to increasing the GET in Hawai'i County for as long as I have been Mayor. However, I have had to come to terms with the fiscal vise that makes it nearly impossible to (1) balance our County budget, and (2) provide the services that our communities need, without increasing our tax revenue. I therefore have sent a proposal to our Council calling for the surcharge, and the County is in the process of conducting public hearings around the island.

With March 31, 2018 rapidly approaching, Hawai'i County may need additional time to make the difficult decision to adopt a surcharge. Therefore HB 2587 would be to our benefit, and I ask that you give this bill your favorable consideration. September 30 should be plenty of time for us to make our decision, while also allowing the Department of Taxation enough time to prepare appropriate forms for Calendar Year 2019.

Respectfully submitted,

Harry Kim
Mayor, County of Hawai'i

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Extends Period for Counties to Opt-In on GET Surcharge

BILL NUMBER: SB 3088; HB 2587

INTRODUCED BY: Senate Committee on Transportation & Energy

EXECUTIVE SUMMARY: Extends the period by six months that a county may adopt a surcharge on state tax, under certain conditions, from March 31, 2018, to September 30, 2018.

SYNOPSIS: Amends section 46-16.8(c), HRS, to give all counties the option to adopt a general excise and use tax surcharge for an additional six months, to September 30, 2018.

Makes conforming amendments in sections 237-8.6 and 238-2.6, HRS.

EFFECTIVE DATE: This Act shall take effect upon its approval.

STAFF COMMENTS: This measure concerns the 0.5% surcharge on the general excise tax that is currently imposed in the City and County of Honolulu, sometimes known as the “rail surcharge.” As originally enacted in 2006, the rail surcharge was scheduled to sunset on December 31, 2022. The surcharge authority was extended to December 31, 2027, by Act 240, Session Laws of Hawaii 2015, and the City & County of Honolulu extended the surcharge by Ordinance 16-1. To date, Kauai County is the only other county that has adopted a surcharge ordinance, and collections of the Kauai surcharge will begin in January 2019. Kauai Ord. No. 1021 (Dec. 11, 2017).

How can counties raise money to balance their budgets?

One source of funding that is available to any county is the real property tax. Article VIII, section 3 of the Hawaii Constitution exclusively and directly gives power to the counties to impose real property tax. *State ex rel. Anzai v. City and County of Honolulu*, 99 Hawai‘i 508, 57 P.3d 433 (2002), established that for at least the past twenty years, any county is “free to exercise its exclusive authority to increase, diminish, enact, or repeal any exemptions involving real property taxes without interference by the legislature.” *Id.*, 57 P.3d at 446. The real property tax is imposed by county ordinance, it is imposed on those under the jurisdiction of the county and not of the state, and the money raised belongs to the county imposing it.

Another source of funding is state tax; specifically, state tax that is shared with the counties. Article VIII, section 3 of the Hawaii Constitution provides:

The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivisions, and except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao. The legislature shall have the power to apportion state revenues among the several political subdivisions.

Where the funds raised are by state statute imposing a state tax, the money raised is the State's money. The Hawaii Constitution, in the language quoted above, explicitly empowers the Legislature to apportion that money to one or more political subdivisions however the Legislature sees fit. Money can be raised for general revenue purposes, as is the case with most taxes including the Transient Accommodations Tax. That money can also be directed to special funds used for specific purposes, as is the case with the fuel tax that feeds the Highway Fund. Sometimes the tax money raised is directed to a multitude of uses, as with the TAT and the Conveyance Tax. It has been held that such funds can be disbursed to one or more counties through grants in aid, and that the State can enact conditions upon the power to disburse or give discretion to the Executive Branch to withhold disbursement. *Fasi v. Burns*, 56 Hawai'i 615, 618-19, 546 P.2d 1122, 1125 (1976).

The county surcharge on the GET, which is the subject of this bill, is imposed by county ordinance and not state law, although state statute delegates the power to tax. So far Oahu and Kauai have adopted ordinances imposing the surcharge, and Hawaii County is in the process of holding public meetings on the topic to gauge support for doing the same.

Digested 2/14/2018

HB-2587

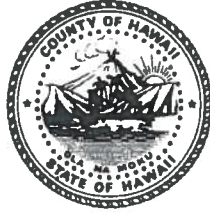
Submitted on: 2/15/2018 10:55:32 AM

Testimony for FIN on 2/16/2018 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Self Advocates	Individual	Support	No

Comments:

DRU MAMO KANUHA
Council Member
District 7, Central Kona



PHONE: (808) 323-4267
FAX: (808) 323-4786
EMAIL: dru.kanuha@hawaiiicounty.gov

LATE

HAWAI'I COUNTY COUNCIL

*West Hawai'i Civic Center, Bldg. A
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740*

February 16, 2018

TESTIMONY OF DRU KANUHA
COUNCIL MEMBER, HAWAI'I COUNTY COUNCIL
ON HB 2587, RELATING TO TAXATION
House Committee on Finance
Friday, February 16, 2018
4:00 p.m.
Conference Room 308

Aloha Chair Luke and Members of the Committee:

I thank you for the opportunity to testify in **support** of HB 2587, relating to taxation. My testimony is submitted in my individual capacity as a member of the Hawai'i County Council and Chair of Governmental Relations and Economic Development.

The purpose of this measure is to extend the period by six months that a county may adopt a surcharge on state tax, under certain conditions, from March 31, 2018 to September 30, 2018. The extension of six months will allow counties more time to adopt a surcharge on state tax by passing an ordinance in their respective counties.

For the reason stated above I urge the Senate Committee on Transportation and Energy to support this measure as well. Should you have any questions, please feel free to contact me at (808) 323-4267.

Mahalo for your consideration.

DRU KANUHA
COUNCIL MEMBER, HAWAI'I COUNTY COUNCIL