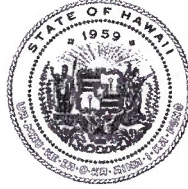


DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 15, 2017  
1:15 p.m.  
State Capitol, Room 225

**S.B. 1183, Proposed S.D.1  
RELATING TO TAXATION**

Senate Committees on Transportation and Energy &  
Public Safety, Intergovernmental and Military Affairs

The Department of Transportation (DOT) supports S.B. 1183 which proposes to authorize counties to establish a surcharge on state tax. The bill also provides that ten per cent of the gross proceeds shall be deducted by the State and an unspecified per cent of the amounts retained shall be used by the DOT for transit oriented development and infrastructure improvement purposes.

The DOT recommends the following revisions be made to Section 11 of the bill.

*SECTION 11. Section 248-2.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:*

"(a) If adopted by county ordinance, all county surcharges on state tax collected by the director of taxation shall be paid into the state treasury quarterly, within ten working days after collection, and shall be placed by the director of finance in special accounts. Out of the revenues generated by county surcharges on state tax paid into each respective state treasury special account, the director of finance shall deduct ten per cent of the gross proceeds of a respective county's surcharge on state tax [~~to reimburse the State for the costs of assessment, collection, and disposition of the county surcharge on state tax incurred by the State. Amounts~~]; provided that per cent of the amounts retained shall be [general fund realizations of the State.] used by the department of transportation for transit oriented development, and infrastructure improvement purposes, multimodal infrastructure related to transit and costs associated with the administration of the federally required State Safety Oversight program for rail transit."

DOT has no comments on the other portions of the bill.

Thank you for the opportunity to provide testimony.

**Testimony by:**

FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

The Twenty-Ninth Legislature  
Regular Session of 2017

THE SENATE

Committee on Transportation and Energy

Senator Lorraine R. Inouye, Chair

Senator Donovan M. Dela Cruz, Vice Chair

Committee on Public Safety, Intergovernmental and Military Affairs

Senator Clarence K. Nishihara, Chair

Senator Glenn Wakai, Vice Chair

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 1183 SD 1**

**RELATING TO TAXATION**

The ILWU Local 142 supports S.B. 1183 SD 1, which authorizes counties that have established a surcharge on state tax prior to 7/1/2015 to extend the surcharge in perpetuity. The bill further authorizes counties that have not established a surcharge by 7/1/2017 to establish a surcharge on state tax. S.B. 1183 SD 1 also provides that the State shall retain an unspecified portion of surcharge proceeds for the Department of Transportation and requires a county's share of the county surcharge on state tax to be paid to the county on a monthly basis.

S.B. 1183 SD 1 provides a vehicle for addressing the rail project on Oahu, the single largest capital improvement project in the State's history. Given the number of challenges currently facing the project, especially the financial shortfall based on the plans that were first proposed, this bill offers support to address the financial and other challenges that the project faces. Given the financial resources and time already invested in this project, and the fact that it is substantially completed, provides strong justification to address the funding shortfall.

It would make no sense to "pull the plug" on the rail project. Polling of the Oahu residents have made this point clear. S.B. 1183 SD 1 provides a beginning point to resolve some of the key issues that will lead to the successful completion of the Oahu rail project.

S.B. 1183 SD 1 also increases the general excise and use tax from four per cent to four and one-half per cent on various businesses to address funding needs in transportation, education, affordable housing and the needs of our senior citizens. While noting that these are all general responsibilities of the State, this part of the bill may exceed the transportation focus that S.B. 1183 began with.

The ILWU urges passage of S.B. 1183 SD 1. Thank you for the opportunity to share our views on this matter.





**HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST**  
650 Iwilei Road, Suite 285 · Honolulu, HI 96817 · Phone: 808-845-3238 · Fax: 808-845-8300

**TESTIMONY OF HAWAII LECET  
CLYDE T. HAYASHI - DIRECTOR**

**SENATE COMMITTEE ON TRANSPORTATION AND ENERGY**

Senator Lorraine R. Inouye, Chair  
Senator Donovan M. Dela Cruz, Vice Chair

**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

AMENDED NOTICE OF HEARING

DATE: Wednesday, February 15, 2017  
TIME: 1:15 p.m.  
PLACE: State Capitol, Conference Room 225

**TESTIMONY ON SENATE BILL NO. 1183 SD1 PROPOSED, RELATING TO TAXATION**

ALOHA COMMITTEE CHAIR LORRAINE INOUE, COMMITTEE CHAIR CLARENCE NISHIHARA, AND COMMITTEE MEMBERS OF BOTH COMMITTEES:

My name is Clyde T. Hayashi, and I am the Director of Hawaii LECET. Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, and its unionized contractors.

Mahalo for the opportunity to testify in **SUPPORT of the INTENT** of Senate Bill No. 1183 SD1 PROPOSED. This bill authorizes counties that have established a surcharge on state tax prior to 7/1/2015 to extend the surcharge in perpetuity.

The Honolulu Rail Project must be completed to Ala Moana Shopping Center (the full 20 miles, 21 stations and 80 cars) or we may jeopardize the \$1.55 billion in federal funds. It is the only major transportation project planned for Oahu to provide major traffic relief and will provide a much needed transportation alternative for residents. The Rail is elevated, will be independent from our highway system, will take cars off the road, and will provide a daily commuting alternative, especially for the thousands of residents whose destinations are the airport, Downtown, Kakaako/Ala Moana, and Waikiki areas.

The completion of the Honolulu Rail Project will provide us the opportunity for building more affordable housing, especially around rail stations. With properly planned TOD, it will help us to build a modern, sustainable Honolulu.

We believe that extending the Rail .5 percent GET Surcharge beyond the December 31, 2027 sunset date is the best way to ensure that the Rail Project can be completed to Ala Moana Shopping Center. We support a Rail GET Surcharge extension in perpetuity, which will allow the extensions to UH-Manoa and West Kapolei to be built, along with further extensions to serve other parts of Oahu. Oahu residents are already set to pay the Rail .5 percent GET Surcharge until December 31, 2027. An extension of the surcharge to complete Rail means that residents will NOT pay anything more until January 1, 2028.

The SB1183 SD1 PROPOSED has many changes and additions and a number of them are of concern to us. A number of the changes and additions do not seem related to the Rail GET Surcharge extension. We prefer a clean bill which extends the Rail .5 percent GET Surcharge in perpetuity.

Our thousands of members and our contractors have benefited from the many construction jobs that Rail has created and will continue to create. We also look forward to working on TOD and on the affordable housing projects the completion of Rail will bring about.

For these reasons, I **support of the intent** of Senate Bill No. 1183 SD1 PROPOSED.

**HAWAII OPERATING ENGINEERS  
INDUSTRY STABILIZATION FUND**



Affiliated AFL-CIO  
OPEIU - 8 - AFL-CIO (8)

*Uniting our strengths and working together  
for a better tomorrow.*

February 14, 2017

Honorable Senator Lorraine R. Inouye, Chair  
Honorable Senator Donovan M. Dela Cruz, Vice Chair  
SENATE COMMITTEE ON TRANSPORTATION AND ENERGY

Honorable Senator Clarence K. Nishihara, Chair  
Honorable Senator Glenn Wakai, Vice Chair  
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

RE: **SUPPORT THE INTENT OF S.B. 1183 PROPOSED SD 1, RELATING TO TAXATION**

Aloha Committee Chair Lorraine Inouye, Committee Chair Clarence Nishihara, and all committee members:

I am Pane Meatoga III, the Community Liaison representing the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF). We are a labor management fund representing 4000 unionized members in the heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

We **SUPPORT THE INTENT OF S.B. 1183 PROPOSED SD 1, RELATING TO TAXATION**, which authorizes counties that have established a surcharge on state tax prior to 7/1/2015 to extend the surcharge in perpetuity; authorizes counties that have not established a surcharge by 7/1/2017 to establish a surcharge on state tax; provides that the State shall retain an unspecified portion of surcharge proceeds for DOT; and requires a county's share of the county surcharge on state tax to be paid to the county on a monthly basis.

We express concerns about the current amendments written into S.B. 1183 SD1 which is filled with contradicting statements on the surcharge timeline and includes sections that are unrelated to the rail project.

HOEISF has always supported and advocated for the entire Honolulu Rail Project. This project must be completed to Ala Moana Shopping Center (the full 20 miles, 21 stations and 80 cars) or we may jeopardize the \$1.55 billion in federal funds. It is the only major transportation project planned for Oahu to provide major traffic relief and will provide a needed transportation alternative for residents, and because it is elevated, will be independent from our highway system. The rail system will take cars off the road and provide a daily commuting alternative, especially for the thousands of residents whose destinations are the airport, Downtown, Kakaako and Ala Moana areas.

The completion of the Honolulu Rail Project will provide us the opportunity for building more affordable housing, especially around rail stations. With properly planned TOD, it will help us to build a modern, sustainable Honolulu.

We believe that extending the Rail .5 percent GET Surcharge beyond the December 31, 2027 sunset date is the best way to ensure that the Rail Project can be completed to Ala Moana Shopping Center. We support a Rail GET Surcharge extension in perpetuity.

Sincerely,

A handwritten signature in black ink that reads "Pane Meatoga III". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Pane Meatoga III  
Community Liaison  
Hawaii Operating Engineers Industry Stabilization Fund

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## ALAN TWU

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## PHYSICAL:

94-487 AKOKI STREET  
WAIPAHU, HAWAII 96797

**Testimony to the Senate Committee on Transportation & Energy; and  
Senate Committee on Public Safety, Intergovernmental & Military Affairs  
Wednesday, February 15, 2017  
1:15 pm  
Conference Room 225**

**RE: SB 1183 SD1 (proposed) – Relating to Taxation**

Chairs Inouye & Nishihara, Vice-Chair Dela Cruz & Wakai, and members of the committees:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii is in support of SB 1183, Relating to Taxation. BIA-Hawaii has been a strong proponent of the rail transit system as an appropriate "growth management" tool to increase the population density along the 20-mile transit corridor. To stop support for the transit system at this time would prevent future growth without a significant investment in roadway infrastructure, or allowing for more development into areas not currently planned for future growth (i.e. Hawaii Kai, Windward Oahu, North Shore, and Central Oahu-between Wahiawa and Waiialua).

We continue, however, to be concerned about the level of transparency and accountability as the project moves forward. We understand that in any construction project you will encounter delays and unforeseen circumstances that may increase construction costs. For a project of this size, a certain degree of cost overrun should be expected.

Our biggest concern is with the lack of information and a plan for providing the necessary infrastructure to support the planned growth within the transit corridor. The City should be required to provide a comprehensive plan to provide the necessary sewer, water, and drainage infrastructure capacity to support the planned densities along the transit corridor. Rather than reacting to or pre-selecting possible or potential landowners/developers along the transit corridor, the City should be proactive in providing the basic backbone infrastructure capacity to support the planned growth and let the market dictate where and when density should be developed along the transit corridor.

Without leadership on how infrastructure capacity should be provided along the transit corridor, investors/developers will be reluctant to pursue projects due to the risk and uncertainty of who will pay for the regional infrastructure improvements.

Thank you for the opportunity to express our views on this matter.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 15, 2017 8:34 AM  
**To:** TRE Testimony  
**Cc:** Rocky.Rhoads@protonmail.com  
**Subject:** \*Submitted testimony for SB1183 on Feb 15, 2017 13:15PM\*

**SB1183**

Submitted on: 2/15/2017

Testimony for TRE/PSM on Feb 15, 2017 13:15PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rocky Rhoads	BOHICA	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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## **Senate Committee on Transportation**

Senator Lorraine R. Inouye, Chair  
Senator Donovan M. Dela Cruz, Vice Chair

## **Senate Committee on Public Safety, Intergovernmental, and Military Affairs**

Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

February 15, 2017  
1:15 p.m.  
Conference Room 225

### **Re: SB1183 Proposed SD1, Relating to Taxation**

Chairs, Vice Chairs, and Committee Members,

I am writing in **STRONG SUPPORT** of SB1183 Proposed SD1, which authorizes counties that have established a surcharge on state tax prior to 7/1/2015 to extend the surcharge in perpetuity and authorizes counties that have not established a surcharge by 7/1/2017 to establish a surcharge on state tax.

As a young professional and resident, I understand that rail and transit oriented development (“TOD”) is critical in my generation’s ability to continue to afford to live in Hawai‘i. I grew up in Pearl City, was fortunate to have the opportunity to attend college in Portland, Oregon before moving to Washington, D.C. to work. Portland and Washington, D.C. both have great public transportation options, including rail, which I utilized while living there. I particularly like Portland’s Free Rail Zone, which is a region of downtown Portland in which light rail and streetcar rides are free. I recently chose to move my family to Kaka‘ako as we can see the opportunities for new communities that are being created around rail stations. However, I strongly support SB1183 Proposed SD1, because it is a mechanism to ensure there is sufficient funding complete the full 20-mile, 21-station rail project as planned. This will allow residents another option to travel to Honolulu from the Ewa plains.

To say that “I won’t ride it, so I shouldn’t have to pay for it” is failing to understand how communities impact one another and are inherently interconnected. We built new development in Kapolei and West O‘ahu so that East O‘ahu and North Shore can continue to have our current quality of life without major developments. It is in O‘ahu’s General Plan for planned growth in West O‘ahu and I support the rail and growth in such areas, including Kaka‘ako, to preserve our rural areas in the North Shore and the Windward side.

While all projects have cost components, the GET surcharge has already been integrated into the business and consumer budgets and would have the least impact of the funding options currently being discussed. Rail and TOD is a critical piece of the picture to help make Hawai‘i a place that young people can afford to raise their families.

But building the homes without reasonable transit is like building the homes and no roads. Families deserve to be able to work and live in a way that doesn’t take 2 hours to drive 20 miles. Therefore, I humbly ask the Committee to PASS SB1183 Proposed SD1. Mahalo for the opportunity to provide testimony on this important measure.

Mahalo,  
Jonathan Ching  
Kaka‘ako, Honolulu

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 14, 2017 6:13 PM  
**To:** TRE Testimony  
**Cc:** rebecca.ji.soon@gmail.com  
**Subject:** Submitted testimony for SB1183 on Feb 15, 2017 13:15PM

**SB1183**

Submitted on: 2/14/2017

Testimony for TRE/PSM on Feb 15, 2017 13:15PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Rebecca Soon	Individual	Support	No

Comments: I am happy to submit my testimony to you today in strong support of proposals to extend the 0.5% GET surcharge to support the Honolulu rail project's completion of the full 20 mile, 21 station plan. At its core, I support this measure because it is what is right. Whether you live on the rail route or off of it, rail IS the major infrastructure project of our generation that has the potential to make the difference for the future of Hawai'i. We all opine over the rising cost of land, rapid shrinking of the middle class, and lack of economic opportunities for future generations – rail is one piece in the puzzle that attempts to set Hawai'i on a positive path. As a recent graduate of UH Manoa, I have many peers that would greatly benefit from rail today. As a small business owner, and as a young professional, I know rail is a critical component in building an island community for our future that cares about all people, especially the most marginalized. Decades ago, we as a community decided to centralize growth in West and Central O'ahu. With the development of O'ahu's second city, rapid transit was envisioned as a component to ensure smart growth. Instead, we voted down two projects, which we now look back upon and wish we hadn't. Let's not make the same mistake again. Rail is about many things – creation of jobs, investment in local industry, development of affordable housing, building sustainable communities, and providing social equity through access to economic and educational opportunities. Hawai'i voters wanted each of these things when we voted to support rail in 2008. We now need our Senators and Representatives to make the difficult decisions, which will allow us to complete the project we need. I urge you to vote in favor of extending the GET surcharge and support the completion of this important project. Mahalo for the opportunity to share mana'o on this important issue.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Chairs Inouye and Nishihara and Members of TRE/PSM:

I am providing this testimony to you in support of the SB1183 and SB1176 as a measure to extend the GET surcharge and allow the rail line to be built as intended and as necessary for future generations.

I recently graduated from the University of Hawaii at Manoa and live at the Ko Olina boat harbor. Most days I commute via TheBus, and so I see first hand the value that would be brought to students, families, and businesses once the rail is built. If rail were built today, I would ride it every day. Instead, I spend an average of 5 hours on the road each day and have recently had to buy a boat slip at Ala Wai for days that traffic is even worse.

Few students have this option and instead miss school, miss extra-curricular activities, or miss key studying time. The traffic makes going to school nearly impossible for non-traditional students, who may have childcare, work, or other demands that already make achieving higher education more challenging.

The University of Hawaii System already has three campuses on the rail transit alignment: UH-West Oahu, Leeward Community College and Honolulu Community College. Allowing a rail line that can eventually connect to UH Manoa is important for our island's future. Each campus offers different programs and classes, and students need to have the option of being able to travel between campuses quickly and easily to access the courses they need and want. There are other private school campuses, including HPU, that will also benefit from the planned downtown rail station.

Rail is an important part of Hawaii's future, not only in transportation and development of sound neighborhoods, but also to ensure equal access to education for communities throughout the island.

I would like to ask the committee to extend the GET surcharge to ensure we can bring this project to completion and lay the groundwork for an extension to UH Manoa to expand the educational opportunities available to students in our institutions of higher learning.

Thank you for the opportunity to testify,

Katherine Vessels  
William S. Richardson School of Law, c/o 2016  
Small Business Owner

Thank you Chair and Senators for allowing me to speak. My name is Steve Miller, I am testifying as a private citizen and I am opposed to this Bill.

What started off as a bad Bill has now mutated in a multi-headed Hydra of bad ideas and needs to be stopped now before it can inflict more damage to the taxpayers of the City & County of Honolulu.

How much taxpayer money are you willing to spend to finish the project?

This is not a rhetorical question. At some point there has to be a number where you say "no more" otherwise you're saying you're willing to spend up to infinite amount of taxpayer dollars. Of course you scoff and say it can't cost an infinite amount of dollars since there isn't an infinite amount of taxpayer dollars available. And you're right. There is a finite amount of taxpayer dollars available. So at what point do you say "enough already"? I believe that point is now. And I was originally a rail supporter. However this project has been so mismanaged with so many errors compounding upon mistakes that it is no longer feasible to continue.

Two years ago the mayor was here saying please, please, please like a spendthrift child who had burned through his monthly allowance the first weekend it was given to him. Now he's back asking for more and it's up to you to be the tough love parent who says No.

The way I see it there are basically two options left. End it at Middle Street and convert it to a guided busway or try and continue as far as you can on maglev. The third option is tear it down which is going to happen.

The GE tax is a highly regressive tax as you know there are a lot of people who are living on the line as it is. How much more of their income are you going to take from them? If we're having any discussion on the GE tax it should be on removing it for food, over the counter medications and feminine hygiene products. Not how much more money can we wring out of taxpayers.

In the beginning I was not an anti-rail. But after seeing what this project has become and if allowed to continue I am terrified of what this project will do to the city finances. I was not anti-rail. That was a mistake which I am willing to admit. It's time for the city and state to admit it was a mistake and stop this now.

Thank you. Are there any questions.

Steve Miller – SB1183 February 15<sup>th</sup> 2017

February 15, 2017

page 1 of 2

RE: SB1183 SD1

From: Barbra J. Armentrout

## TESTIMONY

Thank you for letting me testify regarding SB1183. I am against extending the GET surcharge in perpetuity. It is very difficult for the elderly and disabled citizens of Honolulu living on limited Social Security and Disability now. There are citizens now trying to live on less than \$800 month and having to pay taxes on medicine which most elder people have to take for their diabetes and other debilitating illnesses already takes money out of their monthly checks. Most elderly residents live on income now that falls below federal poverty guidelines.

Having an income tax credit in the bill would help somewhat and I believe also if the city would create a bus transit lane on the freeway that HandiVans and any companies the Handivan contracts to operate as paratransit (Handivan) also be allowed to use that bus transit lane also. Anything that includes Bus should include paratransit Handivan otherwise it is discriminatory to ADA passengers.

I now advocate for the elderly and disabled paratransit riders who sometimes have to wait 1 to 2 hrs for Handivan pickups plus other improvements needed. I have been advocating for Paratransit improvements since 2012 and know of some who have been advocating for 10 yrs.

(continued on page 2)

RE: SB1183 SD1

From: Barbra J. Armentrout (continuation from page 1)

The Handivan audit released in early 2016 has listed numerous deficiencies that have yet to be corrected. Hopefully when the Paratransit Management Plan that has been drafted is to be released soon those deficiencies will be corrected.

Additionally, yes the city is building the rail, but they must also work to improve the paratransit system for the elderly and especially the disabled so that system of transportation for the disabled not fall behind so it will match the efficiency of the rail system whenever it is finished and also that the Rail be affordable for the Hawaii citizens who do live on a limited income.

At previous HART meetings, I constantly ask for Operations and Maintenance costs when Rail is completed, and have yet to be told what they will be.....

My fear is that low income and elderly and disabled on a limited income will not be able to afford the rail when it is finished. As they are struggling now to even afford the \$4.00 RT Handivan if they ride to Doctors, Pharmacies, grocery stores or any ride once a day times 30 days in a month It costs them now \$120.00 a month to ride the Handivan. Low Income residents income does not afford much money now for transportation. There is so many improvements needed for Paratransit that if the current company handling paratransit can't improve the problems then it should be put out to bid by a company that can handle 4,000 riders a day.

I thank the committee for their diligence in the questions they are asking for this bill. The Rail is only one mode of Oahu transportation along with cars, buses, and HandiVan.

Georgette Yaird Karlene-Kone  
(808) 224-0219

**A. Amendments proposed to become effective July 1, 2017.**

Section 27 of the bill proposes, in part, that the statutory amendments proposed in Part II shall become effective 7/1/2017. Part II includes sections 4 – 8.

1. Section 4.

Section 4 proposes to amend chapter 235, Hawaii Revised Statutes (HRS), [Income Tax Law], by adding a new section entitled “low income tax credit.” The tax credit shall be available to taxpayers with federal adjusted gross incomes below, at, and within 125% the federal poverty guideline, such that the taxpayer’s state income tax liability shall be reduced by respective percentage amounts to be determined (TBD).

2. Section 5.

Section 5 proposes to amend HRS § 46-16.8, “County surcharge on state tax” [County Organization and Administration]. The amendments enable a county to establish the 05% surcharge but only if the county adopts the surcharge by ordinance no later than July 1, 2018, and provide that the surcharge shall not be imposed until January 1 of the year following the date the ordinance is adopted. Other than renumbering, the proposed amendments do not alter the uses of revenue as currently authorized under the statute, including, effectively<sup>1</sup>, that the C&C may use surcharge revenue only for rail capital and attendant ADA compliance costs; and that Hawai`i, Maui, and Kaua`i counties may use revenue for capital or operating costs of new or existing public transportation systems, roadways, highways, sidewalks, bicycle paths, and pedestrian paths.

3. Section 6.

Section 6 proposes to amend HRS § 237-8.6, “County surcharge on state tax; administration” [GET law]. The amendments fix the amount of allowable county surcharge on the Hawai`i GET at .05%.

4. Section 7.

Section 7 proposes to amend HRS § 238-2.6, “County surcharge on state tax; administration” [Use Tax Law]. The amendments fix the amount of allowable county surcharge on the Hawai`i GET at .05%.

5. Section 8.

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<sup>1</sup> The several counties are not described by name in the statute but are differentiated by whether a county’s respective population exceeds or is less than 500,000.





Section 8 proposes to amend HRS § 248-2.6, “County surcharge on state tax disposition of proceeds” [County Budgets; Tax Funds]. The amendments: require the director of taxation pay surcharge revenue collected into the state treasury monthly instead of quarterly; authorize the director to withhold a percentage amount TBD for deposit into the state highway fund; disallow the withholding of any amounts for reimbursement of State administrative costs; and require the director to pay the remaining balance due any county on a monthly instead of quarterly basis.

The amendments provide that for surcharge revenue collected before July 1, 2018, after withholding the amount to be deposited into the state highway fund, the surcharge amount collected shall be distributed to the county in which it was generated; and that after July 1, 2018, after withholding the amount to be deposited into the state highway fund, all remaining surcharge revenues collected shall be distributed to counties that have adopted a surcharge based on percentage distributions TBD to be used by the respective counties as presently specified under HRS § 46-16.8, as addressed in the discussion of Section 5 above.

**B. Amendments proposed with no effective date.**

1. Section 27 renders the remaining Parts I, III, and IV effective July 1, 2050.
2. Section 27 provides that if the requirements of Part III, sections 13-15 are met by Dec. 31, 2027, then part I is repealed; and if they are not met, then parts I and III are repealed on Jan. 1, 2028.

a. Part III.

Section 13 identifies fifty-three (53) parcels held by the Hawai`i Community Development Authority to be transferred to the City and County of Honolulu (C&C).

Sections 14 and 15 identify a total of thirteen (13) rail development requirements to be performed by the C&C.

Section 10 proposes to amend HRS § 46-16.8, “County surcharge on state tax” [County Organization and Administration] by authorizing the C&C, effectively, to extend by ordinance the surcharge from January 1, 2023 until December 31, 2032, instead of 2027, at the same .05% rate; and that counties that have not established a surcharge by July 1, 2017, may do so at any rate not to exceed .05% state tax.

Section 11 proposes to amend HRS §248-2.6, “County surcharge on state tax disposition of proceeds” [County Budgets; Tax Funds] by disallowing the director of taxation from withholding any of the revenue collected for purposes of reimbursing administrative costs and instead requiring the director to withhold ten percent of the revenue collected from which a percent amount TBD shall be used by the Department of Transportation for transit oriented development and infrastructure improvement purposes.

*SALE, APPROVING COMMISSIONER'S REPORT, ALLOWANCE OF COMMISSIONER'S*

*FEES, ATTORNEY'S FEES, COSTS, AND DIRECTING CONVEYANCE; EXHIBIT "A")*, filed

and entered \_\_\_\_\_; CERTIFICATE OF SERVICE duly shall be served on the

date stated below via deposit into U.S. Mail, 1<sup>st</sup> class, postage paid, addressed to:

PAUL J. SULLA, JR.  
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Commissioner

DAVID BRIAN BURKE and JOHN ALLEN DAVIDSON  
c/o Crescent Foods, Inc.

b. Part I.

Section 1 proposes to amend HRS § 46-16.8, "County surcharge on state tax" [County Organization and Administration] by authorizing, effectively,<sup>2</sup> the C&C to adopt an ordinance extending the surcharge in perpetuity, instead of until December 31, 2027; and enabling any county that has not adopted a surcharge by July 1, 2017 to do so by ordinance at a rate not to exceed .05% state tax.

Section 2 proposes to amend HRS § 248-2.6, "County surcharge on state tax disposition of proceeds" [County Budgets; Tax Funds] by requiring the director to make monthly instead of quarterly payments of surcharge revenue collected into the state treasury, authorizing the director to deduct a dollar amount TBD, instead of ten percent, from the revenue collected to reimburse the department of taxation for administrative costs, and requiring distributions thereafter be made to the county in which the revenue was realized monthly instead of quarterly.

3. Section 27 provides that Part IV sections 16-20 and 22-23 apply to the taxable years beginning January 1, 2019.

16-20; 22-23 amends sections of chapter 237 and 238 (increase the GET on nonmanufacturing transactions by 0.5 to 4.5%) Part IV

21 provides that beginning Jan 1, 2019 until dates unknown unspecified amounts of the revenue generated by the .5% increase in the GET shall be made available to (1) the C&C if it matches the state amount 50-50 and expends the funds only on rail capital and operating costs; and (2) to fund "education, and highway repair, maintenance, and new construction; affordable housing; and elder services." Further, that on a date to be determined, all the revenue shall be used for number (2). Part IV

Final Comments:

1. Sections 3, 9, 12, and 24

Sections 3, 9, 12, and 24 propose to amend the 2005 and 2015 Acts that enable the counties to impose the surtax by ordinance, set the surtax amount at .05% Hawai'i GET, and provide for surtax revenue collection, disposition, and distribution. Senate

<sup>2</sup> Applies to "each county that has established a surcharge on state tax prior to July 1, 2015"

Act 134

Rules require, however, only that this bill set forth amendments to the statutes being amended.<sup>3</sup> Whereas, sections 3, 9, 12, and 24 are superfluous and their removal renders the bill more intelligible and its several intentions more apparent, they may and should be stricken.

2. Sections 13-15 Part III.

Section 13 seeks to direct the transfer of fifty-three (53) certain parcels held by the Hawai'i Community Development Authority to the City and County of Honolulu (C&C). Sections 14 and 15 seeks to direct the C&C to complete thirteen (13) specified rail development requirements. These provisions appear to be merely aspirational and therefore will not have force of law. Whereas their removal renders the bill further more intelligible and its intentions more apparent, they may and should be stricken.

3. Section 25.

This section proposes to require that the bill, if enacted, shall amend any other conflicting act of the 2017 legislature. This also appears without the force of law and therefore may be stricken.

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<sup>3</sup> "Every bill introduced or reported out of any committee, which amends an existing section or subsection of the Hawai'i Revised Statutes or Session Laws of Hawai'i, shall set forth the section or subsection in full, and the matter to be deleted shall be enclosed in brackets and stricken and any new matter added to the section or subsection shall be underscored." Rule 45, Rules of the Senate, 2017-2018 (Jan. 21, 2017).

Order Confirming Foreclosure Sale, Approving Commissioner's Report, Allowance Of Commissioner's Fees, Attorney's Fees, Costs, And Directing Conveyance; Exhibit "A" filed herein, Confirmation of Foreclosure Sale hereby is entered in favor of Plaintiffs as to their Complaint for Foreclosure, filed herein. This Court expressly directs pursuant to HRCF Rule 54(b) that said Confirmation of Sale is entered as a final judgment in favor of Plaintiffs and against all Defendants as there is no just reason for delay.


DATED: Hilo, Hawaii, \_\_\_\_\_

\_\_\_\_\_  
Judge of the Above-Entitled Court

APPROVED AS TO FORM:

  
\_\_\_\_\_  
PAUL J. SULLA, ESQ.

Attorney for Defendant William Lee Duff

  
\_\_\_\_\_  
LYNNE K. KUSHI, ESQ.

Commissioner

\_\_\_\_\_  
Robert Reichman et al v. Defendant William Lee Duff et al, Civ. No. 16-1-0018 (Foreclosure)  
(Hilo), Judgment

GET According to the federation of Tax Administrators, as of January 1, 2017, only 13 states tax food grocery items, 5 of which are taxes collected by localities not the state, another two include a mix of state and local taxes, putting Hawaii in the company of Alabama, Kansas, Mississippi, Oklahoma, and South Dakota as the only states that impose and etc. See,

<http://www.taxadmin.org/assets/docs/Research/Rates/sales.pdf>

TAT

Traffic fines

HART has until April 30 to submit a new recovery plan to build the entire 20-mile and therefore cannot rely on actions this legislature takes. Project expected to cost as much as \$8.2b could rise to \$9.5 b (media)

According to FTA, FY 2016 allocated to Hawaii county governments amounted to \$292,047,038, including \$250,000,00 to rail.

(<https://www.transit.dot.gov/funding/apportionments/funding-state>)

Of the remaining \$42,047,038, according to The Hawaii State DOT's Statewide Transportation Improvement Program (STIP), effective January 20, 2017,

Kauai's transportation agency: \$4,606,686 FY 2017

([http://www.kauai.gov/Portals/0/Council/Documents/B\\_2016\\_812\\_\(Operating\\_Budget\).pdf?ver=2016-06-03-123344-177](http://www.kauai.gov/Portals/0/Council/Documents/B_2016_812_(Operating_Budget).pdf?ver=2016-06-03-123344-177), at 194)

\_\_\_\_\_ Plaintiffs  
 \_\_\_\_\_ Defendant William Lee Duff  
 \_\_\_\_\_ Defendant State of Hawaii Department of Taxation  
 \_\_\_\_\_ Defendant County of Hawai'i Department of Finance  
 \_\_\_\_\_ Defendants Arthur William and Joan Marie Lehr  
 \_\_\_\_\_ Commissioner Lynne M. Kushi, Esq.  
 \_\_\_\_\_ David Brian Burke and John Allen Davidson, Purchaser

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 Telephone No. (808) 224-0219

Attorney for Plaintiffs

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

ROBERT REICHMAN and MARGARET	)	CIVIL NO. 16-1-0018
KIJE HAZELWOOD, Husband and Wife,	)	(Foreclosure) (Hilo)
	)	
Plaintiffs,	)	<b>JUDGMENT</b>
v.	)	
	)	<i>(RE: ORDER CONFIRMING</i>
WILLIAM LEE DUFF; COUNTY OF	)	<i>FORECLOSURE SALE, APPROVING</i>
HAWAII DEPARTMENT OF REVENUE;	)	<i>COMMISSIONER'S REPORT,</i>
ARTHUR WILLIAM LEHR and JOAN	)	<i>ALLOWANCE OF COMMISSIONER'S</i>
MARIE LEHR, Husband and Wife; STATE	)	<i>FEES, ATTORNEY'S FEES, COSTS,</i>
OF HAWAII DEPARTMENT OF	)	<i>AND DIRECTING CONVEYANCE;</i>
TAXATION; JOHN DOES 1-10; JANE	)	<i>EXHIBIT "A")</i>
DOES 1-10; DOE PARTNERSHIPS 1-10;	)	
DOE CORPORATIONS 1-10; DOE	)	THE HONORABLE GLENN S. HARA
ENTITIES 1-10; and DOE	)	
GOVERNMENTAL UNITS 1-10,	)	HEARING DATE: DECEMBER 2, 2016
	)	HEARING TIME: 8:30 A.M.
Defendants.	)	
_____	)	

**JUDGMENT**

In accordance with Rule 58, Hawaii Rules of Civil Procedure ("HRCPP"), and pursuant to

**EXHIBIT "A"**

Hawaii one of 4 us states that do not fund public transportation, leaving it to localities and the ability of loalties to qualify, apply for, and obtain federal grants, according to American Association of State Highway and Transportation Officials (AAHSTO) Survey of State Funding, Final Report FY 2014 - 2016. (Alabama, Arizona, Utah)