
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- County surcharge on transient accommodations tax.

5 (a) Each county may establish a surcharge on transient
6 accommodations tax at the rate enumerated in section 237D- . A
7 county electing to establish a surcharge pursuant to this
8 section shall do so by ordinance; provided that no ordinance
9 shall be adopted until the county has conducted a public hearing
10 on the proposed ordinance. Notice of the public hearing
11 required under this subsection shall be published in a newspaper
12 of general circulation within the county at least twice within a
13 period of thirty days immediately preceding the date of the
14 hearing.

15 (b) A county electing to exercise the authority granted
16 under this section shall notify the director of taxation within
17 ten days after the county has established a surcharge on



1 transient accommodations tax and, beginning no earlier than one
2 hundred eighty days after the establishment of the surcharge
3 authorized under this section, the director of taxation shall
4 levy, assess, collect, and otherwise administer the county
5 surcharge on transient accommodations tax."

6 SECTION 2. Chapter 237D, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§237D- County surcharge on transient accommodations tax;
10 administration. (a) The county surcharge on transient
11 accommodations tax, upon the adoption of county ordinances and
12 in accordance with the requirements of section 46- , shall be
13 levied, assessed, and collected as provided in this section on
14 all gross rental, gross rental proceeds, and fair market rental
15 value taxable under this chapter. No county shall set the
16 surcharge on state tax at a rate greater than per cent of
17 all gross rental, gross rental proceeds, and fair market rental
18 value taxable under this chapter. All provisions of this
19 chapter shall apply to the county surcharge on transient
20 accommodations tax. With respect to the surcharge, the director
21 of taxation shall have all the rights and powers provided under



1 this chapter. In addition, the director of taxation shall have
2 the exclusive rights and power to determine the county or
3 counties in which a person is engaged in the business of
4 furnishing transient accommodations and, in the case of a person
5 engaged in the business of furnishing transient accommodations
6 in more than one county, the director shall determine, through
7 apportionment or other means, that portion of the surcharge on
8 transient accommodations tax attributable to business conducted
9 in each county.

10 (b) Each county surcharge on transient accommodations tax
11 that may be established pursuant to section 46- shall be levied
12 beginning in the taxable year after the surcharge is
13 established; provided that no surcharge on transient
14 accommodations tax may be levied less than one hundred eighty
15 days after the establishment of the surcharge authorized under
16 section 46- .

17 (c) The county surcharge on transient accommodations tax,
18 if adopted, shall be imposed on the gross rental, gross rental
19 proceeds, and fair market rental value of all written contracts
20 that require the passing on of the taxes imposed under this
21 chapter; provided that if the gross rental, gross rental



1 proceeds, and fair market rental value are received as payments
2 beginning in the taxable year in which the taxes become
3 effective, on contracts entered into before June 30 of the year
4 prior to the taxable year in which the taxes become effective,
5 and the written contracts do not provide for the passing on of
6 increased rates of taxes, the county surcharge on transient
7 accommodations tax shall not be imposed on the gross rental,
8 gross rental proceeds, and fair market rental value covered
9 under the written contracts. The county surcharge on transient
10 accommodations tax shall be imposed on the gross rental, gross
11 rental proceeds, and fair market rental value from all contracts
12 entered into on or after June 30 of the year prior to the
13 taxable year in which the taxes become effective, regardless of
14 whether the contract allows for the passing on of any tax or any
15 tax increases.

16 (d) No county surcharge on transient accommodations tax
17 shall be established on any form of accommodation exempt from
18 the taxes imposed by this chapter pursuant to section 237D-3.

19 (e) The director of taxation shall revise the transient
20 accommodations tax forms to provide for the clear and separate



1 designation of the imposition and payment of the county
2 surcharge on transient accommodations tax.

3 (f) The county surcharge on transient accommodations tax
4 shall be assigned to the taxation district in which the
5 transient accommodations or resort time share vacation unit is
6 located. The taxpayer shall file a schedule with the taxpayer's
7 periodic and annual transient accommodations tax returns
8 summarizing the amount of taxes assigned to each taxation
9 district.

10 (g) If adopted by county ordinance, all county surcharges
11 on transient accommodations taxes collected by the director of
12 taxation shall be paid into the state treasury quarterly, within
13 ten working days after collection, and shall be placed by the
14 director of finance in special accounts. Out of the revenues
15 generated by county surcharges on transient accommodations taxes
16 paid into each respective state treasury special account, the
17 director of finance shall deduct one per cent of the gross
18 proceeds of a respective county's surcharge on transient
19 accommodations taxes to reimburse the State for the costs of
20 assessment, collection, disposition, and oversight of the county
21 surcharge on transient accommodations taxes incurred by the



1 State. Amounts retained shall be general fund realizations of
2 the State.

3 The amounts deducted for costs of assessment, collection,
4 disposition, and oversight of county surcharges on transient
5 accommodations taxes shall be withheld from payment to the
6 counties by the State out of the county surcharges on transient
7 accommodations taxes collected for the current calendar year.

8 For the purpose of this subsection, the costs of
9 assessment, collection, disposition, and oversight of the county
10 surcharges on transient accommodations taxes shall include any
11 and all costs, direct or indirect, that are deemed necessary and
12 proper to effectively administer this section.

13 After the deduction and withholding of the costs under this
14 subsection, the director of finance shall pay the remaining
15 balance on a quarterly basis to the director of finance of each
16 county that has adopted a county surcharge on transient
17 accommodations taxes.

18 The payments shall be made after the county surcharges on
19 transient accommodations taxes have been paid into the state
20 treasury special accounts or after the disposition of any tax
21 appeal, as the case may be. All county surcharges on transient



1 accommodations taxes collected shall be distributed by the
2 director of finance to the county in which the county surcharge
3 on transient accommodations taxes is generated and shall be a
4 general fund realization of the county.

5 (h) The penalties provided by section 231-39 for failure
6 to file a tax return shall be imposed on the amount of surcharge
7 due on the return being filed for the failure to file the
8 schedule required to accompany the return. In addition, there
9 shall be added to the tax an amount equal to ten per cent of the
10 amount of the surcharge and tax due on the return being filed
11 for the failure to file the schedule or the failure to correctly
12 report the assignment of the transient accommodations tax by
13 taxation district on the schedule required under subsection (f).

14 (i) All taxpayers who file on a fiscal year basis whose
15 fiscal year ends after December 31 of the year prior to the
16 taxable year in which the taxes become effective, shall file a
17 short period annual return for the period preceding January 1 of
18 the taxable year in which the taxes become effective. Each
19 fiscal year taxpayer shall also file a short period annual
20 return for the period starting on January 1 of the taxable year



1 in which the taxes become effective, and ending before January 1
2 of the following year."

3 SECTION 3. Section 87A-42, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§87A-42 Other post-employment benefits trust. (a)
6 Notwithstanding sections 87A-31 and 87A-31.5, the board, upon
7 terms and conditions set by the board, shall establish and
8 administer a separate trust fund for the purpose of receiving
9 employer contributions that will prefund other post-employment
10 health and other benefit plan costs for retirees and their
11 beneficiaries. The separate trust fund shall meet the
12 requirements of the Government Accounting Standards Board
13 regarding other post-employment benefits trusts. The board
14 shall establish and maintain a separate account for each public
15 employer within the separate trust fund to accept and account
16 for each public employer's contributions. Employer
17 contributions to the separate trust fund shall be irrevocable,
18 all assets of the fund shall be dedicated exclusively to
19 providing health and other benefits to retirees and their
20 beneficiaries, and assets of the fund shall not be subject to
21 appropriation for any other purpose and shall not be subject to



1 claims by creditors of the employers or the board or plan
2 administrator. The board's powers under section 87A-24 shall
3 also apply to the fund established pursuant to this section.

4 (b) Public employer contributions shall be paid into the
5 fund in each fiscal year, and commencing with the 2018-2019
6 fiscal year, the amount of the annual public employer
7 contribution shall be equal to the amount of the annual required
8 contribution, as determined by an actuary retained by the board.

9 (c) In any fiscal year subsequent to the 2017-2018 fiscal
10 year in which the state public employer's contributions into the
11 fund are less than the amount of the annual required
12 contribution, the amount that represents the excess of the
13 annual required contribution over the state public employer's
14 contributions shall be deposited into the appropriate account of
15 the separate trust fund from a portion of all general excise tax
16 revenues collected by the department of taxation under section
17 237-31.

18 If any general excise tax revenues are deposited into the
19 separate trust fund in any fiscal year as a result of this
20 subsection, the director of finance shall notify the legislature
21 and governor whether the general fund expenditure ceiling for



1 that fiscal year would have been exceeded if those revenues had
2 been legislatively appropriated instead of deposited without
3 appropriation into the trust fund. The notification shall be
4 submitted within thirty days following the end of the applicable
5 fiscal year.

6 ~~[(d) In any fiscal year subsequent to the 2017-2018 fiscal~~
7 ~~year in which a county public employer's contributions into the~~
8 ~~fund are less than the amount of the annual required~~
9 ~~contribution, the amount that represents the excess of the~~
10 ~~annual required contribution over the county public employer's~~
11 ~~contributions shall be deposited into the fund from a portion of~~
12 ~~all transient accommodations tax revenues collected by the~~
13 ~~department of taxation under section 237D-6.5(b)(4). The~~
14 ~~director of finance shall deduct the amount necessary to meet~~
15 ~~the county public employer's annual required contribution from~~
16 ~~the revenues derived under section 237D-6.5(b)(4) and transfer~~
17 ~~the amount to the board for deposit into the appropriate account~~
18 ~~of the separate trust fund.]~~

19 ~~[(e)]~~ (d) In any fiscal year subsequent to fiscal year
20 2017-2018 in which a public employer's contributions into the
21 fund are less than the amount of the annual required



1 contribution and the public employer is not entitled to
2 transient accommodations tax revenues sufficient to satisfy the
3 total amount of the annual required contribution, the public
4 employer's contributions shall be deposited into the fund from
5 portions of any other revenues collected on behalf of the public
6 employer or held by the State. The director of finance shall
7 deduct the amount necessary to meet the public employer's annual
8 required contribution from any revenues collected on behalf of
9 the public employer held by the State and transfer the amount to
10 the board for deposit into the appropriate account of the
11 separate trust fund.

12 [~~f~~] (e) For the purposes of this section, "annual
13 required contribution" means a public employer's required
14 contribution to the trust fund established in this section that
15 is sufficient to cover:

- 16 (1) The normal cost, which is the cost of other post-
17 employment benefits attributable to the current year
18 of service; and
- 19 (2) An amortization payment, which is a catch-up payment
20 for past service costs to fund the unfunded actuarial
21 accrued liability over the next thirty years."



1 SECTION 4. Section 171-19, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There is created in the department a special fund to
4 be designated as the "special land and development fund".
5 Subject to the Hawaiian Homes Commission Act of 1920, as
6 amended, and section 5(f) of the Admission Act of 1959, all
7 proceeds of sale of public lands, including interest on deferred
8 payments; all moneys collected under section 171-58 for mineral
9 and water rights; all rents from leases, licenses, and permits
10 derived from public lands; all moneys collected from lessees of
11 public lands within industrial parks; all fees, fines, and other
12 administrative charges collected under this chapter and chapter
13 183C; a portion of the highway fuel tax collected under chapter
14 243; all moneys collected by the department for the commercial
15 use of public trails and trail accesses under the jurisdiction
16 of the department; transient accommodations tax revenues
17 collected pursuant to section 237D-6.5(b) [~~(5)~~] (4); and private
18 contributions for the management, maintenance, and development
19 of trails and accesses shall be set apart in the fund and shall
20 be used only as authorized by the legislature for the following
21 purposes:



- 1 (1) To reimburse the general fund of the State for
2 advances made that are required to be reimbursed from
3 the proceeds derived from sales, leases, licenses, or
4 permits of public lands;
- 5 (2) For the planning, development, management, operations,
6 or maintenance of all lands and improvements under the
7 control and management of the board pursuant to title
8 12, including but not limited to permanent or
9 temporary staff positions who may be appointed without
10 regard to chapter 76; provided that transient
11 accommodations tax revenues allocated to the fund
12 shall be expended as provided in section 237D-
13 6.5(b) [~~(5)~~] (4);
- 14 (3) To repurchase any land, including improvements, in the
15 exercise by the board of any right of repurchase
16 specifically reserved in any patent, deed, lease, or
17 other documents or as provided by law;
- 18 (4) For the payment of all appraisal fees; provided that
19 all fees reimbursed to the board shall be deposited in
20 the fund;



- 1 (5) For the payment of publication notices as required
2 under this chapter; provided that all or a portion of
3 the expenditures may be charged to the purchaser or
4 lessee of public lands or any interest therein under
5 rules adopted by the board;
- 6 (6) For the management, maintenance, and development of
7 trails and trail accesses under the jurisdiction of
8 the department;
- 9 (7) For the payment to private land developers who have
10 contracted with the board for development of public
11 lands under section 171-60;
- 12 (8) For the payment of debt service on revenue bonds
13 issued by the department, and the establishment of
14 debt service and other reserves deemed necessary by
15 the board;
- 16 (9) To reimburse the general fund for debt service on
17 general obligation bonds issued to finance
18 departmental projects, where the bonds are designated
19 to be reimbursed from the special land and development
20 fund;



1 (10) For the protection, planning, management, and
2 regulation of water resources under chapter 174C; and

3 (11) For other purposes of this chapter."

4 SECTION 5. Section 237D-2, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (a) to read:

7 "(a) There is levied and shall be assessed and collected
8 each month a tax of:

9 (1) Five per cent for the period beginning on January 1,
10 1987, to June 30, 1994;

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

13 (3) 7.25 per cent for the period beginning on January 1,
14 1999, to June 30, 2009;

15 (4) 8.25 per cent for the period beginning on July 1,
16 2009, to June 30, 2010; ~~[and]~~

17 (5) 9.25 per cent for the period beginning on July 1,
18 2010, ~~[and thereafter,]~~ to June 30, 2021; and

19 (6) _____ per cent for the period beginning on July 1,
20 2021, and thereafter;



1 on the gross rental or gross rental proceeds derived from
2 furnishing transient accommodations."

3 2. By amending subsection (c) to read:

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

7 (1) 7.25 per cent on the fair market rental value until
8 December 31, 2015;

9 (2) 8.25 per cent on the fair market rental value for the
10 period beginning on January 1, 2016, to December 31,
11 2016; [~~and~~]

12 (3) 9.25 per cent on the fair market rental value for the
13 period beginning on January 1, 2017, [~~and thereafter.~~]
14 to June 30, 2021; and

15 (4) _____ per cent on the fair market rental value for the
16 period beginning on July 1, 2021, and thereafter."

17 3. By amending subsection (e) to read:

18 "(e) Notwithstanding the tax rates established in
19 subsections [~~(a)-(5)~~] (a) and [~~(e)-(3)-7~~] (c), the tax rates
20 levied, assessed, and collected pursuant to subsections (a) and
21 (c) shall be 10.25 per cent for the period beginning on January



1 1, 2018, to December 31, [~~2030~~] 2019, and _____ per cent for
2 the period beginning on January 1, 2020, to December 31, 2030;
3 provided that:

4 (1) The tax revenues levied, assessed, and collected
5 pursuant to this subsection that are in excess of the
6 revenues realized from the levy, assessment, and
7 collection of tax at the [~~9.25 per cent~~] rate
8 established in subsections (a) and (c) shall be
9 deposited quarterly into the mass transit special fund
10 established under section 248-2.7; and

11 (2) If a court of competent jurisdiction determines that
12 the amount of county surcharge on state tax revenues
13 deducted and withheld by the State, pursuant to
14 section 248-2.6, violates statutory or constitutional
15 law and, as a result, awards moneys to a county with a
16 population greater than five hundred thousand, then an
17 amount equal to the monetary award shall be deducted
18 and withheld from the tax revenues deposited under
19 paragraph (1) into the mass transit special fund, and
20 those funds shall be a general fund realization of the
21 State.



1 The remaining tax revenues levied, assessed, and collected
2 at the [~~9.25 per cent~~] tax rate established pursuant to
3 subsections (a) and (c) shall be distributed in accordance with
4 section 237D-6.5(b)."

5 SECTION 6. Section 237D-6.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~§237D-6.5 Remittances [; distribution to counties]~~. (a)

8 All remittances of taxes imposed under this chapter shall be
9 made by cash, bank drafts, cashier's check, money order, or
10 certificate of deposit to the office of the taxation district to
11 which the return was transmitted.

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

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



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

6 (2) \$16,500,000 shall be allocated to the convention
 7 center enterprise special fund established under
 8 section 201B-8;

9 (3) \$79,000,000 shall be allocated to the tourism special
 10 fund established under section 201B-11; provided that:

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

18 (B) Of the \$79,000,000 allocated:

19 (i) \$1,000,000 shall be allocated for the
 20 operation of a Hawaiian center and the



1 museum of Hawaiian music and dance at the
2 Hawaii convention center; and
3 (ii) 0.5 per cent of the \$79,000,000 shall be
4 transferred to a sub-account in the tourism
5 special fund to provide funding for a safety
6 and security budget, in accordance with the
7 Hawaii tourism strategic plan 2005-2015; and
8 (C) Of the revenues remaining in the tourism special
9 fund after revenues have been deposited as
10 provided in this paragraph and except for any sum
11 authorized by the legislature for expenditure
12 from revenues subject to this paragraph,
13 beginning July 1, 2007, funds shall be deposited
14 into the tourism emergency special fund,
15 established in section 201B-10, in a manner
16 sufficient to maintain a fund balance of
17 \$5,000,000 in the tourism emergency special fund;
18 ~~[(4) \$103,000,000 shall be allocated as follows: Kauai~~
19 ~~county shall receive 14.5 per cent, Hawaii county~~
20 ~~shall receive 18.6 per cent, city and county of~~
21 ~~Honolulu shall receive 44.1 per cent, and Maui county~~



1 ~~shall receive 22.8 per cent, provided that commencing~~
2 ~~with fiscal year 2018-2019, a sum that represents the~~
3 ~~difference between a county public employer's annual~~
4 ~~required contribution for the separate trust fund~~
5 ~~established under section 87A-42 and the amount of the~~
6 ~~county public employer's contributions into that trust~~
7 ~~fund shall be retained by the state director of~~
8 ~~finance and deposited to the credit of the county~~
9 ~~public employer's annual required contribution into~~
10 ~~that trust fund in each fiscal year, as provided in~~
11 ~~section 87A-42, if the respective county fails to~~
12 ~~remit the total amount of the county's required annual~~
13 ~~contributions, as required under section 87A-43,] and~~

14 [~~(5)~~] (4) \$3,000,000 shall be allocated to the special land
15 and development fund established under section 171-19;
16 provided that the allocation shall be expended in
17 accordance with the Hawaii tourism authority strategic
18 plan for:

- 19 (A) The protection, preservation, maintenance, and
- 20 enhancement of natural resources, including
- 21 beaches, important to the visitor industry;



1 (B) Planning, construction, and repair of facilities;
2 and

3 (C) Operation and maintenance costs of public lands,
4 including beaches, connected with enhancing the
5 visitor experience.

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

10 As used in this subsection, "fiscal year" means the twelve-
11 month period beginning on July 1 of a calendar year and ending
12 on June 30 of the following calendar year.

13 ~~[(c) On or before January or July 1 of each year or after~~
14 ~~the disposition of any tax appeal with respect to an assessment~~
15 ~~for periods after June 30, 1990, the state director of finance~~
16 ~~shall compute and pay the amount due as provided in subsection~~
17 ~~(b) to the director of finance of each county to become a~~
18 ~~general realization of the county expendable as such, except as~~
19 ~~otherwise provided by law.] "~~



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on January 1, 2021.



Report Title:

Transit Accommodations Tax; County Surcharge

Description:

Authorizes each county to impose a surcharge on transient accommodations tax. Changes the transient accommodations tax rate to an unspecified amount. Repeals the distribution of transit accommodations tax revenues to the counties. (HB631 HD1)

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

