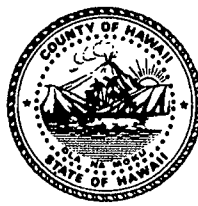


Harry Kim
Mayor



Deanna S. Sako
Director

Steven A. Hunt
Deputy Director

County of Hawai'i

Finance Department

25 Aupuni Street, Suite 2103 • Hilo, Hawai'i 96720
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COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

Re: HB 1394 HD1 RELATING TO THE COUNTY SURCHARGE ON STATE TAX

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee members:

The County of Hawai'i strongly supports HB 1394, HD1, companion to SB1428, SD1, which was previously approved by this Committee and the full Senate.

Our County is in a challenging financial situation for a number of reasons, most of which are related to personnel costs. For example, employer contribution rates to the Employee Retirement System for Police and Fire have increased 44% between FY17 and FY20 and will increase another 5 percentage points (not 5%) for FY21, bringing the 4-year total increase to 64% (going from 25% to 41% of employee salaries). Actual payments to ERS will be even higher when we account for the cumulative effect of collective bargaining wage increases and our annual spiking bills, the latter of which we have little control over nor any means to accurately forecast. Additionally, the employer's contractual obligation of providing healthcare to both current employees and retirees has also grown disproportionately faster than the operating budget as a whole.

Recent disasters have exposed the need for additional public safety workers as well as the funding needed to cover upfront overtime expenditures, as FEMA does not always reimburse us in a timely manner.

Meanwhile, budget constraints have severely limited our ability to respond to the growing needs of the community, especially in the area of public safety. Staffing has been generally flat for over a decade despite a rapidly growing population in Hawai'i County.

Real property tax rates in Hawai'i County are among the highest in the state (for most tax classifications) and, even factoring in generally lower assessed values per class, so too are the average tax bills. Property taxes are not inelastic and do have a breaking point.

The stagnant amount of TAT monies received by Hawai'i County, while greatly appreciated, has simply not kept pace with the costs associated with being a host to our visitors. It is estimated that 25% to 35% of the GET generated in Hawai'i County will come from visitor spending; thus, having the flexibility to spend GET on "public safety" and/or "infrastructure" would be another means of collecting monies from our visitors and spending it in areas that the general fund has had to otherwise subsidize.

Hawai'i County initially passed a 0.25% GET in 2018 to help fund the Mass Transit master plan and to fix our roads. An additional 0.25% GET was recently passed, so we have the political courage to increase taxes. This was done, however, with the hope that these additional monies could be used for needs other than transportation and road projects.

We ask for your favorable vote on HB 1394, HD1, with an effective date "upon approval."

Thank you for your consideration.

Respectfully submitted:



Steven A. Hunt

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

March 25, 2019

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Committee on Ways and Means

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee Members:

RE: HB 1394, HD1 Relating to the County Surcharge on State Tax

Thank you for this opportunity to testify in favor of HB 1394, HD1. But first, I would like to thank you for your support for the Hawai'i County disaster recovery bills, HB 1180 and SB 1302. You know how important those bills will be for our entire community, and we are grateful and want to publicly acknowledge all those who pulled together to get us this far.

With respect to HB 1394, a top priority for me this Session is to get some flexibility in how GET surcharge funds can be spent. HB 1394, HD1 does this in a way that would be straightforward, but without being open-ended. It would be very important for Hawai'i County, but would benefit the other neighbor islands as well, as reflected by the fact that (I believe) it was introduced by legislators from all three counties that have a population under the required 500,000.

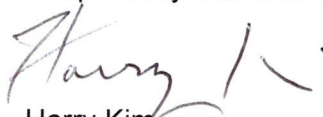
This Committee was willing to give us flexibility last year, but the language that was used created concerns. This time around, the authors worked to make sure the language would be acceptable to all parties, and we believe they have accomplished that.

I know that an earlier concern was that the counties were not demonstrating much enthusiasm for a GET surcharge. I am pleased to be able to report to you that Hawai'i County now has completed action to impose the full ½% GET surcharge that this Legislature had previously authorized.

Please be assured that it is not our intent to downgrade transportation, which is the present beneficiary of GET funding. Rather, each County has expressed different unmet needs for which a funding source has yet to be identified; for example, "public safety" for Hawai'i County, or "infrastructure" for Kauai. Higher contributions to ERS and other post-employment benefits have had significant impacts on our ability to fund operations throughout the county. For Hawai'i Island, dealing with multiple natural disasters, the cost of providing public safety during these events has taken its toll and depleted our funds.

Please give HB 1394, HD1 your favorable vote, with an effective date "upon approval."

Respectfully Submitted,



Harry Kim
MAYOR

HB-1394-HD-1

Submitted on: 3/25/2019 5:41:21 PM

Testimony for WAM on 3/28/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
HERBERT M. "TIM" RICHARDS, III	Testifying for Hawaii County Council	Support	No

Comments:



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

SENATE COMMITTEE ON WAYS AND MEANS
Thursday, March 28, 2019, 10 AM, Conference Room 211
House Bill 1394, HD 1, Relating to the County Surcharge on the State Tax

COMMENTS

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Dela Cruz and Committee Members:

The League of Women Voters of Hawaii takes no position on HB 1394, HD 1, which temporarily authorizes 3 counties, but not the City and County of Honolulu, to use revenues from a county surcharge on the state excise tax for infrastructure and public safety.

We suggest you consult the Attorney General as to whether a law which, before it “sunsets”, imposes a different statutory requirement on only the City and County of Honolulu would violate Article VIII, Section 1 of the Hawaii Constitution.

Thank you for the opportunity to submit testimony.

ARTICLE VIII
LOCAL GOVERNMENT
CREATION; POWERS OF POLITICAL SUBDIVISIONS

Section 1. The legislature shall create counties, and may create other political subdivisions within the State, and provide for the government thereof. Each political subdivision shall have and exercise such powers as shall be conferred under general laws.

March 28, 2019

The Honorable Donovan Dela Cruz, Chair

Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: House Bill 1394, HD1, Relating to the County Surcharge on State Tax

HEARING: Thursday, March 28, 2019, at 10:00 a.m.

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee,

I am Ken Hiraki Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 9,500 members. HAR **opposes** House Bill 1394, HD1, which authorizes any county with a population equal to or less than 500,000, that adopts a county surcharge on state tax ordinance to use the surcharges received from the State for infrastructure and public safety.

In 2005, Act 247 was adopted to authorize each county the opportunity to place a county surcharge on the General Excise Tax (“GET.”) Counties had until December 31, 2005 to adopt an ordinance. At that time, the City and County of Honolulu was the only county to adopt an ordinance, which was limited to operating or capital costs for the mass transit project. For the other counties, the authorization of this county surcharge was for a narrow and specific purpose for operating and capital costs for public transportation systems, such as public roadways or highways, public buses, trains, ferries, pedestrian paths or sidewalks, or bicycle paths.

In 2017, Act 1 was passed in Special Session. In regards to counties with a population less than 500,000, it allowed Kaua'i, Maui and Hawai'i Island the opportunity to adopt ordinances to establish a county surcharge at a rate of no more than 0.5%. Counties had until January 1, 2018. Since then, the following counties have adopted a surcharge:

- Kauai' - GET surcharge of 0.5% (January 1, 2019 to December 31, 2030)
- Hawai'i – GET surcharge of 0.25% (January 1, 2019 to December 31, 2020)

HAR believes the county surcharge was authorized for a specific and limited purpose to fund public transportation systems. While the counties provide valuable services, it was not intended as a broad tax for purposes of infrastructure and public safety, which could arguably be for most county services.

HAR would also note that the GET is not a sales tax. A sales tax is on the consumer who buys the retail goods, whereas the GET is a tax on the business. If a business cannot pass on the GET, they will have to absorb it as an expense. Additionally, it applies to virtually every economic activity, including rents, services, and wholesale goods. Because of the far reaching impacts of the GET, all these additional costs add into the already high cost of living and doing business in Hawai'i. The GET is also regressive, where it has a disproportionate impact on those that can least afford it.

Mahalo for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Expand Permitted Usage on Neighbor Islands of County Surcharge

BILL NUMBER: HB 1394, HD-1

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: Authorizes any county with a population equal to or less than 500,000 that adopts a county surcharge on state tax ordinance to use the surcharges received from the State for infrastructure and public safety. This bill will send us far afield from the original intent and philosophy of the county surcharge, which was a temporary tax to fund mass transportation, and raises questions about the general laws provision in the Hawaii Constitution.

SYNOPSIS: Amends section 46-16.8, HRS, to allow a county with a population of 500,000 or less to use the GET surcharge for infrastructure and public safety in addition to usages relating to public transportation.

EFFECTIVE DATE: July 1, 2030.

STAFF COMMENTS: As originally adopted in Act 247, SLH 2005, the county surcharge on GET was a temporary measure to allow the City and County of Honolulu a funding source for a mass transit system and Americans with Disabilities Act compliance expenses for it. Because our Constitution and common sense require that like opportunities be afforded to all counties, Act 247 allowed the other counties to use any adopted county surcharge for mass transportation projects and Americans with Disabilities Act compliance expenses for them.

In other words, the surcharge was supposed to be to build mass transportation. Period. Then the tax was supposed to go away.

If the permissible uses of the tax are broadened to these purposes, why don't we just allow them to be used for general revenue? That's what's at the end of the path this bill points us to. When that happens, the tax will never go away because there will be no event (such as completion of rail construction) signaling the end of the tax.

This fundamental difference between the uses of the GET surcharge funding that are permissible now and the uses that are proposed also raises the question of whether the bill is a "general law" by which county matters must be governed under Article VII, section 1 of the Hawaii Constitution. "[T]he term 'general laws' ... denotes laws which apply uniformly throughout all political subdivisions of the State. But a law may apply to less than all of the political subdivisions and still be a general law, if it applies uniformly to a class of political subdivisions, which, considering the purpose of the legislation, are distinguished by sufficiently significant characteristics to make them a class by themselves." *Bulgo v. County of Maui*, 50 Haw. 51, 430 P.2d 321, 326 (1967). If the City & County of Honolulu may only use its surcharge money on

mass transportation and the other counties may use that money on fundamentally different things, here general infrastructure and public safety, then the restrictions on use of surcharge money discriminate against the City & County of Honolulu and legitimately raise the question of whether the surcharge money distribution scheme as amended would be an impermissible special law.

Digested 3/25/2019



OFFICE OF THE MAYOR
THE COUNTY OF KAUA'I

DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR



Testimony of Derek S. K. Kawakami
Mayor, County of Kaua'i

Before the
Senate Committee on Ways and Means
March 28, 2019; 10:00 am
Conference Room 211

In consideration of
HB1394 HD1
Relating to the County Surcharge on State Tax

Honorable Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The County of Kaua'i is in **support** of HB1394 HD1 which proposes to authorize any county with a population equal to or less than 500,000 that adopts a county surcharge on state tax ordinance to use the surcharges received from the State for infrastructure and public safety.

Last year the County of Kaua'i adopted an ordinance to establish this surcharge which became effective this year. We look forward to the long overdue improvements to our county roadways the revenue this surcharge provides and welcome the expansion of this statute that allows us to improve our infrastructure and bolster our public safety.

Respectfully submitted,

Derek S. K. Kawakami
Mayor, County of Kaua'i



LATE



**TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS
State Capitol, Conference Room 211
415 South Beretania Street
10:00 AM**

March 28, 2019

RE: HOUSE BILL NO. 1394 HD 1, RELATING TO THE COUNTY SURCHARGE ON STATE TAX

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

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. Our members build the communities we all call home.

BIA-Hawaii is in **strong support** of H.B. 1394 HD 1, which would authorize any county with a population equal to or less than 500,000 that adopts a county surcharge on state tax ordinance to use the surcharges received from the State for infrastructure and public safety.

We understand that the bill proposes to amend Section 46-16.8, Hawaii Revised Statutes, to allow the funds generated by the county surcharge to be used for infrastructure, public safety and a combination of uses. Currently, the statutes limit the use of the county surcharge to one of the following:

- (1) Operating or capital costs of public transportation within each county for public transportation systems, including public roadways or highways, public buses, trains, ferries, pedestrian paths or sidewalks, or bicycle paths; and,
- (2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to paragraph 1.

The bill would allow the county surcharge to be used for the following other uses:

- Infrastructure;
- Public safety; and
- Any combination of the uses enumerated in this subsection.

A recent article in the Honolulu Star Advertiser found that the new 2019 Hawaii Infrastructure Report Card released by the American Society of Civil Engineers' (ASCE) Hawaii Section, gives the state's infrastructure an overall "D+" in 11 categories. Bridges received a C+, while roads received a D+.



The report recommends an increase in the state gas tax, as well as additional funding measures, to pay for the backlog of repairs needed for roads and bridges.

"The state's roadways are among the most congested in the nation, and there is a \$23 billion transportation infrastructure funding gap over the next 20 years," ASCE Hawaii Section said in a press release, according to the news agency. "The majority of Hawaii's infrastructure has been operating beyond its useful life, and some components of systems are over 100 years old," the report further states, "Due to a lack of funding, it has been difficult to effectively maintain and improve the existing infrastructure systems to keep up with increasing usage and rapidly changing lifestyles."

The counties already have the authority to impose the surcharge, but are limited on how the monies generated from the surcharge can be used. The bill will provide the Counties with a possible funding source to address the enormous need to fund government infrastructure in Hawaii.

We are in **strong support** of H.B. 1394 HD 1, and appreciate the opportunity to provide our input on this important legislation.