

JAN 24 2019

A BILL FOR AN ACT

RELATING TO COUNTIES.

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

PART I

1
2 SECTION 1. The legislature finds that the state-county
3 functions working group was convened pursuant to Act 174,
4 Session Laws of Hawaii 2014, to evaluate the division of duties
5 and responsibilities between the State and counties relating to
6 the provision of public services and to recommend an appropriate
7 allocation of the transient accommodations tax revenues between
8 the State and counties that properly reflects the division of
9 duties and responsibilities relating to the provision of public
10 services.

11 Although the transient accommodations tax has evolved to
12 meet the needs and purposes of the times, its structure and
13 frequent amendment, combined with the cyclical nature of the
14 visitor industry and the tax revenues it generates, have
15 resulted in ongoing discussions among the various stakeholders,
16 including the State, the counties, the visitor industry, the



1 Hawaii tourism authority, and other recipients or potential
2 recipients of transient accommodations tax revenues.

3 The state-county functions working group, composed of
4 state, county, and visitor industry representatives and other
5 knowledgeable and concerned citizens, and which has been aided
6 by experts, considered the legislature's assignment for over a
7 year and delivered to the legislature its final unanimous
8 report, inclusive of analysis, findings, conclusions, and
9 recommendations.

10 In particular, the state-county functions working group
11 found and concluded that:

12 (1) The application of the transient accommodations tax
13 and the allocation of its revenues should be
14 simplified and stabilized so as to be clear,
15 consistent, and predictable over time, in view of the
16 need to invest in tourism as a premier industry;

17 (2) The tourism special fund should be provided a priority
18 distribution of the transient accommodations tax
19 revenues at an assured minimum level, adjusted for
20 inflation, and regardless of overall transient
21 accommodations tax collections;



- 1 (3) After the priority distribution of the transient
2 accommodations tax revenues to the tourism special
3 fund, existing allocations to the Turtle Bay
4 conservation easement special fund, convention center
5 enterprise special fund, and special land and
6 development fund should be maintained at their current
7 levels, with any additional state funding of these
8 efforts made out of state general funds by separate
9 appropriation;
- 10 (4) Based on a review of state and county functions,
11 including tourism expenditures, an appropriate
12 allocation of the remaining transient accommodations
13 tax revenues is fifty-five per cent to the state
14 general fund and forty-five per cent to the counties;
15 and
- 16 (5) There should be no fixed dollar amounts, caps, floors,
17 or similar restrictions on allocations to the State
18 and counties of the remaining revenues; instead, both
19 the state and the county allocations should increase
20 or decrease proportionately with increasing or
21 decreasing transient accommodations tax revenues.



1 The state-county functions working group recommendations
2 reflect a fair, balanced, and reasonable compromise of competing
3 needs for scarce resources and provide a sound policy base for
4 the further administration of the transient accommodations tax
5 and its revenues.

6 The purpose of this Act is to:

7 (1) Provide a fair, consistent, and predictable priority
8 allocation of transient accommodations tax revenues,
9 of an assured minimum amount, to the tourism special
10 fund;

11 (2) Maintain allocation of transient accommodations tax
12 revenues to existing obligations at present levels;

13 (3) Provide a fair, consistent, and predictable allocation
14 of the balance of the transient accommodations tax
15 revenues between the State and the counties; and

16 (4) Provide flexibility to the tourism special fund,
17 State, and counties in the utilization of their
18 respective allocations.

19 **PART II**

20 SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



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

5 ~~[(1) \$1,500,000 shall be allocated to the Turtle Bay
6 conservation easement special fund beginning July 1,
7 2015, for the reimbursement to the state general fund
8 of debt service on reimbursable general obligation
9 bonds, including ongoing expenses related to the
10 issuance of the bonds, the proceeds of which were used
11 to acquire the conservation easement and other real
12 property interests in Turtle Bay, Oahu, for the
13 protection, preservation, and enhancement of natural
14 resources important to the State, until the bonds are
15 fully amortized,]~~

16 (1) \$79,000,000 shall be allocated to the tourism special
17 fund established under section 201B-11; provided that,
18 beginning July 1, 2019, and in each fiscal year
19 thereafter, the dollar amount of revenues allocated to
20 the tourism special fund under this paragraph shall be
21 adjusted by an amount equal to the dollar amount



1 multiplied by the percentage, if any, by which the
2 Honolulu region consumer price index for all urban
3 consumers (CPI-U), or a successor index, as calculated
4 by the United States Department of Labor, for the
5 preceding calendar year exceeds the consumer price
6 index for the calendar year 2018; provided further
7 that:

8 (A) Of the revenues allocated to the tourism special
9 fund:

10 (i) \$1,000,000 shall be allocated for the
11 operation of a Hawaiian center and the
12 museum of Hawaiian music and dance at the
13 Hawaii convention center; and

14 (ii) 0.5 per cent shall be transferred to a sub-
15 account in the tourism special fund to
16 provide funding for a safety and security
17 budget, in accordance with the Hawaii
18 tourism strategic plan; and

19 (B) Of the revenues remaining in the tourism special
20 fund after revenues have been deposited as
21 provided in this paragraph and except for any sum



1 authorized by the legislature for expenditure
2 from revenues subject to this paragraph,
3 beginning July 1, 2019, funds shall be deposited
4 into the tourism emergency special fund,
5 established in section 201B-10, in a manner
6 sufficient to maintain a fund balance of
7 \$5,000,000 in the tourism emergency special fund;

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

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

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

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



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



1 (3) \$3,000,000 shall be allocated to the special land and
2 development fund established under section 171-19;
3 provided that the allocation shall be expended in
4 accordance with the Hawaii tourism authority strategic
5 plan for:

6 (A) The protection, preservation, maintenance, and
7 enhancement of natural resources, including
8 beaches, important to the visitor industry;

9 (B) Planning, construction, and repair of facilities;
10 and

11 (C) Operation and maintenance costs of public lands,
12 including beaches, connected with enhancing the
13 visitor experience;

14 (4) \$1,500,000 shall be allocated to the Turtle Bay
15 conservation easement special fund beginning July 1,
16 2015, for the reimbursement to the state general fund
17 of debt service on reimbursable general obligation
18 bonds, including ongoing expenses related to the
19 issuance of the bonds, the proceeds of which were used
20 to acquire the conservation easement and other real
21 property interests in Turtle Bay, Oahu, for the



1 protection, preservation, and enhancement of natural
2 resources important to the State, until the bonds are
3 fully amortized; and

4 ~~[(4)]~~ (5) [\$103,000,000] Of the remaining revenues
5 collected under this chapter, forty-five per cent
6 shall be allocated to the counties and shall be
7 distributed as follows: Kauai county shall receive
8 14.5 per cent, Hawaii county shall receive 18.6 per
9 cent, city and county of Honolulu shall receive 44.1
10 per cent, and Maui county shall receive 22.8 per cent;
11 provided that commencing with fiscal year 2018-2019, a
12 sum that represents the difference between a county
13 public employer's annual required contribution for the
14 separate trust fund established under section 87A-42
15 and the amount of the county public employer's
16 contributions into that trust fund shall be retained
17 by the state director of finance and deposited to the
18 credit of the county public employer's annual required
19 contribution into that trust fund in each fiscal year,
20 as provided in section 87A-42, if the respective
21 county fails to remit the total amount of the county's



1 required annual contributions, as required under
2 section 87A-43 [~~7~~ and
3 ~~(5) \$3,000,000 shall be allocated to the special land and~~
4 ~~development fund established under section 171-19,~~
5 ~~provided that the allocation shall be expended in~~
6 ~~accordance with the Hawaii tourism authority strategic~~
7 ~~plan for:~~

8 ~~(A) The protection, preservation, maintenance, and~~
9 ~~enhancement of natural resources, including~~
10 ~~beaches, important to the visitor industry,~~

11 ~~(B) Planning, construction, and repair of facilities,~~
12 ~~and~~

13 ~~(C) Operation and maintenance costs of public lands,~~
14 ~~including beaches, connected with enhancing the~~
15 ~~visitor experience].~~

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



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

4 **PART III**

5 SECTION 3. Section 87A-42, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) In any fiscal year subsequent to the 2017-2018 fiscal
8 year in which a county public employer's contributions into the
9 fund are less than the amount of the annual required
10 contribution, the amount that represents the excess of the
11 annual required contribution over the county public employer's
12 contributions shall be deposited into the fund from a portion of
13 all transient accommodations tax revenues collected by the
14 department of taxation under section [~~237D-6.5(b)(4)~~.]
15 237D-6.5(b)(5). The director of finance shall deduct the amount
16 necessary to meet the county public employer's annual required
17 contribution from the revenues derived under section
18 [~~237D-6.5(b)(4)~~] 237D-6.5(b)(5) and transfer the amount to the
19 board for deposit into the appropriate account of the separate
20 trust fund."



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)~~] 237D-6.5(b)(3);
18 and private contributions for the management, maintenance, and
19 development of trails and accesses shall be set apart in the
20 fund and shall be used only as authorized by the legislature for
21 the following 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
13 ~~[237D-6.5(b)(5);]~~ 237D-6.5(b)(3);
- 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."

PART IV

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2019.

8

INTRODUCED BY:















S.B. NO. 1407

Report Title:

Transient Accommodations Tax; Counties; Tourism Special Fund

Description:

Amends the distribution of the transient accommodations tax by changing the amount distributed to the counties from a fixed sum to a percentage of the revenues collected. Ties the amount of revenue distributed to the tourism special fund to the Honolulu region consumer price index or a successor index.

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