

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; SB 1428 (Identical)

INTRODUCED BY: HB by NAKAMURA, CREAGAN, MORIKAWA, NAKASHIMA, TARNAS, TODD, TOKIOKA, WILDBERGER; SB by KOUCHI by request

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.

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: Upon approval

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.

Digested 2/20/2019

February 22, 2019

The Honorable Sylvia Luke, Chair

House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

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

HEARING: Friday, February 22, 2019, at 11:00 a.m.

Aloha Chair Luke, Vice Chair Cullen 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, 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.

HB-1394

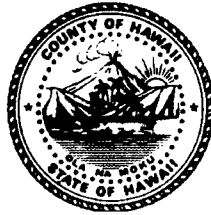
Submitted on: 2/21/2019 8:59:59 AM

Testimony for FIN on 2/22/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

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

February 21, 2019

Representative Sylvia Luke, Chair
Committee on Finance

Representative Ty J.K. Cullen, Vice Chair
Committee on Finance

Dear Chair Luke, Vice Chair Cullen, and Committee Members:

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

Thank you for this opportunity to testify in favor of HB 1394. 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 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.

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 your favorable vote.

Respectfully Submitted,

Harry Kim
MAYOR



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

LATE

HOUSE COMMITTEE ON FINANCE
Friday, February 20, 2019, 11 AM, Conference Room 308
House Bill 1394, Relating to the County Surcharge on the State Tax

COMMENTS

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

Chair Luke and Committee Members:

The League of Women Voters of Hawaii takes no position on HB 1394 which 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 legislation which results in a different statutory requirement for the City and County of Honolulu would comply with 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.

Att. Gen. Op. 62-11. Law conferring power on only certain specified counties is a special law.



OFFICE OF THE MAYOR
THE COUNTY OF KAUA'I

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

LATE

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

Before the
House Committee on Finance
February 22, 2019; 11:00 am
Conference Room 308

In consideration of
House Bill 1394
Relating to the County Surcharge on State Tax

Honorable Chair Luke, Vice Chair Cullen, and Members of the Committee:

The County of Kaua'i is in **support** of HB1394 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 and became effective this year. We look forward to the long overdue improvements to our county roadways the revenue this surcharge provides. Extending the period for counties to adopt an ordinance to establish this surcharge is in the best interest for all residents and visitors of Hawa'ii.

Respectfully submitted,

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

