

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
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RONA M. SUZUKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

From: Rona Suzuki, Director
Department of Taxation

Re: S.B. 2054, S.D. 1, Relating to Infrastructure Improvement Districts

Date: Tuesday, February 25, 2020

Time: 12:40 P.M.

Place: Conference Room 211, State Capitol

The Department of Taxation (Department) offers the following comments on S.B. 2054, S.D. 1.

S.B. 2054, S.D. 1, establishes a surcharge on real property tax on transit-oriented development properties that are sold or developed after the effective date of the measure at the rate of \$7.50 per \$1,000 of net taxable value. The measure requires the Department to administer and enforce the section, except:

1. The examinations of books and records of any person or private entity subject to the surcharge on property tax; and
2. The imposition of penalties upon failure or refusal by a person or private entity to file a return, sworn, or proper return.

It also allows the Department to contract with another state or county department or agency for the purposes of implementation or enforcement and adopt rules pursuant to Chapter 91, Hawaii Revised Statutes. S.B. 2054, S.D. 1, is effective upon the ratification of the constitutional amendment proposed in S.B. 2074, authorizing the legislature to establish a surcharge as proposed by this measure.

The distribution of responsibilities between agencies in this measure make the collection of the surcharge and the requirement of any return the responsibility of the counties. The Department believes that the accompanying administration and enforcement of these requirements should remain with the counties.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Tuesday, February 25, 2020
12:40PM
State Capitol, Conference Room 211**

**In consideration of
SENATE BILL 2054, SENATE DRAFT 1
RELATING TO INFRASTRUCTURE IMPROVEMENT DISTRICTS**

Senate Bill 2054, Senate Draft 1 proposes to establish an annual surcharge on property taxes on parcels within an infrastructure improvement district that are sold or developed after an appropriation is made to improve the infrastructure of the district. The measure also proposes to authorize the Counties to retain a portion of the surcharge for administrative expenses and exempts parcels that do not change ownership from the surcharge. **The Department of Land and Natural Resources (Department) notes significant concerns with this measure as follows.**

While the Department understands both the need to fund infrastructure and the limited resources available to fulfill that objective, the Department believes the terms and conditions of this particular measure to be problematic. Requiring the Department to maintain a database on its website of all transit-oriented development (TOD) parcels and TOD zones associated with those parcels, as well as identifying which TOD parcels shall be subject to the surcharge is well outside the Department's operational capabilities, jurisdiction and expertise. TOD zoning is a county function, with the Department having no role in zoning determinations. Additionally, many of the parcels subject to TOD zoning are privately owned and not subject to the Department's management. Furthermore, the Department does not have the resources or expertise to maintain a database as proposed by the bill, nor the bill provide any funding for the development of the database. The Department suggests that the database be more appropriately be established by the counties, as they are tasked with carrying out the TOD zoning process, provided adequate funding is provided.

Aside from the foregoing challenges, tracking the conveyances of the affected parcels would have to be handled manually by the Department's Bureau of Conveyances (Bureau) as there is currently no automated means to flag the sales of specific (TOD) parcels. The Bureau does transfer Conveyance Tax forms for each property sale recorded to the Department of Taxation who in turn provides that information to the Real Property Tax Offices for the respective islands. This is

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

perhaps a better nexus for this type of notification with the expectation that the respective county Real Property Tax Offices can better manage the tracking of these parcels directly once they are notified of the conveyance of a TOD parcel through the tax form.

The Department also notes that it is unclear which properties would be subject to the surcharge. The bill proposes to mandate that TOD parcels are subject to the surcharge until 1) an act appropriates funds to the corresponding infrastructure improvement district for infrastructure improvements and 2) the TOD property is sold or developed thereafter. However, the bill does not provide any criteria to what qualifies as development of a TOD parcel. Finally, the bill does not specifically propose to require that the revenues collected from the surcharge be used to fund infrastructure development. Rather it appears as though the revenues would be allocated in part to the Counties to recover administrative costs, with the remainder deposited into the State General Fund.

Thank you for the opportunity to comment on this measure.



**HAWAII COMMUNITY
DEVELOPMENT AUTHORITY**

547 Queen Street, Honolulu, Hawaii 96817
Web site: <http://dbedt.hawaii.gov/hcda/>

DAVID Y. IGE
GOVERNOR

JOHN WHALEN
CHAIR

GARETT KAMEMOTO
INTERIM EXECUTIVE DIRECTOR

Telephone: (808) 594-0300
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STATEMENT OF
GARETT KAMEMOTO, INTERIM EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Before the
SENATE COMMITTEE ON WAYS AND MEANS

Tuesday, February 25, 2020
12:40 P.M.
State Capitol, Conference Room 211

in consideration of

SB 2054, SD1
RELATING TO INFRASTRUCTURE IMPROVEMENT DISTRICTS

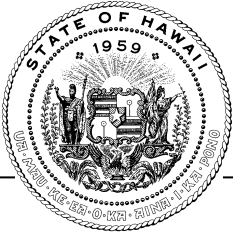
Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee.

The Hawaii Community Development Authority (HCDA) **supports the intent of SB 2054, SD1**, which supports funding for needed improvements to infrastructure.

Other redevelopments districts in other jurisdictions use similar funding methods.

Our concern is that, as the legislature works hard with several agencies to increase the development of affordable housing throughout the state this tax may be a burden on people already struggling to make ends meet, who may move into future affordable residential units in these infrastructure improvement districts.

Thank you for the opportunity to testify on **SB 2054, SD1**.



**OFFICE OF PLANNING
STATE OF HAWAII**

LATE

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

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Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
SENATE COMMITTEE ON WAYS AND MEANS
Tuesday, February 25, 2020
12:40 PM
State Capitol, Conference Room 211

in consideration of
SB 2054 SD1
RELATING TO INFRASTRUCTURE IMPROVEMENTS DISTRICTS.

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means.

The Office of Planning (OP) offers **comments** on SB 2054 SD1, which proposes to establish an annual surcharge on property taxes within an infrastructure improvement district, upon ratification of a State constitutional amendment to allow the State to establish a surcharge on real property to fund infrastructure improvements around rapid transit stations.

OP supports the underlying intent of this measure to find alternative means to finance the significant infrastructure improvements that will be needed to support the creation of mixed use, dense, transit-oriented urban communities on State lands along the Honolulu rail corridor.

A major concern with the bill, however, is its applicability only to parcels that change ownership. It should instead be applied to parcels that experience an increase in improvement value. If a landowner does not sell the land but still develops it to take advantage of proximity to transit, then no surcharge would be assessed even though the development could have a significant impact on infrastructure.

Thank you for this opportunity to testify.

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 21, 2020

TO: The Honorable Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means

FROM: Alice L. Lee
Council Chair

SUBJECT: **HEARING OF FEBRUARY 25, 2020; TESTIMONY IN OPPOSITION TO SB 2054, SD 1, RELATING TO INFRASTRUCTURE IMPROVEMENT DISTRICTS**

Thank you for the opportunity to testify in **opposition** to this important measure. The purpose of this measure is implement a constitutional amendment to allow the legislature to establish a surcharge on taxation of certain property within an infrastructure improvement district.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

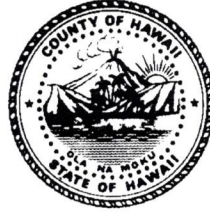
I oppose this measure for the following reasons:

1. The counties have the exclusive authority to tax real property, and any exceptions set an unwelcome precedent to future intrusions by the State into the counties' primary source of revenue.
2. The State has several other taxation mechanisms. The State should use the taxation tools already in place.

For the foregoing reasons, I **oppose** this measure.

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Harry Kim
Mayor



Roy Takemoto
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

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(808) 323-4444 • Fax (808) 323-4440

February 21, 2020

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: **SB 2054, SD1 Relating to Infrastructure Improvement Districts**

I respectfully and urgently request that SB 2054, SD1, creating a State surcharge on certain real property, not move forward.

This bill would implement the constitutional amendment proposed in SB 2074. As I testified on SB 2074, SD1, I recognize that such a Constitutional provision might have some superficial political appeal, restricted as it is to the rail corridor. However, no matter what the potential benefits of SB 2074, SD1, impinging on the counties' singular source of income would be devastating to us.

As you well know, the counties have little or no control over their revenue except in one area, real property taxes, and therefore we rely overwhelmingly on real property taxes to fund our operations. For the County of Hawai'i, a full 74% of our revenue is from property taxes.

The burden of the property tax can be heavy for many residents, but since it is virtually the only tool we have, we use it the best we can. A surcharge on properties would obviously limit County options and make it even more difficult to balance our budgets. Therefore, we have to jealously guard this taxing authority, and ask that you not break the bright line of separation.

Yes, SB 2074 and this bill are only for rail, so, at least for now, they would only affect Oahu. But also introduced this year was HB 2671, authorizing DOE to tax real property statewide. Two years ago, a constitutional amendment passed this Legislature authorizing the State to tax residential investment property. Who knows what next year will bring.

February 21, 2020

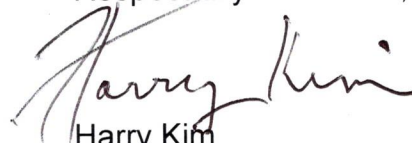
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The drafters of our Hawai'i Constitution must have understood that it was critical to the viability of the counties that they have exclusive authority over the property tax. The drafters provided that "The taxing power shall be reserved to the State, except...relating to the taxation of real property" which "shall be exercised exclusively by the counties..." If that wall is breached, severe damage will be done to home rule, we would be ignoring the progress the counties have made since Statehood, and there would be a crippling of the State/County partnership that has grown over the years in an imperfect but meaningful attempt to best serve the 1.41 million people of Hawai'i.

None of these arguments are meant to downgrade the importance of infrastructure to Hawai'i's past, present, and future. I simply ask that further progress not be made on the backs of the counties which have so few alternate resources to fall back on.

Please hold SB 2054, SD1.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Harry Kim". The signature is fluid and cursive, with a large initial "H" and "K".

Harry Kim
MAYOR

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: REAL PROPERTY; Infrastructure Improvement District Surcharge

BILL NUMBER: SB 2054, SD-1

INTRODUCED BY: Senate Committee on Energy, Economic Development, and Tourism

EXECUTIVE SUMMARY: Establishes a \$7.50 per \$1000 value in annual surcharge on property taxes on parcels within an infrastructure improvement district that are sold or developed after an appropriation is made to improve the infrastructure of that district. Authorizes the counties to retain a portion of the surcharge for administrative expenses.

SYNOPSIS: Adds a new part to chapter 206E, HRS, to be titled "Infrastructure Improvement Districts."

Defines an "infrastructure improvement district" as land within 2,000 feet of a transit station.

Defines "transit-oriented development property" as a parcel completely or partially within two thousand feet of a transit station; provided that the entire parcel shall be within one mile of the transit station.

Imposes the surcharge on transit-oriented development property. Provides that any transit-oriented development property that does not change ownership shall not be subject to surcharge.

Establishes the amount of surcharge at \$7.50 per \$1,000 of net taxable value. Directs each county to by ordinance permit an owner to pay the surcharge in the same manner provided for real property tax. Allows the county to require the owner to file a return declaring the value of a property whenever the county does not have sufficient evidence to come up with a sound appraisal of the property.

Adds other usual and customary administrative provisions. Provides for appeals. Provides that the counties may keep \$1.50 per \$1,000 and remit the balance to the general fund.

Provides exemptions for property that is:

- (1) Not subject to real property taxation;
- (2) Leased, purchased, or otherwise obtained by a lessee, tenant, purchaser, or homesteader under the Hawaiian Homes Commission Act of 1920, or as amended, a lease of land made for a term of nine hundred ninety-nine years under provisions of law that were repealed by section 3 of Joint Resolution 12, Session Laws of 1949, ratified by the Congress of the United States by the Act of September 1, 1950;
- (3) Used exclusively for charitable, including property used for church purposes and cemeteries that are maintained by a religious organization;

(4) Used for school purposes;

(5) Owned by a nonprofit corporation to which admission is restricted by corporate charter to members of a labor union or government employees' association, one of the primary purposes of which is to improve employment conditions of its members;

(6) Dedicated to public use by the owner, which dedication has been accepted by the State or any county, reduced to writing, and recorded in the bureau of conveyances;

(7) Set aside for public use; provided that any exemption pursuant to this paragraph shall not be for a period of less than ten years after enactment of Act , Session Laws Hawaii 2020; and

(8) Owned by any entity granted a transient accommodations tax exemption under section 237D-3.

EFFECTIVE DATE: Upon ratification of the constitutional amendment proposed in S.B. No. 2074.

STAFF COMMENTS: A tax increase of any magnitude in Hawaii's fragile economy will, no doubt, have a negative impact as costs soar due to higher taxes. As costs and overhead increase, employers must find ways to stay in business by either increasing prices to their customers or cut back on costs. This may take the form of reducing inventory, shortening business hours, reducing employee hours, or even laying off workers. A tax increase of any magnitude would send many companies, especially smaller ones, out of business taking with them the jobs the community so desperately needs at this time.

As a technical matter, the list of proposed exemptions needs to be rethought. Exemption (1) should include property "subject to minimum tax" rather than "not subject to real property taxation". Exemptions (3), (4), and (5) are already exempt from property tax (or, subject only to minimum tax) in all counties. Exemption (8) is inaccurate because the State does not "grant" an exemption under the TAT, people claim the exemption (or don't report the associated revenue). Partial exemptions also need to be dealt with, for example a charitable nonprofit leasing one of several office suites in a building.

Digested 2/21/2020



**SENATE COMMITTEE ON WAYS AND MEANS
State Capitol, Conference Room 211
415 South Beretania Street
12:40 PM**

February 25, 2020

RE: SENATE BILL NO. 2054, SD 1 RELATING TO INFRASTRUCTURE IMPROVEMENT DISTRICTS

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

My name is Dwight Mitsunaga, 2020 President 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 provides the following comments on S.B. 2054 S.D. 1 which proposes to establish an annual surcharge on property taxes on parcels within an infrastructure improvement district that are sold or developed after an appropriation is made to improve the infrastructure of that district. The bill also authorizes the counties to retain a portion of the surcharge for administrative expenses, and exempts parcels that do not change ownership.

We understand the intent of the bill is to assess, on a pro-rata basis, parcels that would benefit from access to the state's investment to increased infrastructure capacity within 2,000 feet of a transit station.

While we support the intent, we believe that there needs to be one central State authority overseeing this type of effort. A new state TOD Redevelopment Authority would give the state the authority it needs to oversee an orderly redevelopment of the areas around the transit stations. The assessment would be imposed on any parcel that is up-zoned and redeveloped for higher density. The focus should be on redevelopment, as it would benefit from the increased infrastructure capacity as opposed to ownership.

In the 2020 Legislative Session, both Chambers of the Hawaii State Legislature, and Governor Ige's administration put forward a comprehensive package of bills to improve the quality of life for Hawaii's middle class families. A large part of the package attempted to address housing affordability. Having the State take the lead on infrastructure, especially in TOD areas with state-owned lands would expedite the redevelopment process.

We appreciate the opportunity to express our views on S.B. 2054 SD 1.

February 25, 2020

LATE

The Honorable Donovan Del aCruz, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, HI 96813

RE: S.B. 2054, SD1, Relating to Infrastructure Improvement Districts

HEARING: Tuesday, February 25, 2020, at 12:40 p.m.

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

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 10,000 members. HAR **strongly opposes** S.B. 2054, SD1, which establishes an annual surcharge on property taxes on parcels within an infrastructure improvement district that are sold or developed after an appropriation is made to improve the infrastructure of that district. Authorizes the counties to retain a portion of the surcharge for administrative expenses. The property tax would not take effect until a property changes ownership.

According to the Asset Limited, Income Constrained, Employed (ALICE) Report prepared by United Way many households earning more than the federal poverty level still cannot afford housing, child care, food, transportation and health care. At a time when the Legislature has prioritized addressing the high cost of living, this measure will have the effect of a double property tax on future homeowners within an infrastructure improvement district.

Under this measure, the amount of the surcharge is \$7.50 per \$1,000 of net taxable value. If a property is assessed at \$400,000, the property tax surcharge would equal \$3,000. This would be in addition to the county property tax rate. This added tax would impact first-time homebuyers, and continue to put the dream of homeownership further out of reach of Hawaii families and residents.

Furthermore, the goal of transit-oriented development is to build mixed-use in a ½ mile radius around the transit stops, creating a walkable community. The goal should be to attract mixed-use development, including affordable housing, along the transit stop. Instead, this measure imposes a double property tax on this area, which seems contrary to the goals of transit-oriented development.

Mahalo for the opportunity to testify.