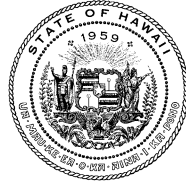


DAVID Y. IGE
GOVERNOR
JOSH GREEN M.D.
LT. GOVERNOR



RONA M. SUZUKI
DIRECTOR OF TAXATION
DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

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 M. Suzuki, Director
Department of Taxation

Re: S.B. 2686, S.D. 1, Relating to Taxation

Date: Wednesday, February 19, 2020

Time: 10:00 A.M.

Place: Conference Room 211, State Capitol

The Department of Taxation (Department) appreciates the intent of this bill and offers the following comments on S.B. 2686, S.D. 1.

S.B. 2686, S.D. 1, extends the deadline for a county to adopt an ordinance to establish a general excise tax surcharge from March 31, 2019 to September 30, 2020, and allows the counties with a population of 500,000 or less to use the revenues from the surcharge for disaster relief. The bill is effective on July 1, 2020. To date, Honolulu, Kauai, and Hawaii Counties have adopted a County Surcharge (CS). Thus, the extension to adopt a CS will only affect Maui County.

S.B. 2686, S.D. 1, requires that the county ordinance be adopted prior to September 30, 2020 with imposition and collection of the CS to begin January 1, 2021, which leaves the Department only three months to prepare for the new CS imposition. The Department requires approximately six months to make form changes, develop and test technical configurations, and educate taxpayers. The Department respectfully requests this measure be amended so that the county ordinance must be adopted prior to June 30 with imposition and collection of the CS to begin the following January 1.

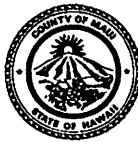
Thank you for the opportunity to provide comments.

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 18, 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 19, 2020; TESTIMONY IN SUPPORT OF SB 2686, SB 1, RELATING TO TAXATION**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is to extend the period that a county may adopt a surcharge on the State General Excise Tax to September 30, 2020.

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 support this measure for the following reasons:

1. This measure would provide much-needed diversification of Maui County's ability to generate revenue, allowing for greater investment in infrastructure and other priorities for Maui County's residents while limiting the burden on residents subject to the Real Property Tax.
2. Maui County is the only county in the State that is not receiving the benefits of a GET surcharge.
3. Maui County Council legislative efforts to establish a GET surcharge are underway in anticipation of State legislation granting the authority. The Council referred my bill for an ordinance establishing the surcharge to its Economic Development and Budget Committee earlier this month.

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

ocs:proj:legis:20legis:20testimony:sb2686_paf20-061(25)_ans

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
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February 18, 2020

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

LATE

TO: Honorable , Chair Donovan Dela Cruz, Chair
Senate Ways and Means Committee

FROM: Yuki Lei K. Sugimura
Councilmember

A handwritten signature in black ink that reads "Yuki Lei K. Sugimura".

SUBJECT: **SB2686, SD1: RELATING TO TAXATION**

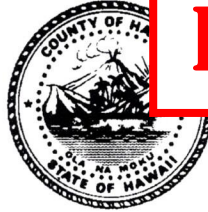
Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is provide the County an opportunity to adopt a GET surcharge up to Sept 30, 2020.

I **SUPPORT** this measure for the following reasons:

1. Provides a means for the County to increase funds available to address infrastructure and other disaster relief needs.
2. Provides a sunset date by which goals of the measure is to be fulfilled.

For the foregoing reasons, I this measure and respectfully request your support. Thank you for this opportunity to provide my opinion on this important matter.

Harry Kim
Mayor



LATE

Roy Takemoto
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 18, 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 2686, SD1 Relating to Taxation

SB 2686, SD1 is somewhat similar to SB 2140, previously heard and passed in WAM and by the full Senate, but with a different window of opportunity, and with the added feature that surcharge revenue could be used for disaster relief.

As I testified on SB 2140, Hawai'i County has adopted its surcharge on State tax, and therefore would not be affected directly by adoption of that bill. Nevertheless, I thought that it was appropriate for me to support my counterparts in other counties as they face financial issues unique to each jurisdiction.

Now, with disaster relief added to the mix, Hawai'i County would see a direct benefit through flexibility. Therefore, even though SB 2140 already received a favorable vote, I would ask that SB 2686, SD1 be approved.

Thank you for your consideration.

Respectfully Submitted,

Harry Kim
MAYOR

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TAXATION; Extend County Surcharge Adoption, Allow Use for Disaster Relief

BILL NUMBER: SB 2686, SD-1

INTRODUCED BY: Senate Committees on Public Safety, Intergovernmental, and Military Affairs and Transportation

EXECUTIVE SUMMARY: Extends the period that a county may adopt a surcharge on state tax, under certain conditions, from March 31, 2019, to September 30, 2020. Allows a county with a population equal to or less than five hundred thousand that adopts a surcharge on state tax to use surcharge revenues for disaster relief.

SYNOPSIS: Amends section 46-16.8, HRS, to allow a county to adopt a surcharge on the state general excise tax by ordinance prior to 6/30/2021. The surcharge will go into effect on 1/1/2021 if the ordinance is passed before 9/30/2020.

Also allows for a county with a population less than or equal to 500,000 to use the surcharge for disaster relief.

EFFECTIVE DATE: July 1, 2020.

STAFF COMMENTS: This measure concerns the 0.5% surcharge on the general excise tax that is currently imposed in the City and County of Honolulu, sometimes known as the “rail surcharge.” As originally enacted in 2006, the rail surcharge was scheduled to sunset on December 31, 2022. The surcharge authority was extended to December 31, 2027, by Act 240, Session Laws of Hawaii 2015, and the City & County of Honolulu extended the surcharge by Ordinance 16-1. To date, Kauai County has adopted a 0.5% surcharge and Hawaii County has opted for 0.25% but later raised it to 0.5%. Maui County has not adopted the surcharge yet.

How can counties raise money to balance their budgets?

One source of funding that is available to any county is the real property tax. Article VIII, section 3 of the Hawaii Constitution exclusively and directly gives power to the counties to impose real property tax. *State ex rel. Anzai v. City and County of Honolulu*, 99 Hawai‘i 508, 57 P.3d 433 (2002), established that for at least the past twenty years, any county is “free to exercise its exclusive authority to increase, diminish, enact, or repeal any exemptions involving real property taxes without interference by the legislature.” *Id.*, 57 P.3d at 446. The real property tax is imposed by county ordinance, it is imposed on those under the jurisdiction of the county and not of the state, and the money raised belongs to the county imposing it.

Another source of funding is state tax; specifically, state tax that is shared with the counties. Article VIII, section 3 of the Hawaii Constitution provides:

The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivisions, and except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao. The legislature shall have the power to apportion state revenues among the several political subdivisions.

Where the funds raised are by state statute imposing a state tax, the money raised is the State's money. The Hawaii Constitution, in the language quoted above, explicitly empowers the Legislature to apportion that money to one or more political subdivisions however the Legislature sees fit. Money can be raised for general revenue purposes, as is the case with most taxes including the Transient Accommodations Tax. That money can also be directed to special funds used for specific purposes, as is the case with the fuel tax that feeds the Highway Fund. Sometimes the tax money raised is directed to a multitude of uses, as with the TAT and the Conveyance Tax. It has been held that such funds can be disbursed to one or more counties through grants in aid, and that the State can enact conditions upon the power to disburse or give discretion to the Executive Branch to withhold disbursement. *Fasi v. Burns*, 56 Hawai'i 615, 618-19, 546 P.2d 1122, 1125 (1976).

The county surcharge on the GET, which is the subject of this bill, is imposed by county ordinance and not state law, although state statute delegates the power to tax.

That part of the bill allowing the counties to use surcharge moneys for disaster relief needs to be scrutinized carefully to make sure that the bill meets the Hawaii Constitution's requirement in Article VIII, section 2, that state laws affect the counties by way of general laws only, namely laws applying equally to all counties. *Fasi v. City & County of Honolulu*, 50 Haw. 277, 283-84, 439 P.2d 206 (1968). The surcharge as originally adopted arguably met this requirement by providing that all counties must use the surcharge moneys for public transportation; the statute now requires the City & County of Honolulu to use surcharge money for rail, but other counties need to use it for operating or capital costs of public transportation systems. Allowing one or a subset of counties to use the money for disaster relief while preventing the others from doing so would create a disparity and possibly a constitutional problem.

Digested 2/16/2020



HAWAI'I COMMUNITY
FOUNDATION

February 17, 2020

Senate Committee on Ways and Means
Hearing: 10:00 a.m. February 19, 2020
Hawaii State Capitol Room 211

Re: SUPPORT for SB 2686, Relating to Taxation

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

The Hawaii Community Foundation supports SB 2686, relating to taxation. This bill extends the period that a county may adopt a surcharge on state tax, under certain conditions, from 3/31/2019 to 9/30/2020. It allows a county with a population equal to or less than five hundred thousand that adopts a surcharge on state tax to use surcharge revenues for disaster relief.

We recognize that problems that are big and complex require people from across all sectors who believe in the power of collective action to work together toward shared goals. Hawaii Community Foundation has identified the authorization of Maui County to adopt a state tax surcharge as an important source of revenue to address significant community needs.

Please advance this measure.

February 19, 2020

The Honorable Donovan Dela Cruz, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: Senate Bill 2686, SD1, Relating to Taxation

HEARING: Wednesday, February 19, 2020, 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 10,000 members. HAR **opposes** Senate Bill 2686, SD1, which authorizes any county with a population equal to or less than 500,000, that adopts a county surcharge on state tax and to use surcharge revenues for disaster relief. This measure also extend the time Maui can adopt a General Excise Tax surcharge until September 30, 2020.

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 0.5% (January 1, 2020 to December 31, 2030)

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 only intended for its limited purpose of public transportation systems.

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.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON WAYS & MEANS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 211
WEDNESDAY, FEBRUARY 19, 2020 AT 10:00 A.M.**

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

COMMENTS ON SB2686 RELATING TO TAXATION

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce, with approximately 650 members. I am writing share our comments on SB2686.

Increases in the General Excise Tax impact everyone, from businesses and residents to being another factor that increases the cost of visitor vacations to Hawaii. At a time when the state is working to reduce the cost of living, this surcharge will only increase costs for residents. As the Legislature is also proposing a staggered, but significant minimum wage increase, businesses could have two serious increases to their expenses in one year. Given these effects, we have to look at the collective impact another increase will have to our members, who are residents and business owners and employees and look at the big picture.

We appreciate the language in this bill that the funds can be used for transportation costs and disaster relief. If a disaster hits, that is a top priority, so we support the inclusion of that language. It is also important that transportation is included as Maui County needs to address our most urgent challenges with this type of funding such as deteriorating roadways and bridges that are critical. While we support busses, bikeways and greenways, other funding can be used for work in these areas. That being said, Maui County is looking to make a strong push for development of affordable housing and rentals. We feel any tax increase should be used for high priority areas that take care of our most pressing needs like infrastructure for affordable housing including water and sewer/septic. With these modifications to address our top priorities, we would support this bill.

We appreciate the opportunity to testify on this matter.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

SB-2686-SD-1

Submitted on: 2/17/2020 10:41:37 PM

Testimony for WAM on 2/19/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Oppose	No

Comments:

Too vague, need to rewrite.