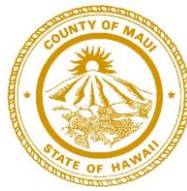


Michael P. Victorino
Mayor

Sananda K. Baz
Managing Director



OFFICE OF THE MAYOR
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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February 2, 2021

TESTIMONY OF MICHAEL P. VICTORINO
MAUI COUNTY MAYOR

BEFORE THE HOUSE COMMITTEE ON LABOR & TOURISM
Thursday, February 4, 2021, 9:05 a.m.
Conference Room 312

HB321 RELATING TO TRANSIENT ACCOMODATIONS TAX

Honorable Richard Onishi, Chair
Honorable Jackson Sayama, Vice Chair
Honorable members of the Committee on Labor and Tourism

Thank you for the opportunity to testify in **OPPOSITION** to **HB321**.

This bill repeals the allocation of excess transient accommodations tax revenues to the Turtle Bay conservation easement special fund, for the operation of a Hawaiian center and the museum of Hawaiian music and dance, to the counties, and to the special land and development fund.

The original purpose of the TAT was to help the counties fund visitor-related expenses based on a percentage of earned revenue.

While recognizing the devastating impacts the pandemic has had on our State overall, I humbly request continued support of TAT funding to help Maui County with the associated costs in providing public services to residents and visitors.

Since the State and the counties serve the same constituents, it is important that we continue to work as partners in meeting the needs of our communities. As demand for services is ever increasing (and so is the cost of those services), it is equally important that revenue be appropriately shared so that the needs of our residents and visitors can be met to the best of our combined abilities.

Thank you for allowing me to testify in **OPPOSITION** to **HB321**.



February 2, 2021

Representative Richard Onishi, Chair
Representative Jackson Sayama, Vice Chair
House Committee on Labor and Tourism
Hawaii State Legislature

Comments on HB321

Dear Representative Onishi, Representative Sayama and Members of the House Committee on Labor and Tourism,

Thank you for the opportunity to provide comments on HB321.

While we understand that the State Legislature is looking to address substantial budget shortfalls and address a wide variety of earmarks of the Transient Accommodations Taxes (TAT) with this bill, the Kohala Coast Resort Association (KCRA) has very serious concerns about removing the TAT allocation provided to the counties.

Since the cap on the amount of the allocation to the counties was instituted in 2012, we have seen the number of direct air seats to Hawaii Island more than double. We believe that the counties should receive a portion of the TAT to be able to adequately address that growth.

We also encourage greater cooperation between state and county lawmakers on how to meet growing needs throughout Hawaii. We've all learned too well during the last year, the perils that ensue when government becomes too dependent on one industry to support our services and infrastructure. Hopefully, lessons learned during this difficult time will provide the framework for greater cooperation, so that our visitor industry, which economists predict will take years to return to pre-pandemic levels, is not shouldering an oversized burden as we work towards recovery.

KCRA is a collection of master-planned resorts and hotels, situated north of the Ellison Onizuka Kona International Airport at Keahole, which represents more than 3,500 hotel and timeshare accommodations and an equal number of resort residential units. This is approximately 35 percent of the visitor accommodations available on the Island of Hawai'i. KCRA member properties annually pay more than \$25 million in TAT, \$25 million in GET and \$11 million in property taxes.

Mahalo for the opportunity to provide comments.

Sincerely,

A handwritten signature in black ink that reads "Stephanie P. Donoho". The signature is written in a cursive, flowing style.

Stephanie Donoho
Administrative Director

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON LABOR & TOURISM
ON
HOUSE BILL NO. 321

February 4, 2021
9:05 a.m.
Room 312

RELATING TO TRANSIENT ACCOMMODATIONS TAX

The Department of Budget and Finance (department) offers comments on House Bill (H.B.) No. 321.

H.B. No. 321 amends Section 237D-6.5, HRS, to repeal the allocations of Transient Accommodations Tax (TAT) for the Turtle Bay Conservation Easement Special Fund (TBCESF), the Tourism Special Fund, the operation of a Hawaiian Center and Museum of Hawaiian Music and Dance, the counties, and the Special Land and Development Fund; and amends Sections 87A-42, 171-19, 171-171, 171-172, 184-3.4, and 198D-2, HRS, to repeal associated language that reference the allocations.

The department appreciates the intent of H.B. No. 321; however, it has concerns that the TBCESF will not be able to reimburse the general fund for payment of debt service on reimbursable general obligation bonds issued to acquire the conservation easement without its TAT allocation. The department would also like to note that it prefers the language in Administration Proposal BUF-20(21) (H.B. No. 933), which would temporarily repeal subsection 87A-42(d) as part of the suspension of the

requirement for public employers to make Annual Required Contribution payments for other post-employment benefits through FY 25, and BUF-27(21) (H.B. No. 939), which would temporarily decrease the total TAT allocation to the counties from \$103,000,000 to \$51,500,000 in FYs 22 and 23.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
LABOR & TOURISM

Thursday, February 4, 2021
9:05 AM

State Capitol, Via Video Conference, Conference Room 312

In consideration of
HOUSE BILL 321
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX

House Bill 321 proposes to repeal the allocation of excess Transient Accommodations Tax (TAT) revenues to the Turtle Bay Conservation Easement Special Fund, for the operation of a Hawaiian center and the museum of Hawaiian music and dance, to the counties, and to the special land and development fund. **The Department of Land and Natural Resources (Department) strongly opposes this measure for the reasons stated below.**

The Department has been advocating for a greater allocation of the TAT for many years due to the critical nexus between Hawaii as a tourist destination and the quality, management, safety and condition of infrastructure and the affected natural and cultural resources under the Department's jurisdiction. Understandably, due to the demise of the hotel industry, current allocations of the TAT have been suspended and there is considerable uncertainty as to when the TAT will rebound. The Department understands the need to examine a restructuring of the allocation, as the policy of investment in natural capital vs marketing Hawai'i as a destination is now even more compelling than before.

The proposed measure, if enacted, would have severe, and long term consequences for key efforts to manage state parks and recreation areas; provide law enforcement coverage for Department lands, ocean waters, and facilities; and respond to escalating challenges in the protection and regulation of coastal lands and mitigating the impact of sea level rise and unauthorized armoring of certain sections of Hawaii's beaches. Also, the General Fund would not receive approximately \$10.5M in future reimbursements for debt service payments on the Turtle Bay reimbursable general obligation bonds. The Department's mission is to both "Enhance, protect, conserve and manage Hawaii's unique and limited natural and cultural

resources” and acknowledge that these resources are “held in public trust for current and future generations of the people of Hawai‘i nei, and its visitors, in partnership with others from the public and private sectors.” The polarity between protection and conservation - balanced with public recreational and cultural access and enforcing conduct is at the crux of much of the controversies that the Department faces. The legislature has previously found that the protection and restoration of Hawaii’s resources is critical in maintaining the State’s culture, economy and quality of life.

Reinvestment in the Department’s natural and cultural assets using a portion of the TAT still makes sound economic sense to preserve, protect and manage natural and cultural resources being marketed in Hawaii’s tourism portfolio.

The key impacts to the Department are:

1. TURTLE BAY CONSERVATION EASEMENT SPECIAL FUND (TBCE)

Our calculations indicate that if \$1.5M/year in TAT revenues doesn't go to the Turtle Bay Conservation Easement Special Fund (TBCE), and nothing else changes, then the General Fund will not be reimbursed about \$10.5M, total, for Turtle Bay bond obligations between now and 2036, that otherwise would have come from the TAT.

As authorized by the 2015 Legislature (Act 121), the State issued \$35M in reimbursable general obligation bonds (Tax-exempt Series EU "Green Bonds") to borrow cash that paid for (1) State acquisition of fee title to certain private lands at Turtle Bay, and (2) State acquisition of a conservation easement over certain private lands at Turtle Bay. The bond amortization schedule—that runs from Fiscal Year (FY) 16 through FY36—sets the amount of each annual debt service payment to be made from the General Fund, which ranges from \$428,732 (interest only in FY16) to \$2,535,069 (principal + interest in FY19), at interest rates between 2% (in earlier years) and 3.5% (in the final year). At full amortization, State payments would total over \$48M, which includes 37.25% interest on principal, spread over 21 years.

The purpose of the TBCE is to reimburse the General Fund for these annual debt service payments. The 2015 Legislature mandated annual deposits to the TBCE totaling \$3M – \$1.5M from TAT revenues (as the first priority for TAT distribution, *see* Section 237D-6.5(b)(1), Hawai‘i Revised Statutes) and \$1.5M from the Land Conservation Fund (LCF). In addition to deposits from TAT and the LCF, the cash balance in the TBCE accrues interest earned from participation in the State investment pool. However, reimbursements from the TBCE to the General Fund are special fund expenditures that can only be transacted under an annual spending ceiling as established by the Legislature within the State budget, or through a direct appropriation of TBCE funds. We note that whenever the Legislature chooses to authorize payments from the TBCE to the General Fund, the cash balance of the General Fund would be enlarged, and General Fund interest revenue would increase, accordingly.

2. DIVISION OF STATE PARKS (STATE PARKS)

State Parks has been allocated \$2.5 million of the TAT for the past several fiscal years. The dominant application of the TAT has been to fund the contract with the County of Maui Lifeguards at Makena State Park. Of the Statewide lifeguard contracts, this is the costliest, at

\$1.1 million dollars annually, due to beach size and tower placement. When the pandemic response mandated the closure of parks, this service was suspended. Absent a return of the current TAT allocation, this contract will remain unfunded. Additionally, with the proposed general fund reductions and the substantial reduction in revenue from the collection of fees from out of state visitors, State Parks is attempting to streamline all costs and is examining cost elements to further reduce services. A fee increase was implemented in October to attempt to restore a portion of operating income if the tourism industry rebounds.

State Parks has applied the balance of the allocation (approximately \$1.7 million in FY20) to cover such costs as: fuel, oil, water, sewer, refuse collection, overnight per diem and helicopter contract for management at remote our most camping area (Kalalau Valley is a global tourist destination) and other miscellaneous costs associated with park operation and management. The TAT helped offset previous deficiencies in general funds and fluctuation in revenues to manage Hawaii's State Parks System and along with special funds, is critical at the start of a FY since there can be a carryover balance to fund operations until general funds are released.

3. CONSERVATION AND COASTAL LANDS (OCCL)

For OCCL, the impact of the repeal will no longer be able to manage any of the beach restoration projects OCCL has currently in play at Ka'anapali and Waikīkī, and it will be next to impossible to deal with chronic erosion emergencies and illegal seawalls all over the State especially the North Shore of Oahu. A portion of the TAT is to fund the project managers for the Beach Restoration Projects as Ka'anapali and Waikīkī and a major portion is for long term monitoring of current projects and additional projects at Waikīkī (maintenance). Repeal of the TAT to the Department will be a disaster for OCCL.

4. DIVISION OF CONSERVATION AND RESOURCES ENFORCEMENT (DOCARE)

For DOCARE, the impact of the repeal will be to reduce patrol opportunities focused on areas where visitors use the natural and recreational resources. They include areas such as State ocean waters, State parks, small boat harbors, and State beaches and shorelines. Enforcement sweeps of the Ala Wai Small Boat Harbor is an example of a focused operation funded by TAT funds to saturate the area with DOCARE Officers to provide enforcement presence and action in this facility. No distribution of the TAT funds will eliminate the ability to focus law enforcement activities in these areas. Another portion that DOCARE uses the TAT funding for is to assist with the purchase of equipment to support law enforcement operations. Elimination of the funding will compel DOCARE to use other limited funding sources which may restrict its ability to provide for serviceable law enforcement equipment.

The Department concurs that the current suspension of the TAT allocation is warranted under the current impact of the pandemic on the visitor industry economy, but urges the Legislature to reconsider a permanent elimination of this funding source from the Department's current allocations.

Thank you for the opportunity to comment on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Repeal of Earmarks

BILL NUMBER: HB 321; SB 926

INTRODUCED BY: HB by ONISHI, CULLEN, SAYAMA, TAKAYAMA; SB by WAKAI

EXECUTIVE SUMMARY: Repeals the allocation of excess transient accommodations tax revenues to the Turtle Bay conservation easement special fund, for the operation of a Hawaiian center and the museum of Hawaiian music and dance, to the counties, and to the special land and development fund.

SYNOPSIS: Amends section 237D-6.5, HRS, to delete the earmarks to the Turtle Bay conservation easement special fund, for the operation of a Hawaiian center and the museum of Hawaiian music and dance, to the counties, and to the special land and development fund.

Makes technical and conforming changes.

EFFECTIVE DATE: 7/1/2021.

STAFF COMMENTS: Section 237D-6.5, HRS, contains several earmarks that need to be paid out of transient accommodations tax collections before the general fund realizes a dime.

Beginning in approximately March 2020, Governor Ige by emergency proclamation suspended the operation of section 237D-6.5, HRS, so that none of the tax collections were paid according to any of the earmarks, and all of the collections went to the general fund.

With any earmarking of revenues, the legislature will be preapproving each of the initiatives fed by the tax earmark, so expenses from the funds largely avoid legislative scrutiny, and the effectiveness of the programs funded becomes harder to ascertain. It is also difficult to determine whether too little or too much revenue has been diverted from other priorities in the state budget.

This bill proposes to decrease or eliminate existing earmarks, which appears to be a step in the right direction.

Digested 2/2/2021