

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Repeal Non-General Funds

BILL NUMBER: HB 64

INTRODUCED BY: LUKE

EXECUTIVE SUMMARY: Abolishes, repeals, or reclassifies various non-general funds of the department of transportation.

SYNOPSIS:

- Reclassifies the following airports division funds as trust accounts:
 - The airport sinking fund for retire term bond revolving fund administratively created in 1969;
 - The airport system debt service reserve account revolving fund administratively created in 1969;
 - The airport system interest account revolving fund administratively created in 1969;
 - The airport system major maintenance, renewal, and replacement account revolving fund administratively created in 1969;
 - The airport system serial bond principal account revolving fund administratively created in 1969;
 - The debt service funded coverage revolving fund administratively created in 1994;
 - The reserve for airline rate mitigation revolving fund administratively created in 1994; and
 - The reserve for operating and maintenance expenses revolving fund administratively created in 1994.
- Reclassifies the following harbors division funds as trust accounts:
 - The 1997 certificate - harbor interest account revolving fund administratively created in 1997;
 - The 1997 certificate - harbor principal account revolving fund administratively created in 1997;
 - The 7th supplemental certificate 2010A debt service reserve fund principal revolving fund administratively created in 2010; and

- The harbor extraordinary renewal/replacement reserve account revolving fund administratively created in 1997.
- Abolishes the risk management fire and casualty losses - harbors trust fund administratively created in 2006.
- Repeals the transportation improvement special fund in section 264-19.
- Reclassifies the following highways division funds as trust accounts:
 - The highway senior interest account revolving fund administratively created in 1994;
 - The highway senior principal account revolving fund administratively created in 1994; and
 - The highways accrued payroll overhead revolving fund administratively created in 1983.
- Reclassifies the special deposits - highways trust account administratively created in 1979 as a trust fund.
- Transfers any unencumbered balances in the highway senior debt service reserve account revolving fund administratively created in 1994 to the state highway fund (section 248-8, HRS).
- Repeals the mandate that the safe routes to school program special fund in section 291C-4, HRS, distribute money to the counties. Rather, the legislature will appropriate moneys to the counties out of the fund.

Makes technical and conforming amendments. Provides that any unencumbered balances in the repealed highway funds lapse to the credit of the highway fund (section 248-8, HRS).

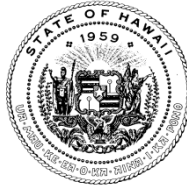
EFFECTIVE DATE: 7/1/2021.

STAFF COMMENTS: The 1989 Tax Review Commission noted that use of special fund financing is a “departure from Hawaii’s sound fiscal policies and should be avoided.” It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Because of the spotlight of monies in special funds, HRS section 23-12 requires the State Auditor to review all existing special, revolving, and trust funds beginning in 2014 and at five-year intervals. This bill was the result of Auditor’s Report No. 19-05.

Digested 2/10/2021

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

Friday, February 12, 2021
10:00 A.M.

State Capitol, Room 423, Via Videoconference

H.B. 64
RELATING TO NON-GENERAL FUNDS

House Committee on Transportation

The State of Hawaii Department of Transportation (DOT) provides **comments** on H.B. 64 which abolishes, repeals, or reclassifies various non-general funds of the Department of Transportation.

As to Part II concerning certain revolving funds of DOT – Airports Division, the division has rectified and complied with the auditor’s report no. 19-05.

In Part III, Section 5, H.B. 64 proposes to reclassify the Harbors Division’s (1) the 1997 certificate — harbor interest account revolving fund administratively created in 1997; (2) the 1997 certificate — harbor principal account revolving fund administratively created in 1997; (3) the 7th supplemental certificate 2010A debt service reserve fund principal revolving fund administratively created in 2010; and (4) the harbor extraordinary renewal/replacement reserve account revolving fund administratively created in 1997. The Harbors Division has adopted the findings and commentary in the auditor’s report no. 19-05 to transfer revolving funds into the trust funds for the deposit of bond funds.

In addition, DOT – Harbors Division has complied with the intent of Part II, Section 6 of H.B. 64, as the risk management fire and casualty losses harbors trust fund administratively created in 2006. The account has no remaining unencumbered balances.

The DOT supports this bill as to Part IV Sections 7, 8, 9, 10, 11, 13, and Part V Sections 14 and 15.

Section 12 of this bill proposes to transfer the highway senior debt service reserve account revolving fund which was administratively created in 1994 into the state highway fund established by section 248-8, Hawaii Revised Statutes. The DOT disagrees because the highway senior debt service reserve account must not be abolished as it is a requirement under the Highway Revenue Bond Original Certificate.

Any amendments to this provision in the Highway Revenue Bond Original Certificate must have Bondholder's Consent, this consent condition has not been satisfied.

Thank you for the opportunity to provide testimony.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 3RD FLOOR
HONOLULU, HAWAII 96813
Phone: (808) 768-8305 • Fax: (808) 768-4730 • Internet: www.honolulu.gov

RICK BLANGIARDI
MAYOR



J. ROGER MORTON
DIRECTOR DESIGNATE

JON Y. NOUCHI
DEPUTY DIRECTOR

TESTIMONY TO THE
HOUSE COMMITTEE ON TRANSPORTATION (TRN)

FEBRUARY 12, 2021
10:00 AM

**COMMENTS ON
HB 64 – RELATING TO NON-GENERAL FUNDS**

Chair Aquino, Vice Chair Ilagan, and Members of the Committee:

The Department of Transportation Services (DTS) provides comments on HB 64, which revises the administration of the Safe Routes to School special fund in Part V of this measure.

The current method for distribution of these funds to counties is equitable and reliable. The process allows DTS to strategically program projects and plan for multiple year contracts so we are able to focus on projects that directly improve the walking and biking conditions for students. This bill in its current form does not provide details on how funds will be distributed and causes uncertainty for our program.

Thank you for consideration of this measure and for the opportunity to provide this testimony.



Airlines for America®

We Connect the World

February 12, 2021

Rep. Henry J.C. Aquino, Chair
Rep. Greggor Ilagan, Vice Chair
House Committee on Transportation
Hawai'i State Capitol
Honolulu, HI 96813

Dear Rep. Aquino and Rep. Ilagan:

Airlines for America® (A4A) is the principal trade and service organization of the U.S. airline industry.¹ We write to express concerns regarding HB 64, given the uncertainty on whether reclassifying the eight referenced airport funds would result in a transfer of funds to the general fund. If so, this would constitute illegal revenue diversion in violation of federal law and grant assurance obligations.

Federal laws and policy expressly constrain the use of airport revenues. Specifically, 49 USC §47133(a) requires that airport revenues be used only for “the capital or operating costs of – (A) the airport; (B) the local airport system or (C) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.” In addition, an airport operator, in this case the State of Hawaii, must provide written assurance that it will comply with this restriction as part of the process under which it receives federal grants for airport improvement projects. See 49 USC §47107(b).

Any proposal that would divert airport revenues into the general fund is also contrary to the Congressional directive that “money raised at the airport will be spent on the airport.” H.R. Rep. 104-714(I), 37 (1996). These legal requirements are further described in the Federal Aviation Administration’s Policy and Procedures Concerning the Use of Airport Revenue (the “Revenue Use Policy”).²

A4A and its members strongly oppose the diversion of airport revenues for non-airport purposes. Rents, landing fees and other revenues raised at the airport have an express purpose – to offset the cost of those facilities and fund necessary airport infrastructure

¹ The members of the association are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

² 64 Fed. Reg. 7696 (February 16, 1999)

projects. Diverting funds away from airports for unrelated state services not only clearly violates federal law but is contrary to sound public policy. Such actions are particularly troubling because, as you know, Congress has provided federal grant funds to airports for COVID relief given the devastating impact of COVID-19 on the aviation industry.

As such, we respectfully request the state clarify the use of airport funds in HB 64 and reject any attempt to transfer airport funds to the general fund.

Please feel free to contact me directly to discuss further. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S Williams', is positioned above the typed name.

Sean Williams
Vice-President, State and Local Government Affairs
swilliams@airlines.org