

**SB4 3<sup>rd</sup> Reading Floor Speech**  
**August 30, 2017**

Mr. President, I have been one of the leading champions of Honolulu's rail project for many years. I continue to be a strong advocate for rail because I truly believe that rail is the future of Honolulu. It is the vision of the future that will transform Honolulu into a great city. It will spur our economy, give us transportation options, and through Transit-Oriented Development, it will transform under-developed and aging neighborhoods into vibrant liveable, walkable, mixed use, mixed income communities and if done right, it will result in more affordable housing. It is essential for the City to complete the rail line to Ala Moana as planned. Yes, there are significant problems, but we must encourage and support the City to learn from mistakes, address the issues, improve accountability, and persevere.

That being said, it pains me to stand here today and vote NO on this bill. I truly wish that I could vote YES but my conscience will not allow me to do so. I find this bill to be not good public policy. It intrudes into county home rule, it inserts the state into the accountability of a county project, and it introduces unnecessary risks that may lead to the demise of the very rail project that we are trying to support.

This bill has us arguing endlessly with the City Administration and City Council about what is adequate funding to complete the rail system. It pits Oahu against neighbor islands. It increases a tax targeting one of the life bloods of our economy, our visitor industry. It grows state government. It raises legal issues that may result in lawsuits that may halt rail construction again. There are questions as to whether the Federal Transit Administration will approve this plan.

All of these issues could have been avoided if we simply extend the existing county GET surcharge. The GET surcharge is tried and true. We know that this is a reliable source of funding that has already been approved by the FTA. Extending the GET surcharge does not introduce new legal issues and since this GET surcharge is only paid by Oahu taxpayers, there is no divisiveness between Oahu and the neighbor islands.

But instead, we have chosen to go down the path of using the state-wide Transient Accommodations Tax to help fund Honolulu's rail project which cause a host of significant concerns.

I will not address the adequacy of funding issue. That has been covered extensively by the media. I will address my concerns related to public policy.

First, using the GET surcharge is simple, clean, and proven. In Hawaii, the state gives only property tax authority to the counties. In many, or perhaps most, other states, cities and counties have broader taxing authority. In 2005, the legislature authorized the counties to exercise a half –percent GET surcharge. This is clean because it is a county tax exercised by the individual counties and monies collected from this tax are county funds. It is paid for by county residents to benefit their own county.

Using TAT is entirely another matter. TAT is state money collected in all counties. Therein lies the problem. Neighbor islands don't want to pay for Honolulu's rail system and legislators are arguing that taxes paid by Honolulu residents have been benefiting neighbor islands. While this may be true, it is important to clarify that state taxes collected from all counties pay for state government functions in all counties. The difference here is that we are increasing a state tax to pay for a Honolulu county project. The use of state-wide taxes for rail is divisive and is a distraction that we don't need.

Second, the FTA requires that Honolulu have a reliable funding source to pay for rail. They previously approved use of the county GET surcharge. While we received some indications from our Congressional delegation that the FTA may approve the use of TAT as a reliable source of funding, we have received no commitments from the FTA. This concern arises out of the volatility of TAT as it is subject to the ups and downs of tourism as visitors react to a highly competitive market, acts of nature and world events. And if the FTA does approve, perhaps knowing that TAT is more volatile, they may demand a greater contingency or a stricter stress test to compensate for this more volatile source of funding. This is a risk because we simply do not know what the FTA will do and it is not their practice to commit their approval or non-approval in advance.

Third, the TAT growth rate used in our financial plan appears to be significantly overstated. The Dept. of Budget & Finance presented us with an annual growth rate of 8% for TAT. We heard from the visitor industry that this is not a realistic figure. In an August 24<sup>th</sup> letter from the State Council on Revenues to our WAM chair, a chart shows that the TAT is estimated to grow 3.8% in FY2018, 3.6% in 2019, 3.4% in 2020, 3.6% in 2021, 3.1% in 2022, and 3.0% beyond that. It was stated that we are using a "conservative" growth rate of 3% for GET as required by the FTA, so why are we using an inflated growth rate of 8% for TAT? If the true number really is more to the 3% projected by the Council on Revenues, this would result in a significant underfunding of the rail project.

Fourth, this bill inserts the state into the accountability of a local county project. Right or wrong, the people will now hold the state and legislators accountable for this county project. Yes, there are significant problems with the rail project. We must hold HART, the Mayor, and the City Council accountable for this Honolulu county project. Inserting the state into this project only diffuses accountability.

Fifth, the Senate President and House Speaker will appoint two non-voting members to the HART board. HART was established to keep politics out of rail, and the board composition is established by City Charter. State law cannot override City Charter, so the only way to implement this provision is for Honolulu voters to approve a Charter amendment. The earliest opportunity for this to occur will be in next year's election. What will happen if the voters don't approve? And with the legislature having two seats on the HART board, might this politicize HART and further frustrate good, sound decision making of the board?

Sixth, the county "owns" the half percent GET surcharge as authorized by the state. The state simply collects the surcharge and turns it over to the county; the state is a pass-through. This bill would require the state to "own" the county surcharge and retain Honolulu's GET surcharge funds in our state coffers and remit to the county only amounts that the state authorizes. There are legal concerns with the state taking "ownership" of county-enacted tax revenues.

Seventh, the City must send rail invoices to the state for state review and approval. This bill creates four new state positions at \$500,000 a year and has \$1,000,000 for an audit.

So let's step back and get out of the weeds and focus on the big policy issues that this bill presents.

1. Use of TAT. The issue here is not whether a 1% increase in TAT will harm our visitor industry or if the hotels can afford it. The argument also is not that Oahu state taxes are subsidizing neighbor islands. The big policy issue that we should be debating is this: Is it appropriate to increase the TAT, a state-wide state tax on one industry, to subsidize a county project? Further, do we want to establish a precedent for the legislature to use state tax monies generated in all counties to subsidize a specific county project? Or should public policy instead be to continue to give counties taxing authority to fund their own local county projects?

2. State oversight. The issue here is not that the City mismanaged the rail project or that the City's numbers are unreliable. The big policy issue is this: Should the legislature insert the state into the accountability of a local county project? Do we want to establish a precedent for the State to be held accountable for a county project? Or should public policy instead be to require greater accountability from HART, the Mayor, and the City Council for this county project?

And 3. Risks. For those of us who want this rail project to be completed and succeed, do we want a clean, safe, and proven solution to the funding issue, or are we willing to come up with a new solution that introduces significant risks in terms of not knowing if the FTA will approve, potential lawsuits that will cause further delays, and causing divisiveness and further alienating people from their government?

It is for these reasons that I must vote NO on this bill.