



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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DIRECTOR

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Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON COMMITTEE ON WAYS AND MEANS

Friday, February 26, 2021
9:30 AM
State Capitol, Conference Room 211

In consideration of
SB0775 SD1
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) provides comments on SB0775 SD1 , which requires that beginning on June 30, 2021, and each year thereafter, the Hawaii Tourism Authority and the State Data Book shall determine and publish the annual visitor arrivals in the State for the preceding calendar year.

DBEDT supports the inclusion of the Hawaii Tourism Authority (HTA) in determining the annual visitor arrivals. DBEDT publishes the State Data Book on annual basis every mid-August. Chapter 7 of the Data Book contains data on Hawaii's tourism industry including visitor arrivals. Visitor arrival data are collected and published by HTA, and HTA is the source for the arrival data in DBEDT Data Book.

Thank you for the opportunity to testify.



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David Y. Ige
Governor

John De Fries
President and Chief Executive Officer

Statement of
JOHN DE FRIES

Hawai'i Tourism Authority
before the
SENATE COMMITTEE ON WAYS AND MEANS

Friday, February 26, 2021
9:30 AM
State Capitol, Conference Room #211

In consideration of
SENATE BILL NO. 775 SD1
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee on Ways and Means: the Hawai'i Tourism Authority (HTA) would like to **offer comments** on Senate Bill 775 SD1, which provides for a mechanism to adjust the Transient Accommodations Tax (TAT) rate based on visitor arrivals for a calendar year. It also requires HTA and statistics from the State of Hawai'i Data Book to determine and publish visitor arrivals annually.

HTA's Tourism Research Division already publishes an Annual Visitor Research Report which includes total visitor arrivals. You can find annual research reports dating back to 1999 on HTA's website: <https://hawaiiitourismauthority.org/research/annual-visitor-research-reports/>. The 2020 Annual Visitor Research Report will be issued in the fall. Therefore, it is unnecessary to amend section 201B.

In addition to the annual research reports, HTA's Tourism Research staff also publishes preliminary visitor arrival statistics on a monthly basis, which you can also find on HTA's website: <https://hawaiiitourismauthority.org/research/monthly-visitor-statistics/>

HTA notes that by decreasing the TAT rate, that would affect the amount of taxes being collected by those staying in legal accommodations in Hawai'i. Given the current fiscal needs of the state, lowering the TAT rate at this time may not be prudent. We would also recommend further review of the tiers that are proposed in the measure as there may be additional clarification needed to ensure a clear understanding of the thresholds. Furthermore, accommodations and Online Travel

February 26, 2021

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Agencies (OTA) may have a challenge with determining which rate to apply to each booking since some travelers book their trips far in advance.

We appreciate this opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

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: Isaac W. Choy, Director
Department of Taxation

Date: February 26, 2021
Time: 9:30 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 775, S.D. 1, Relating to the Transient Accommodations Tax

The Department of Taxation (Department) opposes S.B. 775, S.D. 1, and offers the following analysis for your consideration.

S.B. 775, S.D. 1, proposes to vary the transient accommodations tax (TAT) rate based on the number of arrivals during the previous year. The bill would decrease the TAT rate to six percent and increase the rate by one percentage point for every one million visitors in excess of seven million and similarly decrease the rate by one percentage point for every one million visitors. The rate shall never decrease below six percent. The increase or decrease is based on visitor arrivals as reported by the Hawaii Tourism Authority and State Data Book.

The Department notes that the S.D. 1 version of this measure applies the rate at the time of the booking. This means that the tax rate is determined by the date of the booking regardless of when the transient accommodation will actually be furnished. The Department appreciates the effort to address its concerns raised in previous testimony, however, this proposal makes the issue significantly worse. The Department opposes S.B. 775, S.D. 1 for the following reasons:

Applying the rate at the time of booking will force the transient accommodation industry to administer dual rates, and possibly triple rates, indefinitely. A hotel stay in March 2022 could be booked in December 2021 or January 2022, therefore, such stays could be subject to the 2021 rate or the updated 2022 rate. Thus, transient accommodations will be forced to deal with reservations for the same actual dates of stay subject to differing rates of TAT indefinitely.

In addition, it is unclear how the rates would be applied to changed or cancelled reservations. If a reservation is made in December 2021 for a March 2022 visit, then extended in January 2022 by three days, it is unclear whether the 2021 rate or the 2022 rate applies. If the rate is truly based on the booking date, then both the 2021 and 2022 rates will apply to original and extended parts of the reservation, respectively. The hotel would be required to apply and collect dual rates for a single reservation.

Applying the rate at the time of booking may cause confusion between the entity accepting the booking and the operator. It is important to remember that most transient accommodations are not booked directly with the operator, but are instead booked through online travel companies (OTCs), traditional travel agents, or other brokers. Pursuant to this measure, operators would need to track the booking date separate from the actual stay. This seems unreasonably burdensome to the operators.

The proposed variable TAT rates will severely hamper administration of the TAT. Applying the rate at the time of booking makes the administering the TAT unnecessarily complex. The Department would need to maintain forms, instructions, and its computer system in a manner that allows for reporting income and taxes at three different rates.

This measure would also make TAT audits significantly more difficult and the applicable rate would depend on the date of booking. It is very possible that the operator's records would not contain the booking dates if the reservations were made through a third party as described above.

The imposition of taxes should not be based on external factors such as visitor arrivals. One reason that taxes should not be based on external factors such as visitor arrivals is the possibility of reporting errors. For example, if the initial visitor arrival count is determined to be greater than 7,000,000, but is later found to be less, would the rate increase be reversed? Would refunds be due?

The measure's method of increasing and decreasing the TAT rate is defective. The bill imposes a baseline TAT rate of six percent at six million visitor arrivals. The bill states that the increase or decrease of the rate is triggered once arrivals equal or exceed seven million. The increase or decrease is one percent per one million visitors. However, it is ambiguous whether the first one percent increase occurs at seven million arrivals or at eight million arrivals. It is unclear whether the seven million arrivals threshold is merely the trigger for the variable rate, or whether the seven million arrivals threshold is the trigger for the first one percent increase.

The mechanics of subsequent rate changes is also unclear. If visitor arrivals total 8.5 million in 2022, and 7.8 million in 2023 it is unclear whether the 2024 rate is decreased. The bill is ambiguous as to whether the rate decreases if arrivals dip below the eight million mark or only if the year on year decrease is equal to or greater than one million. The mechanism for increasing and decreasing the rate must be clarified.

Thank you for the opportunity to provide testimony on this measure.

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

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Kelly Takaya King
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Tamara Paltin
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Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
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February 25, 2021

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

FROM: Tamara Paltin
West Maui District Councilmember

DATE: February 25, 2021

SUBJECT: **IN OPPOSITION OF SB 775 SD1, RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

Thank you for the opportunity to testify on this important measure.

I OPPOSE this measure for the following reason:

The measure states that “The purpose of this measure is to reduce the cost burden and negative impact from tourism on local residents by adjusting the transient accommodations tax rate based on the number of tourists visiting Hawaii.”

When in fact, the majority of our residents are not liable to pay for the transient accommodations tax, ALL residents benefit from the tax. It is misleading to state that this measure is to reduce costs for local residents when in reality the cost of living will be greater for us if we do not continue to implement appropriate taxes on tourism.

Please see the definitions below related to the transient accommodations tax as provided by the State of Hawaii Tax Dept. via https://files.hawaii.gov/tax/legal/brochures/TAT_brochure.pdf

1. The TAT is a tax imposed on the gross rental proceeds from a transient accommodation, on the fair market rental value of a timeshare vacation unit in the State of Hawaii, and (beginning with tax year 2019) on the gross receipts of transient accommodations brokers, travel agents, and tour packagers from arranging to furnish transient accommodations at noncommissioned negotiated

contract rates.

2. A transient accommodation is a room, apartment, house, condominium, beach house, hotel room, suite, or similar living accommodation rented to a transient person for less than 180 consecutive days in exchange for payment in cash, goods, or services.

3. If a person, including a Hawaii resident, has a permanent home elsewhere or does not intend to make the accommodation a permanent place of residence, then the person is a “transient” with respect to the accommodation.

Respectfully Submitted,

A handwritten signature in black ink that reads "Tamara M. Paltin". The signature is written in a cursive, flowing style.

TAMARA PALTIN
Councilmember



February 24, 2021

Senator Donovan Dela Cruz, Chair
Senate Ways and Means Committee
Hawaii State Legislature

Opposition to SB775 SD1

Dear Senator Dela Cruz and Members of the Senate Ways and Means Committee,

Thank you for the opportunity to provide our testimony on SB775 SD1.

While we understand that the State Legislature is looking to address substantial budget shortfalls, the Kohala Coast Resort Association (KCRA) **opposes** creating a variable transient accommodations tax (TAT) rate, dependent on the annual number of visitors to the islands.

We are especially concerned that SB775 SD1 does not place a ceiling on the rate of TAT that could be applied, and may cause a disincentive to travel.

Hawaii's visitor industry has suffered unprecedented losses since the pandemic began. This measure could hurt both our appeal as a destination and the return to stability for the accommodations sector. Economists speculate that Hawaii's visitor industry will not fully recover until 2024, and we believe now is not the time for us to shoulder **any** additional tax burden.

KCRA is a collection of master-planned resorts and hotels, situated north of the Kona International Airport 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 county property taxes. KCRA members employ more than 5,000 Hawaii Island residents.

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

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMODATIONS, Rate adjustment based on visitor arrivals

BILL NUMBER: SB 775

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

EXECUTIVE SUMMARY: Provides for a mechanism to adjust the transient accommodations tax rate based on visitor arrivals for a calendar year. Requires the director of department of business, economic development and tourism to determine and publish visitor arrivals annually.

SYNOPSIS: Amends section 237D-2 to provide that on January 1 of each year from 2023 to 2030, that :

If the total number of visitor arrivals in the previous year is...	Then the TAT rate shall be
Less than 7,000,000	6%
7,000,000 or more but less than 8,000,000	7%
8,000,000 or more but less than 9,000,000	8%
9,000,000 or more but less than 10,000,000	9%
10,000,000 or more but less than 11,000,000	10%
11,000,000 or more but less than 12,000,000	11%
Etc.	Etc.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This bill creates a tax disincentive to raising our visitor count and has the potential to be a severe drag on our #1 industry that already has been decimated by the COVID-19 pandemic. There is a floor to the rate but no ceiling, meaning that the TAT rate could be increased to 11% or beyond if visitors once again flock to our shores.

If the Legislature in its wisdom concludes that we have too many tourists on our shores and wants visitors to stay away, it would probably reach that goal more efficiently by defunding all tourism marketing and promotion.

Digested 2/24/2021



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 211
FRIDAY, FEBRUARY 26, 2021 AT 9:30 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,

OPPOSE SB775 SD1 RELATING TO THE TRANSIENT ACCOMMODATIONS TAX

Aloha, my name is Pamela Tumpap. I am the President of the Maui Chamber of Commerce, in the county most impacted by the COVID-19 pandemic in terms of our dependence on the visitor industry and corresponding rate of unemployment. I am writing share our opposition to SB775 SD1.

We are always concerned about increasing the TAT as higher costs keep some visitors from coming to Hawaii and head towards more affordable locations. As I am sure you are aware, Maui County is the county most dependent on the visitor industry and therefore, our economic recovery is heavily reliant on a robust visitor industry. Any measure that could contribute to a reduction in visitors is highly problematic for us. While we appreciate that this bill was amended, we still have strong reservations with the way it is currently written and oppose this measure.

Mahalo for your consideration of our testimony and ask that you please defer this bill.

Sincerely,

Pamela Tumpap

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.