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# A BILL FOR AN ACT

RELATING TO TAXATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 PART I

2 SECTION 1. The legislature finds that the development of  
3 housing is of critical importance to the State. Historically,  
4 the development of infrastructure (e.g., water, drainage, sewer,  
5 waste disposal, and waste treatment systems) to support housing  
6 has been the responsibility of the developers of housing  
7 projects. Accordingly, housing developers were responsible for  
8 raising large, additional amounts of capital to finance required  
9 infrastructure. These high infrastructure costs have often been  
10 cited by developers as a major impediment. Furthermore, these  
11 costs are ultimately passed on to homebuyers. This drives up  
12 the prices of new homes and is a reason why homes are so  
13 expensive, to the point of being unattainable for many local  
14 families.

15 The legislature further finds that because developers are  
16 focused on their specific housing developments, there are few  
17 incentives for the developers to design infrastructure in a



1 manner that takes into account state and county planning  
2 objectives, long-range planning, or regional or island-wide  
3 cohesion. As a result, infrastructure development is often done  
4 in a haphazard, piecemeal manner that has caused problems for  
5 county residents and governments alike. For example, this has  
6 resulted in infrastructure being developed in inconvenient  
7 locations, far from necessary societal services to which  
8 residents would require access.

9       Accordingly, the legislature further finds that it is in  
10 the best interest of the people of Hawaii to implement a policy  
11 shift with regard to the development of housing. Specifically,  
12 the counties, rather than private developers, should be  
13 responsible for the location, planning, and development of  
14 infrastructure to support housing. The legislature believes  
15 that authorizing a county to use revenues from the county  
16 surcharge on state tax for housing infrastructure would provide  
17 the funding necessary to effect this change in policy.

18       The legislature believes that the implementation of this  
19 policy would result in more efficient community planning. In  
20 particular, because counties typically take ownership of  
21 infrastructure upon completion of a housing project, it makes



1 sense for the counties to also take ownership over the  
 2 placement, infrastructure planning, and construction process.  
 3 By taking charge of this process, counties would be able to  
 4 direct the development of housing in locations that make the  
 5 most sense. Counties can also ensure that infrastructure  
 6 systems are designed in a manner that minimizes long-term  
 7 operational and maintenance costs, allowing for better  
 8 management of public resources.

9 Perhaps most significantly, under this policy, housing  
 10 developers would no longer need to finance the costs of  
 11 installing infrastructure up front, and homebuyers would no  
 12 longer see these high costs passed on to them. This will result  
 13 in lower housing prices, making home ownership attainable for  
 14 more residents, and situating new housing developments closer to  
 15 needed societal services.

16 Accordingly, the purpose of this Act is to:

- 17 (1) Extend the period within which a county may adopt a
- 18 surcharge on state tax, under certain conditions, from
- 19 March 31, 2019, to December 31, 2023;
- 20 (2) Authorize, in certain instances, the use of county
- 21 surcharge revenues for housing infrastructure; and



1 (3) Temporarily authorize counties that have previously  
2 adopted a surcharge on state tax to amend the uses of  
3 the surcharge.

4 PART II

5 SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§46-16.8 County surcharge on state tax.** (a) Each county  
8 may establish a surcharge on state tax at the rates enumerated  
9 in sections 237-8.6 and 238-2.6. A county electing to establish  
10 this surcharge shall do so by ordinance; provided that:

11 (1) No ordinance shall be adopted until the county has  
12 conducted a public hearing on the proposed ordinance;

13 (2) The ordinance shall be adopted [~~prior to~~] before  
14 December 31, 2005; and

15 (3) No county surcharge on state tax that may be  
16 authorized under this subsection shall be levied  
17 [~~prior to~~] before January 1, 2007, or after  
18 December 31, 2022, unless extended pursuant to  
19 subsection (b).

20 Notice of the public hearing required under paragraph (1) shall  
21 be published in a newspaper of general circulation within the



1 county at least twice within a period of thirty days immediately  
2 preceding the date of the hearing.

3 A county electing to exercise the authority granted under  
4 this subsection shall notify the director of taxation within ten  
5 days after the county has adopted a surcharge on state tax  
6 ordinance and, beginning no earlier than January 1, 2007, the  
7 director of taxation shall levy, assess, collect, and otherwise  
8 administer the county surcharge on state tax.

9 (b) Each county that has established a surcharge on state  
10 tax [~~prior to~~] before July 1, 2015, under authority of  
11 subsection (a) may extend the surcharge until December 31, 2030,  
12 at the same rates. A county electing to extend this surcharge  
13 shall do so by ordinance; provided that:

14 (1) No ordinance shall be adopted until the county has  
15 conducted a public hearing on the proposed ordinance;  
16 and

17 (2) The ordinance shall be adopted [~~prior to~~] before  
18 January 1, 2018.

19 A county electing to exercise the authority granted under  
20 this subsection shall notify the director of taxation within ten  
21 days after the county has adopted an ordinance extending the



1 surcharge on state tax. The director of taxation shall levy,  
2 assess, collect, and otherwise administer the extended surcharge  
3 on state tax.

4 (c) Each county that has not established a surcharge  
5 pursuant to subsection (a) on state tax [~~prior to~~] before July  
6 1, 2015, may establish the surcharge at the rates enumerated in  
7 sections 237-8.6 and 238-2.6. A county electing to establish  
8 this surcharge shall do so by ordinance; provided that:

- 9 (1) No ordinance shall be adopted until the county has  
10 conducted a public hearing on the proposed ordinance;
- 11 (2) The ordinance shall be adopted [~~prior to March 31,~~  
12 ~~2019,~~] before December 31, 2023; and
- 13 (3) No county surcharge on state tax that may be  
14 authorized under this subsection shall be levied  
15 [~~prior to~~] before January 1, 2019, or after December  
16 31, 2030.

17 A county electing to exercise the authority granted under  
18 this subsection shall notify the director of taxation within ten  
19 days after the county has adopted a surcharge on state tax  
20 ordinance. Beginning on January 1, 2019, [~~on~~] January 1, 2020,  
21 January 1, 2024, or January 1, 2025, as applicable pursuant to



1 sections 237-8.6 and 238-2.6, the director of taxation shall  
2 levy, assess, collect, and otherwise administer the county  
3 surcharge on state tax.

4 (d) Each county that has established a surcharge on state  
5 tax before March 31, 2019, under subsection (a) or (c) may amend  
6 the surcharge ordinance to change the authorized uses of  
7 surcharge revenues, pursuant to subsection (g); provided that:

8 (1) No ordinance shall be amended pursuant to this section  
9 until the county has conducted a public hearing on the  
10 proposed amendment; and

11 (2) The ordinance shall be amended before December 31,  
12 2023.

13 [~~(d)~~] (e) Notice of the public hearing required under  
14 subsection (b) [~~(b)~~], (c), or (d), before adoption or amendment  
15 of an ordinance establishing or extending the surcharge on state  
16 tax shall be published in a newspaper of general circulation  
17 within the county at least twice within a period of thirty days  
18 immediately preceding the date of the hearing.

19 [~~(e)~~] (f) Each county with a population greater than five  
20 hundred thousand that adopts or extends a county surcharge on  
21 state tax ordinance pursuant to subsection (a) or (b) shall use



1 the surcharge revenues received from the State for capital costs  
2 of a locally preferred alternative for a mass transit project;  
3 provided that revenues derived from the county surcharge on  
4 state tax shall not be used:

5 (1) To build or repair public roads or highways, bicycle  
6 paths, or support public transportation systems  
7 already in existence [~~prior to~~] before July 12, 2005;

8 (2) For operating costs or maintenance costs of the mass  
9 transit project or any purpose not consistent with  
10 this subsection; or

11 (3) For administrative or operating, marketing, or  
12 maintenance costs, including personnel costs, of a  
13 rapid transportation authority charged with the  
14 responsibility for constructing, operating, or  
15 maintaining the mass transit project;

16 provided further that nothing in this section shall be construed  
17 to prohibit a county from using county funds that are not  
18 derived from a surcharge on state tax for a purpose described in  
19 paragraph (2) or (3).

20 [~~(f)~~] (g) Each county [~~with~~] having a population equal to  
21 or less than five hundred thousand that adopts a county





1 surcharge on state tax ordinance pursuant to this section shall  
2 use the surcharges received from the State for:

3 (1) Operating or capital costs of public transportation  
4 within each county for public transportation systems,  
5 including [~~public~~]:

6 (A) Public roadways or highways [~~, public~~];

7 (B) Public buses [~~, trains, ferries, pedestrian~~];

8 (C) Trains;

9 (D) Ferries;

10 (E) Pedestrian paths or sidewalks, including  
11 pedestrian paths or sidewalks on a county road  
12 near or around a public school; or [~~bicycle~~]

13 (F) Bicycle paths [~~, and~~]

14 (2) Expenses in complying with the Americans with  
15 Disabilities Act of 1990 with respect to paragraph (1)  
16 [~~]; and~~

17 (3) Housing infrastructure; provided that a county that  
18 uses surcharge revenues for housing infrastructure  
19 shall not pass on related infrastructure costs to the  
20 developer of a housing project; provided further that  
21 this paragraph shall apply only if a county amended



1           its surcharge ordinance pursuant to subsection (d) or  
2           adopts a county surcharge on state tax ordinance after  
3           December 31, 2022;  
4   provided that each county having a population equal to or less  
5   than five hundred thousand that adopts a county surcharge on  
6   state tax ordinance pursuant to this section after December 31,  
7   2022, shall use the surcharge revenues received from the State  
8   only for the purposes described in paragraph (3).

9           [~~(g)~~] (h) As used in this section[~~,"capital~~]:  
10          "Capital costs" means nonrecurring costs required to  
11   construct a transit facility or system, including debt service,  
12   costs of land acquisition and development, acquiring of  
13   rights-of-way, planning, design, and construction, and including  
14   equipping and furnishing the facility or system. For a county  
15   with a population greater than five hundred thousand, capital  
16   costs also include non-recurring personal services and other  
17   overhead costs that are not intended to continue after  
18   completion of construction of the minimum operable segment of  
19   the locally preferred alternative for a mass transit project.



1        "Housing infrastructure" includes water, drainage, sewer,  
2 waste disposal, and waste treatment systems that connect to the  
3 infrastructure of the county."

4        SECTION 3. Section 237-8.6, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6        "(b) Each county surcharge on state tax that may be  
7 adopted [~~or~~], extended, or amended pursuant to section 46-16.8  
8 shall be levied beginning in a taxable year after the adoption  
9 of the relevant county ordinance; provided that no surcharge on  
10 state tax may be levied:

11        (1) [~~Prior to~~] Before:

12            (A) January 1, 2007, if the county surcharge on state  
13 tax was established by an ordinance adopted  
14 [~~prior to~~] before December 31, 2005;

15            (B) January 1, 2019, if the county surcharge on state  
16 tax was established by the adoption of an  
17 ordinance after June 30, 2015, but [~~prior to~~]  
18 before June 30, 2018; [~~or~~]

19            (C) January 1, 2020, if the county surcharge on state  
20 tax was established by the adoption of an



1 ordinance on or after June 30, 2018, but [~~prior~~  
2 ~~to~~] before March 31, 2019; [~~and~~]  
3 (D) January 1, 2024, if the county surcharge on state  
4 tax was established by the adoption of an  
5 ordinance on or after March 31, 2019, but before  
6 August 1, 2023; or  
7 (E) January 1, 2025, if the county surcharge on state  
8 tax was established by the adoption of an  
9 ordinance on or after August 1, 2023, but before  
10 December 31, 2023; and  
11 (2) After December 31, 2030."

12 SECTION 4. Section 238-2.6, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) Each county surcharge on state tax that may be  
15 adopted [~~or~~], extended, or amended shall be levied beginning in  
16 a taxable year after the adoption of the relevant county  
17 ordinance; provided that no surcharge on state tax may be  
18 levied:

19 (1) [~~Prior to~~] Before:



- 1 (A) January 1, 2007, if the county surcharge on state  
2 tax was established by an ordinance adopted  
3 [~~prior to~~] before December 31, 2005;
- 4 (B) January 1, 2019, if the county surcharge on state  
5 tax was established by the adoption of an  
6 ordinance after June 30, 2015, but [~~prior to~~]  
7 before June 30, 2018; [~~or~~]
- 8 (C) January 1, 2020, if the county surcharge on state  
9 tax was established by the adoption of an  
10 ordinance on or after June 30, 2018, but [~~prior~~  
11 ~~to~~] before March 31, 2019; [~~and~~]
- 12 (D) January 1, 2024, if the county surcharge on state  
13 tax was established by the adoption of an  
14 ordinance on or after March 31, 2019, but before  
15 August 1, 2023; or
- 16 (E) January 1, 2025, if the county surcharge on state  
17 tax was established by the adoption of an  
18 ordinance on or after August 1, 2023, but before  
19 December 31, 2023; and
- 20 (2) After December 31, 2030."



PART III

SECTION 5. Section 23-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Beginning on September 5, 2017, and ending on December 31, 2031, the auditor, on an annual basis, shall conduct a review of any rapid transportation authority in the State charged with the responsibility of constructing, operating, or maintaining a locally preferred alternative for a mass transit project that receives moneys from a surcharge on state tax established pursuant to section 46-16.8, transient accommodations tax revenues pursuant to section 237D-2(e), or both. The annual review shall include a review of documents, including but not limited to invoices, contracts, progress reports, and time schedules, to determine that:

- (1) Expenditures by the authority comply with the criteria established pursuant to section [~~46-16.8(e);~~]  
46-16.8(f); and
- (2) The authority follows accounting best practices for substantiating its expenditures."

SECTION 6. Section 40-81.5, Hawaii Revised Statutes, is amended as follows:



1 1. By amending subsection (a) to read:

2 "(a) Beginning on September 5, 2017, and ending on  
3 December 31, 2031, the comptroller, upon the request for payment  
4 by the rapid transportation authority, shall verify that the  
5 authority's invoices for the capital costs of a locally  
6 preferred alternative for a mass transit project comply with  
7 section [~~46-16.8(e).~~] 46-16.8(f)."

8 2. By amending subsection (c) to read:

9 "(c) After submission of invoices by the rapid  
10 transportation authority for capital costs of a locally  
11 preferred alternative for a mass transit project are verified by  
12 the comptroller as an acceptable use of funds received pursuant  
13 to a surcharge on state tax authorized pursuant to  
14 section 46-16.8, the comptroller shall submit a certification  
15 statement, including any appropriate supporting documents, to  
16 the department of budget and finance for the allocation of  
17 funds, if available, pursuant to sections 248-2.7 and  
18 248-2.6(d). The certification statement shall include, at a  
19 minimum, the total amount contained in the invoices for capital  
20 costs that are verified as an appropriate use of funds pursuant  
21 to section [~~46-16.8(e).~~] 46-16.8(f)."



1 SECTION 7. Section 248-2.7, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Upon receiving a certification statement from the  
4 comptroller pursuant to section 40-81.5, the director of finance  
5 shall allocate and disburse moneys in the mass transit special  
6 fund to the director of finance of a county with a population  
7 greater than five hundred thousand; provided that the director  
8 of finance shall only disburse those amounts that are certified  
9 in the certification statement for that county for the purposes  
10 specified in section 46-16.8; provided further that revenues  
11 allocated from the special fund shall not be used for:

12 (1) Operating or maintenance costs of the mass transit  
13 project or any purpose not consistent with  
14 section [~~46-16.8(e)~~] 46-16.8(f); or

15 (2) Administrative, operating, marketing, or maintenance  
16 costs, including personnel costs, of a rapid  
17 transportation authority charged with the  
18 responsibility for constructing, operating, or  
19 maintaining the mass transit project;

20 provided further that the total amount of funds that are  
21 available, allocated, and disbursed by the director of finance





1 pursuant to this section shall not be in excess of the total  
2 amount indicated on the certification statement. The director  
3 of finance may allocate and disburse moneys pursuant to this  
4 section on a monthly basis.

5 Any amounts allocated and disbursed pursuant to this  
6 section shall be subject to the availability of funds deposited  
7 and on balance in the special fund. The director of finance  
8 shall not allocate or disburse any amounts from the special fund  
9 that are in excess of any amounts deposited and on balance in  
10 the special fund."

11 PART IV

12 SECTION 8. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect on July 1, 2050.



**Report Title:**

Surcharge on State Tax; Extension; Amendment; Housing  
Infrastructure

**Description:**

Extends the period within which a county may adopt a surcharge on state tax, under certain conditions, from 3/31/2019 to 12/31/2023. Authorizes the use of county surcharge revenues for housing infrastructure in counties having a population of 500,000 or less. Temporarily authorizes counties that have previously adopted a surcharge on state tax to amend the uses of the surcharge. Effective 7/1/2050. (SD2)

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