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**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 74, H.D. 1, S.D. 1, Relating to the General Excise Tax

BEFORE THE:

Senate Committee on Ways and Means

DATE: Tuesday, April 4, 2023

TIME: 10:30 a.m.

LOCATION: State Capitol, Room 211

Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 74, H.D. 1, S.D. 1, for your consideration.

H.B. 74, H.D. 1, S.D. 1, amends section 237-24.9, Hawaii Revised Statutes (HRS), which provides a general excise tax exemption for amounts received from the servicing and maintenance of aircraft in a service and maintenance facility, or from the construction of a facility that services and maintains aircraft. Specifically, the bill: (1) amends the definition of "aircraft" to include helicopters; (2) amends the definition of "aircraft service and maintenance facility" to include facilities that service and maintain helicopters in which no less than 75 percent of the helicopters being serviced or maintained annually are equipped with "quiet technology"; and (3) defines the term "quiet technology" as "the use of design, technologies, and structure modifications to rotorcraft to reduce or redirect the sound generated by the engine exhaust, tail, or the main rotor, utilizing either a shrouded tail rotor or removing the tail rotor."

The bill has a defective effective date of July 1, 3000, and shall be repealed on December 31, 2028.

The Department notes that it lacks the expertise to make determinations concerning "quiet technology," and to verify facility adherence to the proposed parameters for exemption eligibility.

Further, if the measure is amended with an appropriate effective date, the Department requests that the effective date is amended to no earlier than January 1, 2024.

Assuming an effective date of January 1, 2024, the Department expects a negative revenue impact to the general fund as follows (\$ millions):

FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
-0.1	-0.3	-0.3	-0.3	-0.3	-0.2

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

TAX FOUNDATION OF HAWAII

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SUBJECT: GENERAL EXCISE, Exemption for Helicopter Repair and Maintenance

BILL NUMBER: HB 74 SD 1

INTRODUCED BY: Senate Committee on Transportation and Culture and the Arts

EXECUTIVE SUMMARY: Establishes a five-year general excise tax exemption beginning 1/1/24 for amounts received from the servicing and maintenance of helicopters in an aircraft service and maintenance facility or from the construction of a facility that services and maintains helicopters where at least 75 percent of the helicopters serviced and maintained annually in the facility are equipped with quiet technology. Sunsets 12/31/2028.

The bill seeks to exempt helicopter repair and maintenance from the GET. However, the bill as drafted perpetuates inequity because propeller aircraft would not be so exempted.

SYNOPSIS: Amends section 237-24.9, HRS, by amending the definition “aircraft service and maintenance facility” to include a facility that “services and maintains helicopters and in which no less than seventy-five per cent of the helicopters serviced and maintained annually are equipped with quiet technology.”

Adds a definition of “quiet technology” as “the use of design, technologies, and structure modifications to rotorcraft to reduce or redirect the sound generated by the engine exhaust, tail, or the main rotor, utilizing either a shrouded tail rotor or removing the tail rotor.”

EFFECTIVE DATE: July 1, 3000; to be repealed on December 31, 2028.

STAFF COMMENTS: Back in 1997, Continental Airlines was considering building a \$24 million jet maintenance hangar close to the Honolulu International Airport. To lure the project away from Guam and Saipan, our lawmakers at the time offered incentives, including a GET exemption. The exemption applied to servicing and maintenance of aircraft, or from the construction of an aircraft service and maintenance facility. But “aircraft,” as used in the exemption statute, was and still is restricted to aircraft with two or more jet engines. Small carriers with propeller planes don’t qualify, raising some questions about whether this exemption helps the industry fairly. Is it simply a reflection of the economic realities – namely that the big planes can fly elsewhere to have the maintenance work done, while smaller aircraft are effectively trapped here? A better approach may be to have the exemption apply (or be repealed) across the board; the current structure leaves the impression that big business skates by where small business is left behind.

In addition, the requirement that 75% of the helicopters serviced and maintained annually be equipped with quiet technology is problematic. The GET is a transaction-based tax, so the facts necessary to apply it need to be known when the transaction happens. Whether the 75% test is met is necessarily unknown until the close of the taxable year.

Re: HB 74 SD1
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Digested: 3/31/2023



March 31, 2023

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

DATE: Wednesday April 4, 2023

TIME: 10:30 a.m.

Aloha Chair Dela Cruz, Vice Chair Keith-Aragan, and Committee Members,

Jack Harter Helicopters opposes the proposed changes HB74SD1 would make to Hawaii Revised Statute 237-24.9.

As currently written, HRS 237-24.9 provides an aircraft maintenance facility an exemption from General Excise Taxes (GET) on funds, “received from the servicing and maintenance of aircraft or from the construction of an aircraft service and maintenance facility in the State” as long as the aircraft “operates with two or more jet engines” and the “facility for aircraft service and maintenance that is not less than thirty thousand square feet in area”. It is our understanding that the current GET exemption was enacted to attract the construction and operation of maintenance facilities for large jet airplanes operated by air carriers servicing the Hawaiian Islands. While there may be concerns with this statute related to the FAA Grant Assurances, we have not expressed objections because of the benefits the tax exemption provides.

The proposed changes to HRS 237-24.9 would extend the tax exemption to operators of helicopters equipped with “quiet technology”. We understand that it would be very beneficial to many citizens in Hawaii to incentivize helicopter operators to utilize helicopters that generate the least amount of sound as possible.

Unfortunately, this bill would do nothing to decrease the sound levels generated by the helicopters flying over the state.

Why do we believe this?

1. The helicopters that are currently available for operation that meet the amended definition of “quiet technology” in HB74SD1 are not “quiet”. The following sound levels come from studies conducted by the National Parks System. A quick review of the Sound Levels in the table illustrates that “quiet technology” helicopters are not really “quiet”. (The helicopter models in the table are the most common models used by Hawaii helicopter operators.)

<u>Helicopter Model</u>	<u>Sound Level</u>	<u>In Production</u>	<u>Quiet Technology</u>
Airbus EC130B4	84.0dB	YES	YES
Airbus AS350B2	87.6dB	YES	NO
MD500E	83.8dB	YES	NO
Bell 407	no data	YES	NO
Robinson R44	no data	YES	NO

2. Hawaii’s helicopter companies will not be sufficiently incentivized by the excise tax break in HB74SD1 to change the aircraft in their fleets to include “quiet technology” aircraft. A single new EC130 costs over \$3.3 million.

The definition of *"Quiet technology"* in HB74SD1 reads, *"Quiet technology" means the use of design, technologies, and structure modifications to rotorcraft to reduce or redirect the sound generated by the engine exhaust, tail, or the main rotor, utilizing either a shrouded tail rotor or removing the tail rotor.*" Reading the plain English in this definition, the only helicopters that would qualify for the tax exemption would be those *"utilizing either a shrouded tail rotor or removing the tail rotor."*

The change in the definition from previous versions of HB74 eliminated a potential sound reducing technology that is currently being developed by at least one manufacturer. Tail rotors generate much of the sound heard when a helicopter flies past. Currently, a new tail rotor blade design is being developed for the MD500 series of helicopters that would significantly reduce the tail rotor component of this very popular helicopter’s sound. The current definition of *"Quiet technology"* would not include this type of modification which would greatly reduce the sound generated by at least 25 helicopters currently being operated in Hawaii.

Another reason we oppose HB74 is because it would violate Paragraph 22 of the Federal Aviation Administration’s (FAA) Grant Assurances. Paragraph 22 requires that an airport operator that receives grant monies establish policies, rules, rates, and charges that are non-discriminatory to “all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport”. By only providing the proposed temporary GET exemption to helicopters with “quiet technology”, the bill would establish an economic disparity between similar types of aeronautical activities.

If this bill were to be enacted, the State of Hawaii, whose Department of Transportation, Airports Division operates the airports, would face the likelihood of losing federal funds necessary to operate

their airports due to violations of this part of the FAA Grant Assurances. If the bill were to be amended to include all aircraft, our concerns related economic discrimination would be alleviated.

Thank you for considering our testimony and we urge your committee to **oppose passage of HB74SD1** through your committee unless it can be amended to eliminate the discriminatory language that it contains.

A handwritten signature in cursive script that reads "Casey Riemer".

Casey Riemer
Special Project Manager

LATE



Blue Hawaiian

Senate Committee on Ways and Means
April 4, 2023

Re: Support for HB 74, HD1, SD1 relating to the general excise tax

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee!

We are writing to support HB 74, HD1, SD1, relating to general excise tax. This measure establishes a five-year general excise tax exemption for servicing and maintaining helicopters in an aircraft service and maintenance facility or from the construction of a facility that services and maintains helicopters where at least 75 percent of the helicopters serviced and maintained annually in the facility are equipped with quiet technology.

This measure seeks to provide tax parity for smaller aviation operators and support the aviation maintenance workforce in Hawaii. It also seeks to promote and reduce aviation noise by applying the maintenance tax credit only to those aircraft using quiet technology. Our state's remote geography requires a reliance on air transportation of many types, including medical operations, air tours and disaster relief. By modernizing the current tax statute to include the maintenance of aircraft with quiet technology these operators will be included with other aviation operations, all contributing stakeholders in the state's economy.

We are recommending that the bill be amended so that maintenance performed only at facilities outside of airports in Hawaii are eligible for the exemption.

As important as noise reduction and workforce development are in our community, we would be remiss if we did not emphasize that Blue Hawaiian's foremost commitment is to safety.

We urge the legislature to increase the aviation insurance coverage minimums which is another way to encourage the adoption of safety measures. Blue Hawaiian aircraft are equipped with technologies and equipment like Helicopter Terrain Awareness and Warning Systems (HTAWS), automatic dependent surveillance-broadcast (ADS-B), aircraft floats and upgraded with the newest GARMIN glass-cockpit avionics to exceed the federal regulatory requirements for helicopter air tour safety. To further that commitment, Blue Hawaiian Helicopters is the only air tour operator in Hawaii to be a member of the Tour Operators Program of Safety, as well as to also have a Voluntary FAA Safety Management System (SMS) implementation program and an accepted and approved Voluntary FAA Aviation Safety Action Program (ASAP).

Thank you for the opportunity to testify.