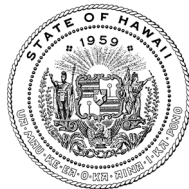


JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON HOUSING
ON
HOUSE BILL NO. 567

February 1, 2023
9:30 a.m.
Room 312 and Videoconference

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

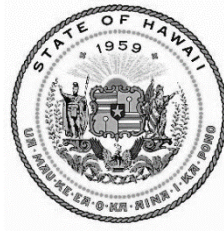
The Department of Budget and Finance (B&F) offers comments on Parts I and III of House Bill (H.B.) No. 567.

With respect to Part I, which exempts gross income from Department of Hawaiian Home Lands (DHHL) housing developments from general excise taxes and authorizes DHHL to certify for exemption projects meeting specified criteria subject to a regulatory agreement, based on the stated legislative intent of this part, subsection (b) of the proposed new section is not necessary and should be deleted. Subsection (b) in large part duplicates the general excise tax exemption program operated by the Hawai'i Housing Finance and Development Corporation pursuant to Section 237-29, HRS.

Additionally, any general excise tax exemption requires a commensurate use tax exemption in Section 238-3, HRS. Rulemaking authority for the joint promulgation of administrative rules by DHHL and the Department of Taxation to implement the exemption should also be added to this bill.

With respect to Part III, which amends Section 6 of Act 279, SLH 2022, to cure the unconstitutional lapse date of the appropriation of \$600,000,000, B&F respectfully suggests the insertion of a lapse date of June 30, 2024.

Thank you for your consideration of our comments.



STATE OF HAWAII
SCHOOL FACILITIES AUTHORITY
75 AUPUNI STREET, STE. BASEMENT
HILO, HAWAII 96720

February 1, 2023

Testimony providing COMMENTS on HB567
RELATING TO SCHOOL IMPACT FEES

REPRESENTATIVE TROY HASHIMOTO, CHAIR
HOUSE COMMITTEE ON HOUSING

Hearing Date: 02/01/2023

Room Number 312

The School Facilities Authority (SFA) **offers comments** on H.B. 567, RELATING TO THE DEPARTMENT OF HAWAIIAN HOMELANDS.

School impact fees were created to assist with the needs of school capacity as residential growth occurs. The Board of Education has established four school impact districts encompassing the following areas:

1. Kalihi-Ala Moana
2. Leeward Oahu
3. West Maui
4. Central Maui

The SFA appreciates the difficult determination the Legislature must make in determining how to prioritize the limited funding it has. It is unclear how many developments that DHHL has planned for the four designated areas, but the SFA notes that capacity concerns exist within the schools encompassed in those districts and additional residential development is likely to spur additional funding requests to the Legislature for school capacity projects.

Thank you for the opportunity to provide testimony.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau

P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
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GARY S. SUGANUMA
DIRECTOR

KRISTEN M. R. SAKAMOTO
DEPUTY DIRECTOR

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

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 567, Relating to the Department of Hawaiian Home Lands

BEFORE THE:

House Committee on Housing

DATE: Wednesday, February 1, 2023

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 312

Chair Hashimoto, Vice-Chair Aiu, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 567 for your consideration.

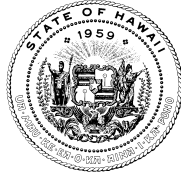
H.B. 567 creates a new section to Chapter 237, Hawaii Revised Statutes, exempting from general excise tax (GET) all gross income received by any "qualified person or firm," for the planning, design, financing, or construction of certain housing developments for the Department of Hawaiian Home Lands (DHHL). The bill requires all claims for exemption to be filed with and certified by DHHL and forwarded to the Department. The bill is effective upon approval.

Because this bill will require tax form and system changes, the Department requests that the effective date of the bill be amended to no earlier than January 1, 2024. The Department notes, however, that due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session by January 1, 2024. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

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

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
Hawai'i*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia'āina o ka Moku'āina
'o Hawai'i*



IKAIKA ANDERSON
CHAIRMAN DESIGNATE, HHC
Ka Luna Ho'okele

KATIE L. DUCATT
DEPUTY DESIGNATE TO THE
CHAIRMAN
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

Ka 'Oihana 'Āina Ho'opulapula Hawai'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF IKAIKA ANDERSON, CHAIRMAN-DESIGNATE
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON HOUSING
HEARING ON FEBRUARY 1, 2023 AT 9:30AM IN CR 312

HB 567, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

February 1, 2023

Aloha Chair Hashimoto, Vice Chair Aiu, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) strongly supports this measure that exempts housing development for DHHL from general excise tax and school impact fee requirements and extends the issuance of county affordable housing credits to DHHL. Similar measures were approved by the Hawaiian Homes Commission and included in the Governor's administrative package by request of our department.

In Part I of the bill, DHHL would prefer the language in House Bill 1055, which exempts any development of homestead lots or housing for DHHL from the general excise and use taxes. Limiting the exemption to just housing development would result in the projects listed in this testimony that is for any other development besides residential such as agricultural or pastoral lots not being afforded the exemption for residential lots.

DHHL currently has four (4) large-scale development projects underway for consideration by HHFDC for GET exemptions as follows:

<u>Projects Pending GET Exemption</u>	<u>Est. Dev. Costs</u>	<u>Savings</u>	<u>Est. GET</u>
1) HHL Rent with Option to Purchase (Laiopua) (163 Units)	\$ 5,000,000	(x 4.25%) =	\$ 212,500
2) Pu'unani Subdivision (160 Lots) (136 turnkey/24 vacant Lots)	\$ 23,350,013	(x 4.0%) =	\$ 934,000
3) Former Voice of America Site (253 Units)	\$ 50,000,000	(x 4.5%) =	\$2,250,000
4) 820 Isenberg Street (Bowl-O-Drome site)			

(277 Units)	\$ 137,000,000 (x 4.5) =	<u>\$6,165,000</u>
	TOTAL:	\$9,561,500

The GET cost savings from these development projects could be used to develop more homestead lots. DHHL defines homestead lots as residential, agricultural and pastoral 99-year homestead leases. DHHL includes all acquisition, planning, design, post design, and construction of offsite and onsite development costs in its quantification of eligible costs for GET exemption purposes.

Other homestead projects in the pipeline include:

<u>Projects in the Pipeline for development</u>	<u>Est. Dev. Costs</u>	<u>Est.GET Savings</u>
1. Kauluokahai IIC (130 res Lots) \$ 900,000	\$20,000,000 (x 4.5%)	
2. Keokea Waiohuli 2B (76 res lots) \$ 720,000	\$18,000,000 (x 4.0%)	
3. Pulehunui offsite infrastructure (100 ag lots)	\$50,000,000 (x 4.0%)	\$2,000,000
4. Villages of Leialii 1B (250 res lots) \$5,200,000	\$130,000,000 (x 4.0%)	
5. Honokowai Potable Water Development (1,200 mixed homestead lots)	\$30,000,000 (x 4.0%)	\$1,200,000
6. Kahikinui Access Improvements (75 pastoral lots)	\$ 5,000,000 (x 4.0%)	\$ 200,000
7. Naiwa Agricultural Subdivision (58 agricultural lots)	\$30,000,000 (x 4.0%)	\$1,200,000
8. Hanapepe Residential Lots Phase 2 (75 lots)	\$20,000,000 (x 4.5%)	\$ 900,000
9. Villages of Laiopua 4 Hema (130 res Lots)	\$14,000,000 (x 4.25%)	<u>\$ 595,000</u>
Total potential DHHL savings from GET exemption		\$12,915,000

In part II of the bill, DHHL would prefer the language in House Bill 1060, which makes permanent Act 197, Session Laws of Hawaii 2021, which excludes housing developed by DHHL from school impact fees. The Department of Hawaiian Home Lands currently leases educational facilities for public schools, public charter schools, early learning facilities, and other similar facilities at minimal to no cost. The exemption of

housing developed by the Department of Hawaiian Home Lands from school impact fees allows for more homes to be developed for beneficiaries.

In part III of the bill, DHHL would prefer the language in House Bill 1507, which ensures that the \$600 million appropriated to DHHL in Act 279, Session Laws of Hawaii 2022, is available for expenditure until June 30, 2025. The Legislature intended that funds appropriated in Act 279, Session Laws of Hawaii 2022, be available for expenditure until June 30, 2025. DHHL wishes to confirm this legislative intent which will allow the Department of Hawaiian Home Lands to expend funds by June 30, 2025 as intended by the Legislature, instead of the year prior or June 30, 2024.

In part IV of the bill, DHHL would prefer the language in House Bill 1059, which makes permanent Act 141, Session Laws of Hawaii 2009, which requires the counties to issue affordable housing credits to DHHL upon the department's request and makes permanent Act 98, Session Laws of Hawaii 2012, which requires the counties to issue affordable housing credits for each residential unit developed by DHHL. Since Act 141 was enacted in 2009, DHHL has worked with each county to request and acquire affordable housing credits for completed units in homestead communities. This program has resulted in successful private-public partnerships through the exchange of credits creating resources for DHHL to further develop homestead lots. Making permanent the affordable housing credit program on Hawaiian home lands will allow the Department of Hawaiian Home Lands to continue to provide incentive to private sector developers to build affordable homes on Hawaiian home lands. This will also help to ensure that DHHL will have resources for programs for native Hawaiian lessees and applicants, including the development of homestead lots, loans, and other rehabilitation programs.

Thank you for your consideration of our testimony.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, MISCELLANEOUS, GET Exemption and School Impact Fee Exemption for DHHL Housing

BILL NUMBER: HB 567, SB 448

INTRODUCED BY: HB by HOLT, AMATO, GANADEN, GATES, HASHIMOTO, MARTEN, MORIKAWA, QUINLAN, TARNAS, TODD, WARD; SB by KEOHOKALOLE

EXECUTIVE SUMMARY: Exempts housing development for the Department of Hawaiian Home Lands from general excise tax and school impact fee requirements. Extends the issuance of county affordable housing credits to the Department of Hawaiian Home Lands.

SYNOPSIS:

Part I: GET Exemption for Affordable Housing

Adds a new section to chapter 237, HRS, providing an exemption from the general excise tax all gross income received by any qualified person or firm for the planning, design, financing, or construction of any housing development for the department of Hawaiian home lands (DHHL).

Allows DHHL to approve and certify for exemption a qualified person or firm involved with a newly constructed, or a moderately or substantially rehabilitated, project that is (1) developed under a government assistance program approved by DHHL; (2) developed under the sponsorship of a private nonprofit organization providing home rehabilitation or new homes for beneficiaries in need of decent, safe and sanitary, low-cost housing; (3) developed by a qualified person or firm to provide affordable rental housing where at least fifty per cent of the available units are for households with incomes at or below eighty per cent of the area median family income as determined by the United States Department of Housing and Urban Development; or (4) developed by contract or project developer agreement to provide affordable housing through new construction or substantial rehabilitation. For any of the above project categories, (A) the allowable general excise tax and use tax costs shall apply to contracting only and shall not exceed \$30,000,000 per year in the aggregate for all projects approved and certified by DHHL; and (B) at least 20% of the available units are for households with incomes at or below 80% of the area median family income as determined by the United States Department of Housing and Urban Development.

The exemption operates similarly to the affordable housing exemption in section 237-29, HRS, with the certification process done here by DHHL rather than HHFDC or county housing agencies.

Allows DHHL to collect a reasonable service fee, the proceeds of which are to be deposited in the Hawaiian home administration account described in section 10-13, HRS.

Part II: DOE Impact Fee Exemption

Amends section 302A-1603, HRS, to add an exemption from the department of education's impact fee for any housing development for DHHL that was certified under part I of the bill.

Part III: Extension of Deadline on \$600M 2022 Appropriation

Amends section 6 of Act 279, SLH 2022, to provide that any moneys out of the \$600 million not encumbered for specific purposes lapse to the general fund on June 30, 20__.

Part IV: Extension of County Affordable Housing Credits

Amends the sunset date of Act 141, SLH 2009, as amended, from June 30, 2024, to June 30, 20__.

EFFECTIVE DATE: Upon Approval.

STAFF COMMENTS:

Part I: GET Exemption for Affordable Housing

Section 237-29(a), HRS, states that all gross income received by any qualified person or firm for the planning, design, financing, construction, sale, or lease in the State of a housing project that has been certified or approved under section 201H-36 shall be exempt from general excise taxes.

Section 201H-36, HRS, states that the Hawaii housing finance and development corporation ("HHFDC") may approve and certify for exemption from general excise taxes any qualified person or firm involved with an affordable housing project.

Section 46-16.7, HRS, states that any county shall have the same powers as those granted the HHFDC pursuant to chapter 201H, HRS, provided, among other things, that county projects shall be granted an exemption from general excise or receipts taxes in the same manner as projects of the HHFDC pursuant to section 201H-36.

It seems that the proposed exemption has many similarities to the affordable housing exemption now in sections 46-15.1 and 201H-36, HRS. The proposed exemption appears to be looser, however:

- The existing low-income housing exemption requires a regulatory agreement of at least five years for moderate rehabilitation projects, ten years for substantial rehabilitation projects, and thirty years for new projects. No regulatory agreement is required by this bill.

Because the housing development is on Hawaiian homestead land, the beneficiaries to reside in the developed homes would be receiving several benefits unique to Hawaiian homesteads, as detailed in <https://dhhl.hawaii.gov/applications/applying-for-hawaiian-home-lands/>:

- Annual lease rent of \$1.00 per year;
- 99-year lease;

- Lease term which can be extended for an additional 100 years, allowing passage of the homestead from generation to generation;
- Seven-year exemption from real property tax;
- Complete exemption of tax on land;
- Minimal real property tax after the first seven years (applies only to County of Kauai and City and County of Honolulu, Oahu);
- And other benefits.

These benefits should be taken into consideration to determine whether affordable housing development on Hawaiian home lands merits extension of the GET exemption to development on those lands as well. It is certainly arguable that the extension is warranted given that Hawaiian beneficiaries often have been waiting years or decades on the wait list for Hawaiian home lands.

Part II: DOE Impact Fee Exemption

STAFF COMMENTS: The Hawaii Revised Statutes contains twelve sections relating to “school impact fees,” starting with section 302A-1601. The law states, in part, “New residential developments within identified school impact districts create additional demand for public school facilities. As such, once school impact districts are identified, new residential developments shall be required to contribute toward the construction of new or expansion of existing public school facilities.”

Builders of large projects within school impact districts are required to provide land for school facilities depending on the numbers of students expected in their projects and the amount of available classroom space in existing area schools. Smaller developers and individual home owner-builders are required to pay a fee instead of land, when their project is too small to entertain a school site. All home builders or buyers must pay a construction cost fee.

Once an impact fee district is established, the DOE is authorized to collect 10% of estimated school construction costs and 100% of estimated land acquisition costs from each residential development planned within the district.

The Board of Education (BOE) used this authority to establish impact fee districts in Central Maui and West Maui in 2010, and in Leeward Oahu in 2012. It approved another district in West Hawaii in 2009, but apparently the Big Island county government didn’t want to cooperate and that district remains an open issue.

The theory behind this law is that high growth will mean more children, and more schools are required to educate them. The formulas in sections 302A-1606 and -1607 for calculating the fee come up with a land value and dollar value for each new single-family unit and each multi-family unit. It makes sense to exempt construction where no new unit is being created, for it would be rational to presume that no additional living unit means that there would not be additional children to educate. By the same token, exempting additional living units even though

they can house families and children does not seem to be in line with the philosophy of the tax and will, at a minimum, cause others to pay for the schools needed for the additional children in those units.

Part III: Extension of Deadline on \$600M 2022 Appropriation

Act 279, SLH 2022, provided an appropriation to DHHL of \$600 million but specified that the moneys would lapse on June 30, 2025, if not spent or encumbered by then.

We note that the June 30, 2025, date was inserted in Conference Committee without the opportunity for public input and debate. This bill apparently is an opportunity to open discussion on the issue.

Part IV: Extension of County Affordable Housing Credits

Act 141, SLH 2009, required each county to issue affordable housing credits to DHHL with respect to existing and future projects on Hawaiian home lands. This law originally was to sunset on June 30, 3015, but was extended to June 30, 2024.

The Foundation declines to comment on this part.

Digested: 1/30/2023