

JAN 15 2025

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that Act 247, Session
2 Laws of Hawaii 2005, authorized the counties to adopt a
3 surcharge of up to one-half of one per cent on state tax to
4 support public transportation projects. The law has been
5 subsequently amended, including by Act 1, Special Session Laws
6 of Hawaii 2017, and Act 11, Session Laws of Hawaii 2018, and Act
7 48, Session Laws of Hawaii 2023, to extend the time period in
8 which a county may adopt and impose the surcharge on state tax.
9 The law currently authorizes a county that has previously
10 adopted a surcharge on state tax to extend the surcharge through
11 December 31, 2030. Counties that had not previously adopted a
12 surcharge on state tax had until December 31, 2023, to adopt a
13 surcharge that could be imposed through December 31, 2030. The
14 legislature concludes that it is appropriate to authorize the
15 counties to permanently adopt and impose a public transportation
16 surcharge, which shall be at a lower rate of one-fourth of one
17 per cent after December 31, 2030.



1 The legislature further finds that a county with a
2 population greater than five hundred thousand is currently
3 restricted to using the surcharge revenues for capital costs of
4 mass transit projects while smaller counties may use their
5 surcharge for other purposes, including operational costs of
6 public transportation systems and housing infrastructure, and
7 that the restrictions on the larger counties should be amended
8 to allow for wider use of the funds.

9 The purpose of this Act is to further amend the county
10 surcharge on state general excise and use taxes by:

11 (1) Authorizing a county with a pre-existing surcharge on
12 state general excise and use taxes to permanently
13 extend its surcharge to be imposed after December 31,
14 2030 at a lower rate of one-fourth of one per cent;

15 (2) Authorizing counties that have not previously adopted
16 an ordinance to establish a surcharge on state general
17 excise and use taxes to establish a surcharge at the
18 rate of one-half of one per cent until December 31,
19 2030, and thereafter at a rate of one-fourth of one
20 per cent; and



1 (3) For counties with a population greater than five
2 hundred thousand, authorizing use of surcharge
3 revenues for more than capital costs of mass transit
4 systems, as smaller counties are not restricted to
5 using those revenues only for capital costs of public
6 transportation.

7 SECTION 2. Section 23-14, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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



1 (1) Expenditures by the authority comply with the criteria
2 established pursuant to section [~~46-16.8(f)~~] 46-
3 16.8(g); and

4 (2) The authority follows accounting best practices for
5 substantiating its expenditures."

6 SECTION 3. Section 40-81.5, Hawaii Revised Statutes, is
7 amended as follows:

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

9 "(a) Beginning on September 5, 2017, [~~and ending on~~
10 ~~December 31, 2031,~~] the comptroller, upon the request for
11 payment by the rapid transportation authority, shall verify that
12 the authority's invoices for the [~~capital~~] costs of a locally
13 preferred alternative for a mass transit project comply with
14 section [~~46-16.8(f)~~] 46-16.8(g)."

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

16 "(c) After submission of invoices by the rapid
17 transportation authority for capital costs of a locally
18 preferred alternative for a mass transit project are verified by
19 the comptroller as an acceptable use of funds received pursuant
20 to a surcharge on state tax authorized pursuant to section 46-
21 16.8, the comptroller shall submit a certification statement,



1 including any appropriate supporting documents, to the
2 department of budget and finance for the allocation of funds, if
3 available, pursuant to sections 248-2.7 and 248-2.6(d). The
4 certification statement shall include, at a minimum, the total
5 amount contained in the invoices for [~~capital~~] costs that are
6 verified as an appropriate use of funds pursuant to section
7 46-16.8(f)."

8 SECTION 4. Section 46-16.8, Hawaii Revised Statutes and
9 Act 48 (2023), is amended to read as follows:

10 "**§46-16.8 County surcharge on state tax.** (a) Each county
11 may establish a surcharge on state tax at the rates enumerated
12 in sections 237-8.6 and 238-2.6. A county electing to establish
13 this surcharge 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 (2) The ordinance shall be adopted before December 31,
17 2005; and
- 18 (3) No county surcharge on state tax that may be
19 authorized under this subsection shall be levied
20 before January 1, 2007 [~~, or after December 31, 2022,~~
21 ~~unless extended pursuant to subsection (b)].~~



1 Notice of the public hearing required under paragraph (1) shall
2 be published in a newspaper of general circulation within the
3 county at least twice within a period of thirty days immediately
4 preceding the date of the hearing.

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

11 (b) Each county that has established a surcharge on state
12 tax before July 1, 2015, under authority of subsection (a) may
13 extend the surcharge [~~until December 31, 2030,~~] at the [~~same~~]
14 rates[~~-~~] enumerated in sections 237-8.6 and 238-2.6. A county
15 electing to extend this surcharge shall do so by ordinance;
16 provided that[~~+~~

17 ~~(1)~~ ~~No~~] no ordinance shall be adopted until the county has
18 conducted a public hearing on the proposed ordinance[~~+~~
19 and

20 ~~(2)~~ ~~The ordinance shall be adopted prior to January 1,~~
21 ~~2018].~~



1 A county electing to exercise the authority granted under
2 this subsection shall notify the director of taxation within ten
3 days after the county has adopted an ordinance extending the
4 surcharge on state tax. The director of taxation shall levy,
5 assess, collect, and otherwise administer the extended surcharge
6 on state tax.

7 (c) Each county that has not established a surcharge
8 pursuant to subsection (a) on state tax before July 1, 2015, may
9 establish the surcharge at the rates enumerated in sections
10 237-8.6 and 238-2.6. A county electing to establish this
11 surcharge shall do so by ordinance; provided that:

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

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 a surcharge on state tax



1 ordinance. Beginning on January 1, 2019, January 1, 2020,
2 January 1, 2024, or January 1, 2025, as applicable pursuant to
3 sections 237-8.6 and 238-2.6, the director of taxation shall
4 levy, assess, collect, and otherwise administer the county
5 surcharge on state tax.

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

11 ~~(1) No ordinance shall be amended pursuant to this section~~
12 ~~until the county has conducted a public hearing on the proposed~~
13 ~~amendment; and~~

14 ~~(2) The ordinance shall be amended before December 31,~~
15 ~~2023.~~

16 (e) Each county that has not established a surcharge on
17 state tax before July 1, 2025, may establish the surcharge at
18 the rates enumerated in sections 237-8.6 and 238-2.6. A county
19 electing to establish this surcharge shall do so by ordinance;
20 provided that no ordinance shall be adopted until the county has
21 conducted a public hearing on the proposed ordinance.



1 A county electing to exercise the authority granted under
2 this subsection shall notify the director of taxation within ten
3 days after the county has adopted a surcharge on state tax
4 ordinance. The director of taxation shall levy, assess,
5 collect, and otherwise administer the county surcharge on state
6 tax.

7 [~~(e)~~] (f) Notice of the public hearing required under
8 [~~subsection~~] subsections (b) [~~7~~ ~~(e)~~ ~~or~~] through (e), before
9 adoption or amendment of an ordinance establishing or extending
10 the surcharge on state tax shall be published in a newspaper of
11 general circulation within the county at least twice within a
12 period of thirty days immediately preceding the date of the
13 hearing.

14 [~~(f)~~] (g) Each county with a population greater than five
15 hundred thousand that adopts or extends a county surcharge on
16 state tax ordinance pursuant to subsection (a) or (b) shall use
17 the surcharge revenues received from the State for [~~capital~~]

18 (1) Capital, operating, or maintenance costs of a locally
19 preferred alternative for a mass transit project; and



1 (2) Expenses in complying with the Americans with
 2 Disabilities Act of 1990 with respect to paragraph
 3 (1);

4 provided that revenues derived from the county surcharge on
 5 state tax shall not be used[±

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

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

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

17 provided further that nothing in this section shall be construed
 18 to prohibit a county from using county funds that are not
 19 derived from a surcharge on state tax for [~~a purpose described~~
 20 ~~in paragraph (2) or (3).~~] the purposes described in paragraphs
 21 (1) or (2).



S.B. NO. 310

1 ~~[(g)]~~ (h) Each county having a population equal to or less
2 than five hundred thousand that adopts a county surcharge on
3 state tax ordinance pursuant to this section shall use the
4 surcharges received from the State for:

5 (1) ~~[Operating or capital]~~ Capital, operating, or
6 maintenance costs of public transportation within each
7 county for public transportation systems, including:

8 (A) Public roadways or highways;

9 (B) Public buses;

10 (C) Trains;

11 (D) Ferries;

12 (E) Pedestrian paths or sidewalks; or

13 (F) Bicycle paths;

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

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



1 apply only if a county amended its surcharge ordinance
2 pursuant to subsection (d) or adopts a county
3 surcharge on state tax ordinance after December 31,
4 2022;

5 provided that each county having a population equal to or less
6 than five hundred thousand that adopts a county surcharge on
7 state tax ordinance pursuant to this section after December 31,
8 2022, shall use the surcharge revenues received from the State
9 only for the purposes described in paragraph (3) for county-
10 appropriated housing infrastructure costs.

11 ~~(h)~~ (i) As used in this section:

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



1 "Housing infrastructure costs" includes pedestrian paths or
2 sidewalks on a county road near or around a public school, and
3 water, drainage, sewer, water reuse, waste disposal, and waste
4 treatment systems that connect to the infrastructure of the
5 county and shall include financing costs, including any related
6 debt service and financing agreement costs."

7 SECTION 5. Section 237-8.6, Hawaii Revised Statutes, is
8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) The county surcharge on state tax, upon the adoption
10 of county ordinances and in accordance with the requirements of
11 section 46-16.8, shall be levied, assessed, and collected as
12 provided in this section on all gross proceeds and gross income
13 taxable under this chapter. No county shall set the surcharge
14 on state tax to be levied, assessed, or collected at a rate
15 greater than [~~one-half~~]:

16 (1) One-half of one per cent if before January 1, 2031;

17 and

18 (2) One-fourth of one per cent if after December 31, 2030,

19 of all gross proceeds and gross income taxable under this
20 chapter. All provisions of this chapter shall apply to the
21 county surcharge on state tax. With respect to the surcharge,



1 the director of taxation shall have all the rights and powers
2 provided under this chapter. In addition, the director of
3 taxation shall have the exclusive rights and power to determine
4 the county or counties in which a person is engaged in business
5 and, in the case of a person engaged in business in more than
6 one county, the director shall determine, through apportionment
7 or other means, that portion of the surcharge on state tax
8 attributable to business conducted in each county.

9 (b) Each county surcharge on state tax that may be
10 adopted, extended, or amended pursuant to section 46-16.8 shall
11 be levied beginning in a taxable year after the adoption of the
12 relevant county ordinance; provided that no surcharge on state
13 tax may be levied[+

14 ~~(1) Before:~~

15 ~~(A)] before:~~

16 (1) January 1, 2007, if the county surcharge on state tax
17 was established by an ordinance adopted before
18 December 31, 2005;

19 ~~(B)]~~ (2) January 1, 2019, if the county surcharge on state
20 tax was established by the adoption of an ordinance
21 after June 30, 2015, but before June 30, 2018;



- 1 [~~(C)~~] (3) January 1, 2020, if the county surcharge on state
- 2 tax was established by the adoption of an ordinance on
- 3 or after June 30, 2018, but before March 31, 2019;
- 4 [~~(D)~~] (4) January 1, 2024, if the county surcharge on state
- 5 tax was established by the adoption of an ordinance on
- 6 or after March 31, 2019, but before August 1, 2023; or
- 7 [~~(E)~~] (5) January 1, 2025, if the county surcharge on state
- 8 tax was established by the adoption of an ordinance on
- 9 or after August 1, 2023, but before December 31, 2023;
- 10 and
- 11 ~~(2) After December 31, 2030]."~~

12 SECTION 6. Section 238-2.6, Hawaii Revised Statutes, is

13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) The county surcharge on state tax, upon the adoption

15 of a county ordinance and in accordance with the requirements of

16 section 46-16.8, shall be levied, assessed, and collected as

17 provided in this section on the value of property and services

18 taxable under this chapter. No county shall set the surcharge

19 on state tax to be levied, assessed, or collected at a rate

20 greater than ~~[one-half]~~:



1 (1) One-half of one per cent if prior to January 1, 2031;
2 and
3 (2) One-fourth of one per cent if after December 31, 2030,
4 of the value of property taxable under this chapter. All
5 provisions of this chapter shall apply to the county surcharge
6 on state tax. With respect to the surcharge, the director shall
7 have all the rights and powers provided under this chapter. In
8 addition, the director of taxation shall have the exclusive
9 rights and power to determine the county or counties in which a
10 person imports or purchases property and, in the case of a
11 person importing or purchasing property in more than one county,
12 the director shall determine, through apportionment or other
13 means, that portion of the surcharge on state tax attributable
14 to the importation or purchase in each county.

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

20 ~~(1) Before:~~

21 ~~(A)] before:~~



1 (1) January 1, 2007, if the county surcharge on state tax
2 was established by an ordinance adopted before
3 December 31, 2005;

4 [~~(B)~~] (2) January 1, 2019, if the county surcharge on state
5 tax was established by the adoption of an ordinance
6 after June 30, 2015, but before June 30, 2018; or

7 [~~(C)~~] (3) January 1, 2020, if the county surcharge on state
8 tax was established by the adoption of an ordinance on
9 or after June 30, 2018, but before March 31, 2019;

10 [~~(D)~~] (4) January 1, 2024, if the county surcharge on state
11 tax was established by the adoption of an ordinance on
12 or after March 31, 2019, but before August 1, 2023; or

13 [~~(E)~~] (5) January 1, 2025, if the county surcharge on state
14 tax was established by the adoption of an ordinance on
15 or after August 1, 2023, but before December 31,
16 2023[~~+~~]

17 ~~(2) After December 31, 2030]."~~

18 SECTION 7. Section 248-2.7, Hawaii Revised Statutes, is
19 amended by amending subsections (b) and (c) to read as follows:

20 " (b) [~~For the period beginning~~] Beginning on January 1,
21 2018, [~~to December 31, 2030,~~] transient accommodations tax and



1 surcharge on state tax revenues allocated to the mass transit
2 special fund pursuant to sections 237D-2(e) and 248-2.6 shall be
3 deposited into the special fund. All interest earned on the
4 moneys in the special fund shall be credited to the general
5 fund. The mass transit special fund shall be exempt from the
6 central service expenses deduction under section 36-27 and
7 departmental administrative expenses deduction under section
8 36-30.

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

18 ~~(1) Operating or maintenance costs of the mass transit~~
19 ~~project or any purpose not consistent with section 46-~~
20 ~~16.8(f); or~~



1 ~~(2) Administrative, operating, marketing, or maintenance~~
2 ~~costs, including personnel costs, of a rapid~~
3 ~~transportation authority charged with the~~
4 ~~responsibility for constructing, operating, or~~
5 ~~maintaining the mass transit project;]~~

6 provided further that the total amount of funds that are
7 available, allocated, and disbursed by the director of finance
8 pursuant to this section shall not be in excess of the total
9 amount indicated on the certification statement. The director
10 of finance may allocate and disburse moneys pursuant to this
11 section on a monthly basis.

12 Any amounts allocated and disbursed pursuant to this
13 section shall be subject to the availability of funds deposited
14 and on balance in the special fund. The director of finance
15 shall not allocate or disburse any amounts from the special fund
16 that are in excess of any amounts deposited and on balance in
17 the special fund."

18 SECTION 8. Act 247, Session Laws of Hawaii 2005, as
19 amended by Act 240, Session Laws of Hawaii 2015, as amended by
20 Act 1, Special Session of 2017, is amended by amending section 9
21 to read as follows:



1 "SECTION 9. This Act shall take effect upon its approval[+
2 ~~provided that:~~

3 ~~(1) If none of the counties of the State adopt an
4 ordinance to levy a county surcharge on state tax by
5 December 31, 2005, this Act shall be repealed and
6 section 437D 8.4, Hawaii Revised Statutes, shall be
7 reenacted in the form in which it read on the day
8 prior to the effective date of this Act;~~

9 ~~(2) If any county does not adopt an ordinance to levy a
10 county surcharge on state tax by December 31, 2005, it
11 shall be prohibited from adopting such an ordinance
12 pursuant to this Act, unless otherwise authorized by
13 the legislature through a separate legislative act;
14 and~~

15 ~~(3) If an ordinance to levy a county surcharge on state
16 tax is adopted by December 31, 2005:~~

17 ~~(A) The ordinance shall be repealed on December 31,
18 2022; provided that the repeal of the ordinance
19 shall not affect the validity or effect of an
20 ordinance to extend a surcharge on state tax~~



1 ~~adopted pursuant to an act of the legislature;~~
2 ~~and~~
3 ~~(B) This Act shall be repealed on December 31, 2030,~~
4 ~~and section 437D 8.4, Hawaii Revised Statutes,~~
5 ~~shall be reenacted in the form in which it read~~
6 ~~on the day prior to the effective date of this~~
7 ~~Act; provided that the amendments made to section~~
8 ~~437D 8.4, Hawaii Revised Statutes, by Act 226,~~
9 ~~Session Laws of Hawaii 2008, as amended by Act~~
10 ~~11, Session Laws of Hawaii 2009, and Act 110,~~
11 ~~Session Laws of Hawaii 2014, shall not be~~
12 ~~repealed]."~~

13 SECTION 10. This Act shall not affect the validity or
14 effect of any surcharge on state tax adopted pursuant to
15 Act 247, Session Laws of Hawaii 2005; Act 240, Session Laws of
16 Hawaii 2015; Act 137, Session Laws of Hawaii 2017; Act 1,
17 Special Session Laws of Hawaii 2017; and Act 11, Session Laws of
18 Hawaii 2018, and Act 48, Session Laws of Hawaii 2023, prior to
19 the effective date of this Act.

20 SECTION 11. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 12. This Act shall take effect on July 1, 2025.

2

INTRODUCED BY: Karl Rhoad



S.B. NO. 310

Report Title:

General Excise Tax; County Surcharge; Tax Assessment; Use

Description:

Authorizes a county with a pre-existing surcharge to continue the surcharge after December 31, 2030, at a lower rate of one-fourth per cent. Authorizes counties that have not adopted a surcharge ordinance on state tax to adopt a surcharge ordinance at the current rate of one-half of one per cent through December 31, 2030, and at a rate of one-fourth of one per cent after December 31, 2030. Expands the authorized use of surcharge revenues to more than capital costs of a locally preferred alternative for a mass transit project for counties with a population greater than five hundred thousand.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

