
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1 PART I

2 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
3 by adding a new section to be appropriately designated and to
4 read as follows:

5 "§46- County surcharge on transient accommodations tax.

6 (a) Each county may establish a surcharge on transient
7 accommodations tax at the rate enumerated in section 237D- .
8 A county electing to establish a surcharge pursuant to this
9 section shall do so by ordinance; provided that:

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

12 (2) The ordinance shall be adopted prior to December 31,
13 2023; and

14 (3) No county surcharge on transient accommodations tax
15 that may be authorized under this subsection shall be
16 levied after December 31, 2026.



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 (b) A county electing to exercise the authority granted
6 under this section shall notify the director of taxation within
7 ten days after the county has adopted a surcharge on transient
8 accommodations tax ordinance and, beginning no earlier than one
9 hundred eighty days after the establishment of the surcharge
10 authorized under this section, the director of taxation shall
11 levy, assess, collect, and otherwise administer the county
12 surcharge on transient accommodations tax."

13 SECTION 2. Chapter 237D, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§237D- County surcharge on transient accommodations
17 tax; administration. (a) The county surcharge on transient
18 accommodations tax, upon the adoption of county ordinances and
19 in accordance with the requirements of section 46- , shall be
20 levied, assessed, and collected as provided in this section on
21 all gross rental, gross rental proceeds, and fair market rental



1 value taxable under this chapter. No county shall set the
2 surcharge on transient accommodations tax at a rate greater than
3 twenty-five per cent of all gross rental, gross rental proceeds,
4 and fair market rental value taxable under this chapter. All
5 provisions of this chapter shall apply to the county surcharge
6 on transient accommodations tax. With respect to the surcharge,
7 the director of taxation shall have all the rights and powers
8 provided under this chapter.

9 (b) Each county surcharge on transient accommodations tax
10 that may be adopted pursuant to section 46- shall be levied
11 beginning in the taxable year after the adoption of the relevant
12 county ordinance; provided that no surcharge on transient
13 accommodations tax may be levied:

14 (1) Less than one hundred eighty days after the
15 establishment of the surcharge authorized under
16 section 46- ; or

17 (2) After December 31, 2026.

18 (c) The county surcharge on transient accommodations tax,
19 if adopted, shall be imposed on the gross rental, gross rental
20 proceeds, and fair market rental value of all written contracts
21 that require the passing on of the taxes imposed under this



1 chapter; provided that if the gross rental, gross rental
2 proceeds, and fair market rental value are received as payments
3 beginning in the taxable year in which the taxes become
4 effective, on contracts entered into before June 30 of the year
5 prior to the taxable year in which the taxes become effective,
6 and the written contracts do not provide for the passing on of
7 increased rates of taxes, the county surcharge on transient
8 accommodations tax shall not be imposed on the gross rental,
9 gross rental proceeds, and fair market rental value covered
10 under the written contracts. The county surcharge on transient
11 accommodations tax shall be imposed on the gross rental, gross
12 rental proceeds, and fair market rental value from all contracts
13 entered into on or after June 30 of the year prior to the
14 taxable year in which the taxes become effective, regardless of
15 whether the contract allows for the passing on of any tax or any
16 tax increases.

17 (d) No county surcharge on transient accommodations tax
18 shall be established on any form of accommodation exempt from
19 the taxes imposed by this chapter pursuant to section 237D-3.

20 (e) The director of taxation shall revise the transient
21 accommodations tax forms to provide for the clear and separate



1 designation of the imposition and payment of the county
2 surchage on transient accommodations tax.

3 (f) The county surcharge on transient accommodations tax
4 shall be assigned to the taxation district in which the
5 transient accommodations or resort time share vacation unit is
6 located. The taxpayer shall file a schedule with the taxpayer's
7 periodic and annual transient accommodations tax returns
8 summarizing the amount of taxes assigned to each taxation
9 district.

10 (g) The penalties provided by section 231-39 for failure
11 to file a tax return shall be imposed on the amount of surcharge
12 due on the return being filed for the failure to file the
13 schedule required to accompany the return. In addition, there
14 shall be added to the tax an amount equal to ten per cent of the
15 amount of the surcharge and tax due on the return being filed
16 for the failure to file the schedule or the failure to correctly
17 report the assignment of the transient accommodations tax by
18 taxation district on the schedule required under subsection (f).

19 (h) All taxpayers who file on a fiscal year basis whose
20 fiscal year ends after December 31 of the year prior to the
21 taxable year in which the taxes become effective, shall file a



1 short period annual return for the period preceding January 1 of
2 the taxable year in which the taxes become effective. Each
3 fiscal year taxpayer shall also file a short period annual
4 return for the period starting on January 1 of the taxable year
5 in which the taxes become effective, and ending before January 1
6 of the following year."

7 SECTION 3. Chapter 248, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§248- County surcharge on transient accommodations
11 tax; disposition of proceeds. (a) If adopted by county
12 ordinance, all county surcharges on transient accommodations tax
13 collected by the director of taxation shall be paid into the
14 state treasury quarterly, within ten working days after
15 collection, and shall be placed by the director of finance in
16 special accounts. Out of the revenues generated by county
17 surcharges on transient accommodations tax paid into each
18 respective state treasury special account, the director of
19 finance shall deduct one per cent of the gross proceeds of a
20 respective county's surcharge on transient accommodations tax to
21 reimburse the State for the costs of assessment, collection, and



1 disposition of the county surcharge on transient accommodations
2 tax incurred by the State. Amounts retained shall be general
3 fund realizations of the State.

4 (b) The amounts deducted for costs of assessment,
5 collection, and disposition of county surcharges on transient
6 accommodations tax shall be withheld from payment to the
7 counties by the State out of the county surcharges on transient
8 accommodations tax collected for the current calendar year.

9 (c) For the purposes of this section, the costs of
10 assessment, collection, and disposition of the county surcharges
11 on transient accommodations tax shall include any and all costs,
12 direct or indirect, that are deemed necessary and proper to
13 effectively administer this section and section 237D- .

14 (d) After the deduction and withholding of the costs under
15 subsections (a) and (b), the director of finance shall pay the
16 remaining balance on a quarterly basis to the director of
17 finance of each county that has adopted a county surcharge on
18 transient accommodations tax under section 46- . The
19 quarterly payments shall be made after the county surcharges on
20 transient accommodations tax have been paid into the state
21 treasury special accounts or after the disposition of any tax



1 appeal, as the case may be. All county surcharges on transient
2 accommodations tax collected shall be distributed by the
3 director of finance to the county in which the county surcharge
4 on transient accommodations tax is generated and shall be a
5 general fund realization of the county."

6 PART II

7 SECTION 4. Section 87A-42, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§87A-42 Other post-employment benefits trust. (a)**
10 Notwithstanding sections 87A-31 and 87A-31.5, the board, upon
11 terms and conditions set by the board, shall establish and
12 administer a separate trust fund for the purpose of receiving
13 employer contributions that will prefund other post-employment
14 health and other benefit plan costs for retirees and their
15 beneficiaries. The separate trust fund shall meet the
16 requirements of the Governmental Accounting Standards Board
17 regarding other post-employment benefits trusts. The board
18 shall establish and maintain a separate account for each public
19 employer within the separate trust fund to accept and account
20 for each public employer's contributions. Employer
21 contributions to the separate trust fund shall be irrevocable,



1 all assets of the fund shall be dedicated exclusively to
2 providing health and other benefits to retirees and their
3 beneficiaries, and assets of the fund shall not be subject to
4 appropriation for any other purpose and shall not be subject to
5 claims by creditors of the employers or the board or plan
6 administrator. The board's powers under section 87A-24 shall
7 also apply to the fund established pursuant to this section.

8 (b) Public employer contributions shall be paid into the
9 fund in each fiscal year, and commencing with the 2018-2019
10 fiscal year, the amount of the annual public employer
11 contribution shall be equal to the amount of the annual required
12 contribution, as determined by an actuary retained by the board.

13 (c) In any fiscal year subsequent to the 2017-2018 fiscal
14 year in which the state public employer's contributions into the
15 fund are less than the amount of the annual required
16 contribution, the amount that represents the excess of the
17 annual required contribution over the state public employer's
18 contributions shall be deposited into the appropriate account of
19 the separate trust fund from a portion of all general excise tax
20 revenues collected by the department of taxation under section
21 237-31.



1 If any general excise tax revenues are deposited into the
2 separate trust fund in any fiscal year as a result of this
3 subsection, the director of finance shall notify the legislature
4 and governor whether the general fund expenditure ceiling for
5 that fiscal year would have been exceeded if those revenues had
6 been legislatively appropriated instead of deposited without
7 appropriation into the trust fund. The notification shall be
8 submitted within thirty days following the end of the applicable
9 fiscal year.

10 ~~[(d) In any fiscal year subsequent to the 2017-2018 fiscal~~
11 ~~year in which a county public employer's contributions into the~~
12 ~~fund are less than the amount of the annual required~~
13 ~~contribution, the amount that represents the excess of the~~
14 ~~annual required contribution over the county public employer's~~
15 ~~contributions shall be deposited into the fund from a portion of~~
16 ~~all transient accommodations tax revenues collected by the~~
17 ~~department of taxation under section 237D-6.5(b)(4). The~~
18 ~~director of finance shall deduct the amount necessary to meet~~
19 ~~the county public employer's annual required contribution from~~
20 ~~the revenues derived under section 237D-6.5(b)(4) and transfer~~



1 ~~the amount to the board for deposit into the appropriate account~~
2 ~~of the separate trust fund.~~

3 ~~(e)]~~ (d) In any fiscal year subsequent to fiscal year
4 2017-2018 in which a public employer's contributions into the
5 fund are less than the amount of the annual required
6 contribution and the public employer is not entitled to
7 transient accommodations tax revenues sufficient to satisfy the
8 total amount of the annual required contribution, the public
9 employer's contributions shall be deposited into the fund from
10 portions of any other revenues collected on behalf of the public
11 employer or held by the State. The director of finance shall
12 deduct the amount necessary to meet the public employer's annual
13 required contribution from any revenues collected on behalf of
14 the public employer held by the State and transfer the amount to
15 the board for deposit into the appropriate account of the
16 separate trust fund.

17 ~~(+f)]~~ (e) For the purposes of this section, "annual
18 required contribution" means a public employer's required
19 contribution to the trust fund established in this section that
20 is sufficient to cover:



1 (1) The normal cost, which is the cost of other post-
2 employment benefits attributable to the current year
3 of service; and

4 (2) An amortization payment, which is a catch-up payment
5 for past service costs to fund the unfunded actuarial
6 accrued liability over the next thirty years."

7 SECTION 5. Section 171-19, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) There is created in the department a special fund to
10 be designated as the "special land and development fund".
11 Subject to the Hawaiian Homes Commission Act of 1920, as
12 amended, and section 5(f) of the Admission Act of 1959, all
13 proceeds of sale of public lands, including interest on deferred
14 payments; all moneys collected under section 171-58 for mineral
15 and water rights; all rents from leases, licenses, and permits
16 derived from public lands; all moneys collected from lessees of
17 public lands within industrial parks; all fees, fines, and other
18 administrative charges collected under this chapter and chapter
19 183C; a portion of the highway fuel tax collected under chapter
20 243; all moneys collected by the department for the commercial
21 use of public trails and trail accesses under the jurisdiction



1 of the department; transient accommodations tax revenues
2 collected pursuant to section [~~237D-6.5(b)(5)~~], 237D-6.5(b); and
3 private contributions for the management, maintenance, and
4 development of trails and accesses shall be set apart in the
5 fund and shall be used only as authorized by the legislature for
6 the following purposes:

7 (1) To reimburse the general fund of the State for
8 advances made that are required to be reimbursed from
9 the proceeds derived from sales, leases, licenses, or
10 permits of public lands;

11 (2) For the planning, development, management, operations,
12 or maintenance of all lands and improvements under the
13 control and management of the board pursuant to title
14 12, including but not limited to permanent or
15 temporary staff positions who may be appointed without
16 regard to chapter 76; provided that transient
17 accommodations tax revenues allocated to the fund
18 shall be expended as provided in section
19 [~~237D-6.5(b)(5)~~], 237D-6.5(b);

20 (3) To repurchase any land, including improvements, in the
21 exercise by the board of any right of repurchase



- 1 specifically reserved in any patent, deed, lease, or
2 other documents or as provided by law;
- 3 (4) For the payment of all appraisal fees; provided that
4 all fees reimbursed to the board shall be deposited in
5 the fund;
- 6 (5) For the payment of publication notices as required
7 under this chapter; provided that all or a portion of
8 the expenditures may be charged to the purchaser or
9 lessee of public lands or any interest therein under
10 rules adopted by the board;
- 11 (6) For the management, maintenance, and development of
12 trails and trail accesses under the jurisdiction of
13 the department;
- 14 (7) For the payment to private land developers who have
15 contracted with the board for development of public
16 lands under section 171-60;
- 17 (8) For the payment of debt service on revenue bonds
18 issued by the department, and the establishment of
19 debt service and other reserves deemed necessary by
20 the board;



- 1 (9) To reimburse the general fund for debt service on
2 general obligation bonds issued to finance
3 departmental projects, where the bonds are designated
4 to be reimbursed from the special land and development
5 fund;
- 6 (10) For the protection, planning, management, and
7 regulation of water resources under chapter 174C; and
- 8 (11) For other purposes of this chapter."

9 SECTION 6. Section 237D-6.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§237D-6.5 Remittances**~~[, distribution to counties]~~. (a)

12 All remittances of taxes imposed under this chapter shall be
13 made by cash, bank drafts, cashier's check, money order, or
14 certificate of deposit to the office of the taxation district to
15 which the return was transmitted.

16 (b) Except for the revenues collected pursuant to section
17 237D-2(e), revenues collected under this chapter shall be
18 distributed in the following priority, with the excess revenues
19 to be deposited into the general fund:

- 20 (1) \$1,500,000 shall be allocated to the Turtle Bay
21 conservation easement special fund beginning July 1,



1 2015, for the reimbursement to the state general fund
2 of debt service on reimbursable general obligation
3 bonds, including ongoing expenses related to the
4 issuance of the bonds, the proceeds of which were used
5 to acquire the conservation easement and other real
6 property interests in Turtle Bay, Oahu, for the
7 protection, preservation, and enhancement of natural
8 resources important to the State, until the bonds are
9 fully amortized;

10 (2) \$16,500,000 shall be allocated to the convention
11 center enterprise special fund established under
12 section 201B-8;

13 (3) \$79,000,000 shall be allocated to the tourism special
14 fund established under section 201B-11; provided that:

15 (A) Beginning on July 1, 2012, and ending on June 30,
16 2015, \$2,000,000 shall be expended from the
17 tourism special fund for development and
18 implementation of initiatives to take advantage
19 of expanded visa programs and increased travel
20 opportunities for international visitors to
21 Hawaii;



1 (B) Of the \$79,000,000 allocated:

2 (i) \$1,000,000 shall be allocated for the

3 operation of a Hawaiian center and the

4 museum of Hawaiian music and dance; and

5 (ii) 0.5 per cent of the \$79,000,000 shall be

6 transferred to a sub-account in the tourism

7 special fund to provide funding for a safety

8 and security budget, in accordance with the

9 Hawaii tourism strategic plan 2005-2015; and

10 (C) Of the revenues remaining in the tourism special

11 fund after revenues have been deposited as

12 provided in this paragraph and except for any sum

13 authorized by the legislature for expenditure

14 from revenues subject to this paragraph,

15 beginning July 1, 2007, funds shall be deposited

16 into the tourism emergency special fund,

17 established in section 201B-10, in a manner

18 sufficient to maintain a fund balance of

19 \$5,000,000 in the tourism emergency special fund;

20 ~~[(4) \$103,000,000 shall be allocated as follows: Kauai~~

21 ~~county shall receive 14.5 per cent, Hawaii county~~



1 ~~shall receive 18.6 per cent, city and county of~~
2 ~~Honolulu shall receive 44.1 per cent, and Maui county~~
3 ~~shall receive 22.8 per cent; provided that commencing~~
4 ~~with fiscal year 2018-2019, a sum that represents the~~
5 ~~difference between a county public employer's annual~~
6 ~~required contribution for the separate trust fund~~
7 ~~established under section 87A-42 and the amount of the~~
8 ~~county public employer's contributions into that trust~~
9 ~~fund shall be retained by the state director of~~
10 ~~finance and deposited to the credit of the county~~
11 ~~public employer's annual required contribution into~~
12 ~~that trust fund in each fiscal year, as provided in~~
13 ~~section 87A-42, if the respective county fails to~~
14 ~~remit the total amount of the county's required annual~~
15 ~~contributions, as required under section 87A-43;] and~~
16 [+5+] (4) \$3,000,000 shall be allocated to the special land
17 and development fund established under section 171-19;
18 provided that the allocation shall be expended in
19 accordance with the Hawaii tourism authority strategic
20 plan for:



- 1 (A) The protection, preservation, maintenance, and
2 enhancement of natural resources, including
3 beaches, important to the visitor industry;
- 4 (B) Planning, construction, and repair of facilities;
5 and
- 6 (C) Operation and maintenance costs of public lands,
7 including beaches, connected with enhancing the
8 visitor experience.

9 All transient accommodations taxes shall be paid into the
10 state treasury each month within ten days after collection and
11 shall be kept by the state director of finance in special
12 accounts for distribution as provided in this subsection.

13 As used in this subsection, "fiscal year" means the
14 twelve-month period beginning on July 1 of a calendar year and
15 ending on June 30 of the following calendar year.

16 ~~[(c) On or before January or July 1 of each year or after~~
17 ~~the disposition of any tax appeal with respect to an assessment~~
18 ~~for periods after June 30, 1990, the state director of finance~~
19 ~~shall compute and pay the amount due as provided in subsection~~
20 ~~(b) to the director of finance of each county to become a~~



1 ~~general realization of the county expendable as such, except as~~
2 ~~otherwise provided by law.] "~~

3 PART III

4 SECTION 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect upon its approval;
7 provided that:

8 (1) If none of the counties of the State adopt an
9 ordinance to levy a county surcharge on transient
10 accommodations tax by December 31, 2023, this Act
11 shall be repealed;

12 (2) If any county does not adopt an ordinance to levy a
13 county surcharge on transient accommodations tax by
14 December 31, 2023, it shall be prohibited from
15 adopting such an ordinance pursuant to this Act,
16 unless otherwise authorized by the legislature through
17 a separate legislative act; and

18 (3) If an ordinance to levy a county surcharge on
19 transient accommodations tax is adopted by
20 December 31, 2023:



- 1 (A) The ordinance shall be repealed on December 31,
2 2026; and
3 (B) This Act shall be repealed on December 31, 2026.



Report Title:

Transit Accommodations Tax; County Surcharge

Description:

Repeals the distribution of transit accommodations tax revenues to the counties. Authorizes each county to impose a surcharge on transient accommodations tax. (SD1 Proposed)

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