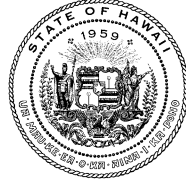


DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



RONA M. SUZUKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Clarence K. Nishihara, Chair;
The Honorable Glenn Wakai, Vice Chair;
and Members of the Senate Committee on Public Safety, Intergovernmental, and
Military Affairs

The Honorable Lorraine R. Inouye, Chair;
The Honorable Breene Harimoto, Vice Chair;
and Members of the Senate Committee on Transportation

From: Rona M. Suzuki, Director
Department of Taxation

Re: S.B. 2686, Relating to Taxation

Date: Friday, February 7, 2020

Time: 1:15 P.M.

Place: Conference Room 225, State Capitol

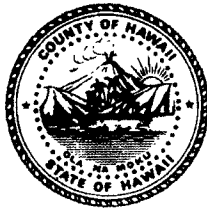
The Department of Taxation (Department) appreciates the intent of this bill and has concerns about its ability to implement S.B. 2686 in the timeframe specified.

S.B. 2686 extends the deadline for a county to adopt an ordinance to establish a general excise tax surcharge from March 31, 2019 to December 31, 2020, and allows the counties with a population of 500,000 or less to use the revenues from the surcharge for disaster relief. The bill is effective on July 1, 2020. To date, Honolulu, Kauai, and Hawaii Counties have adopted a County Surcharge (CS). Thus, the extension to adopt a CS will only affects Maui County.

S.B. 2686 requires that the county ordinance be adopted prior to December 31, 2020 with imposition and collection of the CS to begin January 1, 2021. This is not administratively possible for the Department. The Department needs approximately six months to make form changes, develop and test technical configurations, and educate taxpayers. The Department respectfully requests that the county ordinance be adopted prior to June 30 with imposition and collection of the CS to begin the following January 1.

Thank you for the opportunity to provide comments.

Harry Kim
Mayor



Roy Takemoto
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
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February 5, 2020

Senator Lorraine R. Inouye, Chair
Senator Breene Harimoto, Vice Chair
Committee on Transportation

Senator Clarence K. Nishara, Chair
Senator Glenn Wakai, Vice Chair
Committee on Public Safety, Intergovernmental, and Military Affairs
Hawai'i State Legislature

Dear Chairs Inouye and Nishihara, Vice-Chair Harimoto and Wakai,, and Committee members:

RE: SB 2686 Relating to Taxation

SB 2686 is somewhat similar to SB 2140, previously heard and passed in WAM, but with a different window of opportunity, and with the added feature that revenue could be used for disaster relief.

As I testified on SB 2140, Hawai'i County has adopted its surcharge on State tax, and therefore would not be affected directly by adoption of that bill. Nevertheless, I thought that it was appropriate for me to support my counterparts in other counties as they face financial issues unique to each jurisdiction.

Now, with disaster relief added to the mix, Hawai'i County would see a direct benefit through flexibility. Therefore, even though SB 2140 already received a favorable vote, I would ask that SB 2686 also be approved.

Thank you for your consideration.

Respectfully Submitted,

Harry Kim
MAYOR

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TAXATION; Extend County Surcharge Adoption, Allow Use for Disaster Relief

BILL NUMBER: SB 2686; HB 2648

INTRODUCED BY: SB by KEITH-AGARAN, BAKER, ENGLISH, Inouye, K. Kahele; HB by SAIKI by request

EXECUTIVE SUMMARY: Extends the period that a county may adopt a surcharge on state tax, under certain conditions, from March 31, 2019, to December 31, 2020. Allows a county with a population equal to or less than five hundred thousand that adopts a surcharge on state tax to use surcharge revenues for disaster relief.

SYNOPSIS: Amends section 46-16.8, HRS, to allow a county to adopt a surcharge on the state general excise tax by ordinance prior to 6/30/2021. The surcharge will go into effect on 1/1/2021 if the ordinance is passed before 6/30/2020, and it will go into effect on 1/1/2022 if the ordinance is passed on or after 6/30/2020.

Also allows for a county with a population less than or equal to 500,000 to use the surcharge for disaster relief.

EFFECTIVE DATE: July 1, 2020.

STAFF COMMENTS: This measure concerns the 0.5% surcharge on the general excise tax that is currently imposed in the City and County of Honolulu, sometimes known as the “rail surcharge.” As originally enacted in 2006, the rail surcharge was scheduled to sunset on December 31, 2022. The surcharge authority was extended to December 31, 2027, by Act 240, Session Laws of Hawaii 2015, and the City & County of Honolulu extended the surcharge by Ordinance 16-1. To date, Kauai County has adopted a 0.5% surcharge and Hawaii County has opted for 0.25% but later raised it to 0.5%. Maui County has not adopted the surcharge yet.

How can counties raise money to balance their budgets?

One source of funding that is available to any county is the real property tax. Article VIII, section 3 of the Hawaii Constitution exclusively and directly gives power to the counties to impose real property tax. *State ex rel. Anzai v. City and County of Honolulu*, 99 Hawai‘i 508, 57 P.3d 433 (2002), established that for at least the past twenty years, any county is “free to exercise its exclusive authority to increase, diminish, enact, or repeal any exemptions involving real property taxes without interference by the legislature.” *Id.*, 57 P.3d at 446. The real property tax is imposed by county ordinance, it is imposed on those under the jurisdiction of the county and not of the state, and the money raised belongs to the county imposing it.

Another source of funding is state tax; specifically, state tax that is shared with the counties. Article VIII, section 3 of the Hawaii Constitution provides:

The taxing power shall be reserved to the State, except so much thereof as may be delegated by the legislature to the political subdivisions, and except that all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao. The legislature shall have the power to apportion state revenues among the several political subdivisions.

Where the funds raised are by state statute imposing a state tax, the money raised is the State's money. The Hawaii Constitution, in the language quoted above, explicitly empowers the Legislature to apportion that money to one or more political subdivisions however the Legislature sees fit. Money can be raised for general revenue purposes, as is the case with most taxes including the Transient Accommodations Tax. That money can also be directed to special funds used for specific purposes, as is the case with the fuel tax that feeds the Highway Fund. Sometimes the tax money raised is directed to a multitude of uses, as with the TAT and the Conveyance Tax. It has been held that such funds can be disbursed to one or more counties through grants in aid, and that the State can enact conditions upon the power to disburse or give discretion to the Executive Branch to withhold disbursement. *Fasi v. Burns*, 56 Hawai'i 615, 618-19, 546 P.2d 1122, 1125 (1976).

The county surcharge on the GET, which is the subject of this bill, is imposed by county ordinance and not state law, although state statute delegates the power to tax.

That part of the bill allowing the counties to use surcharge moneys for disaster relief needs to be scrutinized carefully to make sure that the bill meets the Hawaii Constitution's requirement in Article VIII, section 2, that state laws affect the counties by way of general laws only. *Fasi v. City & County of Honolulu*, 50 Haw. 277, 283-84, 439 P.2d 206 (1968). The surcharge as originally adopted met this requirement by providing that all counties must use the surcharge moneys for public transportation. Even now, the statute requires the City & County of Honolulu to use surcharge money for rail, but other counties need to use it for operating or capital costs of public transportation systems.

Digested 2/4/2020

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 4, 2020

TO: The Honorable Lorraine R. Inouye, Chair
Senate Committee on Transportation

The Honorable Clarence K. Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

FROM: Alice L. Lee
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 7, 2020; TESTIMONY IN SUPPORT OF SB 2686, RELATING TO TAXATION**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this bill is to extend the period that a county may adopt a surcharge on state tax, under certain conditions, from March 31, 2019, to December 31, 2020. The bill allows a county with a population equal to or less than five hundred thousand that adopts a county surcharge on state tax to use surcharge revenues for disaster relief.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. This measure would directly impact Maui County because it has a population less than five hundred thousand.
2. This measure would generate increased funds for Maui County to better respond to disasters and provide disaster relief.

For the foregoing reasons, I **support** this measure.

SB-2686

Submitted on: 2/6/2020 12:21:00 AM

Testimony for PSM on 2/7/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE SENATE COMMITTEE ON TRANSPORTATION AND
COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 225
FRIDAY, FEBRUARY 7, 2020 AT 1:15 P.M.**

To The Honorable Lorraine R. Inouye, Chair;
The Honorable Breene Harimoto, Vice Chair; and
Members of the Committee on Transportation,

To The Honorable Clarence K. Nishihara, Chair;
The Honorable Glenn Wakai, Vice Chair; and
Members of the Committee on Public Safety, Intergovernmental & Military Affairs,

COMMENTS ON SB2686 RELATING TO TAXATION

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce, with approximately 650 members. I am writing share our comments on SB2686.

Increases in the General Excise Tax impact everyone, from businesses and residents to being another factor that increases the cost of visitor vacations to Hawaii. At a time when the state is working to reduce the cost of living, this surcharge will only increase costs for residents. As the Legislature is also proposing a staggered, but significant minimum wage increase, businesses could have two serious increases to their expenses in one year. Given these effects, we have to look at the collective impact another increase will have to our members, who are residents and business owners and employees and look at the big picture.

We appreciate the language in this bill that the funds can be used for transportation costs and disaster relief. If a disaster hits, that is a top priority, so we support the inclusion of that language. It is also important that transportation is included as Maui County needs to address our most urgent challenges with this type of funding such as deteriorating roadways and bridges that are critical. While we support busses, bikeways and greenways, other funding can be used for work in these areas. That being said, Maui County is looking to make a strong push for development of affordable housing and rentals. We feel any tax increase should be used for high priority areas that take care of our most pressing needs like infrastructure for affordable housing including water and sewer/septic. With these modifications to address our top priorities, we would support this bill.

We appreciate the opportunity to testify on this matter.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.