
A BILL FOR AN ACT

RELATING TO TAXATION.

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

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

4 "§46- County water infrastructure surcharge on state
5 tax. (a) Each county may establish a water infrastructure
6 surcharge on state tax at the rates enumerated in sections
7 237- and 238- . A county electing to establish this
8 surcharge shall do so by ordinance; provided that:

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

12 (2) No county water infrastructure surcharge on state tax
13 that may be authorized under this section shall be
14 levied prior to January 1, 2012.

15 Notice of the public hearing required under paragraph (1) shall
16 be in accordance with section 1-28.5; provided that for the
17 purposes of this section, the notice shall be published in a
18 newspaper of general circulation within the county at least



1 twice within a period of thirty days immediately preceding the
2 date of the hearing.

3 (b) A county electing to exercise the authority granted
4 under this section shall notify the director of taxation within
5 ten days after the county has adopted a county water
6 infrastructure surcharge on state tax ordinance and, beginning
7 no earlier than January 1, 2012, the director of taxation shall
8 levy, assess, collect, and otherwise administer the county water
9 infrastructure surcharge on state tax.

10 (c) Each county that adopts an county water infrastructure
11 surcharge on state tax ordinance pursuant to subsection (a)
12 shall use the surcharges received from the State for county
13 water infrastructure including infrastructure for reclaimed
14 water, waste water, and drainage."

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

18 "§237- County water infrastructure surcharge on state
19 tax. (a) The county water infrastructure surcharge on state
20 tax, upon the adoption of county ordinances and in accordance
21 with the requirements of section 46- , shall be levied,
22 assessed, and collected as provided in this section on all gross



1 proceeds and gross income taxable under this chapter. No county
2 shall set the county water infrastructure surcharge on state tax
3 at a rate greater than one-half per cent of all gross proceeds
4 and gross income taxable under this chapter. All provisions of
5 this chapter shall apply to the county water infrastructure
6 surcharge on state tax. With respect to the surcharge, the
7 director of taxation shall have all the rights and powers
8 provided under this chapter. In addition, the director of
9 taxation shall have the exclusive rights and power to determine
10 the county or counties in which a person is engaged in business
11 and, in the case of a person engaged in business in more than
12 one county, the director shall determine, through apportionment
13 or other means, that portion of the county water infrastructure
14 surcharge on state tax attributable to business conducted in
15 each county.

16 (b) Each county water infrastructure surcharge on state
17 tax that may be adopted pursuant to section 46- (a) shall be
18 levied beginning in the taxable year after the adoption of the
19 relevant county ordinance; provided that no county water
20 infrastructure surcharge on state tax may be levied prior to
21 January 1, 2012.



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

19 (d) No county water infrastructure surcharge on state tax
20 shall be established on any:

21 (1) Gross income or gross proceeds taxable under this
22 chapter at the one-half per cent tax rate;



1 (2) Gross income or gross proceeds taxable under this
2 chapter at the 0.15 per cent tax rate; or

3 (3) Transactions, amounts, persons, gross income, or gross
4 proceeds exempt from tax under this chapter.

5 (e) The director of taxation shall revise the general
6 excise tax forms to provide for the clear and separate
7 designation of the imposition and payment of the county water
8 infrastructure surcharge on state tax.

9 (f) The taxpayer shall designate the taxation district to
10 which the county water infrastructure surcharge on state tax is
11 assigned in accordance with rules adopted by the director of
12 taxation under chapter 91. The taxpayer shall file a schedule
13 with the taxpayer's periodic and annual general excise tax
14 returns summarizing the amount of taxes assigned to each
15 taxation district.

16 (g) The penalties provided by section 231-39 for failure
17 to file a tax return shall be imposed on the amount of surcharge
18 due on the return being filed for the failure to file the
19 schedule required to accompany the return. In addition, there
20 shall be added to the tax an amount equal to ten per cent of the
21 amount of the surcharge and tax due on the return being filed
22 for the failure to file the schedule or the failure to correctly



1 report the assignment of the general excise tax by taxation
2 district on the schedule required under this subsection.

3 (h) All taxpayers who file on a fiscal year basis whose
4 fiscal year ends after December 31 of the year prior to the
5 taxable year in which the taxes become effective, shall file a
6 short period annual return for the period preceding January 1 of
7 the taxable year in which the taxes become effective. Each
8 fiscal year taxpayer shall also file a short period annual
9 return for the period starting on January 1 of the taxable year
10 in which the taxes become effective, and ending before January 1
11 of the following year."

12 SECTION 3. Chapter 238, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§238- County water infrastructure surcharge on state
16 tax. (a) The county water infrastructure surcharge on state
17 tax, upon the adoption of a county ordinance and in accordance
18 with the requirements of section 46- , shall be levied,
19 assessed, and collected as provided in this section on the value
20 of property and services taxable under this chapter. No county
21 shall set the county water infrastructure surcharge on state tax
22 at a rate greater than one-half per cent of the value of



1 property taxable under this chapter. All provisions of this
2 chapter shall apply to the county water infrastructure surcharge
3 on state tax. With respect to the surcharge, the director of
4 taxation shall have all the rights and powers provided under
5 this chapter. In addition, the director of taxation shall have
6 the exclusive rights and power to determine the county or
7 counties in which a person imports or purchases tangible
8 personal property and, in the case of a person importing or
9 purchasing tangible property in more than one county, the
10 director shall determine, through apportionment or other means,
11 that portion of the surcharge on state tax attributable to the
12 importation or purchase in each county.

13 (b) Each county water infrastructure surcharge on state
14 tax that may be adopted shall be levied beginning in the taxable
15 year after the adoption of the relevant county ordinance;
16 provided that no county water infrastructure surcharge on state
17 tax may be levied prior to January 1, 2012.

18 (c) No county water infrastructure surcharge on state tax
19 shall be established upon any use taxable under this chapter at
20 the one-half per cent tax rate or upon any use that is not
21 subject to taxation or that is exempt from taxation under this
22 chapter.



1 (d) The director of taxation shall revise the use tax
2 forms to provide for the clear and separate designation of the
3 imposition and payment of the county water infrastructure
4 surcharge on state tax.

5 (e) The taxpayer shall designate the taxation district to
6 which the county water infrastructure surcharge on state tax is
7 assigned in accordance with rules adopted by the director of
8 taxation under chapter 91. The taxpayer shall file a schedule
9 with the taxpayer's periodic and annual use tax returns
10 summarizing the amount of taxes assigned to each taxation
11 district.

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

21 (g) All taxpayers who file on a fiscal year basis whose
22 fiscal year ends after December 31 of the year prior to the



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

8 SECTION 4. Chapter 248, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§248- County water infrastructure surcharge on state
12 tax; disposition of proceeds. (a) If adopted by county
13 ordinance, all county water infrastructure surcharges on state
14 tax established under section 46- and collected by the
15 director of taxation shall be paid into the state treasury
16 quarterly, within ten working days after collection, and shall
17 be placed by the director of finance in special accounts. Out
18 of the revenues generated by county water infrastructure
19 surcharges on state tax paid into each respective state treasury
20 special account, the director of finance shall deduct per
21 cent of the gross proceeds of a respective county's water
22 infrastructure surcharge on state tax to reimburse the State for



1 the costs of assessment, collection, and disposition of the
2 county water infrastructure surcharge on state tax incurred by
3 the State. Amounts retained shall be general fund realizations
4 of the State.

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

10 (c) For the purpose of this section, the costs of
11 assessment, collection, and disposition of the county water
12 infrastructure surcharges on state tax shall include any and all
13 costs, direct or indirect, that are deemed necessary and proper
14 to effectively administer this section and sections 237- and
15 238- .

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



1 state treasury special accounts or after the disposition of any
2 tax appeal, as the case may be. All county water infrastructure
3 surcharges on state tax collected shall be distributed by the
4 director of finance to the county in which the county water
5 infrastructure surcharge on state tax is generated and shall be
6 a general fund realization of the county, to be used for the
7 purposes specified in section 46- by each of the counties."

8 SECTION 5. Section 248-2.6, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) If adopted by county ordinance, all county surcharges
11 on state tax established under section 46-16.8 collected by the
12 director of taxation shall be paid into the state treasury
13 quarterly, within ten working days after collection, and shall
14 be placed by the director of finance in special accounts. Out
15 of the revenues generated by county surcharges on state tax paid
16 into each respective state treasury special account, the
17 director of finance shall deduct ten per cent of the gross
18 proceeds of a respective county's surcharge on state tax to
19 reimburse the State for the costs of assessment, collection, and
20 disposition of the county surcharge on state tax incurred by the
21 State. Amounts retained shall be general fund realizations of
22 the State."



1 SECTION 6. Section 437D-8.4, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Notwithstanding any law to the contrary, a lessor may
4 visibly pass on to a lessee:

5 (1) The general excise tax attributable to the
6 transaction;

7 (2) The vehicle license and registration fee and weight
8 taxes, prorated at 1/365th of the annual vehicle
9 license and registration fee and weight taxes actually
10 paid on the particular vehicle being rented for each
11 full or partial twenty-four-hour rental day that the
12 vehicle is rented; provided the total of all vehicle
13 license and registration fees charged to all lessees
14 shall not exceed the annual vehicle license and
15 registration fee actually paid for the particular
16 vehicle rented;

17 (3) The rental motor vehicle surcharge tax as provided in
18 section 251-2 attributable to the transaction;

19 (4) The county surcharge on state tax under section 46-
20 16.8; provided that the lessor itemizes the tax for
21 the lessee; [and]



1 (5) The county water infrastructure surcharge on state tax
2 under section 46- ; provided that the lessor
3 itemizes the tax for the lessee; and

4 [~~5~~] (6) The rents or fees paid to the department of
5 transportation under concession contracts negotiated
6 pursuant to chapter 102, service permits granted
7 pursuant to title 19, Hawaii Administrative Rules, or
8 rental motor vehicle customer facility charges
9 established pursuant to section 261-7; provided that:

10 (A) The rents or fees are limited to amounts that can
11 be attributed to the proceeds of the particular
12 transaction;

13 (B) The rents or fees shall not exceed the lessor's
14 net payments to the department of transportation
15 made under concession contract or service permit;

16 (C) The lessor submits to the department of
17 transportation and the department of commerce and
18 consumer affairs a statement, verified by a
19 certified public accountant as correct, that
20 reports the amounts of the rents or fees paid to
21 the department of transportation pursuant to the
22 applicable concession contract or service permit:



- 1 (i) For all airport locations; and
- 2 (ii) For each airport location;
- 3 (D) The lessor submits to the department of
- 4 transportation and the department of commerce and
- 5 consumer affairs a statement, verified by a
- 6 certified public accountant as correct, that
- 7 reports the amounts charged to lessees:
- 8 (i) For all airport locations;
- 9 (ii) For each airport location; and
- 10 (iii) For each lessee;
- 11 (E) The lessor includes in these reports the
- 12 methodology used to determine the amount of fees
- 13 charged to each lessee; and
- 14 (F) The lessor submits the above information to the
- 15 department of transportation and the department
- 16 of commerce and consumer affairs within three
- 17 months of the end of the preceding annual
- 18 accounting period or contract year as determined
- 19 by the applicable concession agreement or service
- 20 permit.

21 The respective departments, in their sole discretion,
22 may extend the time to submit the statement required



1 in this subsection. If the director determines that
2 an examination of the lessor's information is
3 inappropriate under this subsection and the lessor
4 fails to correct the matter within ninety days, the
5 director may conduct an examination and charge a
6 lessor an examination fee based upon the cost per hour
7 per examiner for evaluating, investigating, and
8 verifying compliance with this subsection, as well as
9 additional amounts for travel, per diem, mileage, and
10 other reasonable expenses incurred in connection with
11 the examination, which shall relate solely to the
12 requirements of this subsection, and which shall be
13 billed by the departments as soon as feasible after
14 the close of the examination. The cost per hour shall
15 be \$40 or as may be established by rules adopted by
16 the director. The lessor shall pay the amounts billed
17 within thirty days following the billing. All moneys
18 collected by the director shall be credited to the
19 compliance resolution fund."

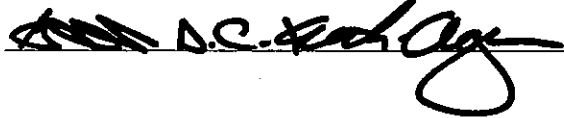
20 SECTION 7. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



H.B. NO. 460

1 SECTION 8. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2010; provided that
3 the amendments made to section 437D-8.4, Hawaii Revised
4 Statutes, by section 6 of this Act shall not be repealed when
5 that section is repealed and reenacted on December 31, 2022, by
6 section 9(3) of Act 247, Session Laws of Hawaii 2005.

7

INTRODUCED BY: ~~AND~~ D.C. 

JAN 21 2011



Report Title:

General Excise Tax; County Levy for Water Infrastructure

Description:

Authorizes a county to levy a one-half per cent surcharge on state general excise tax and use tax to be used for county water infrastructure, including drainage improvements, wastewater infrastructure, and reclaimed water infrastructure.

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

