
A BILL FOR AN ACT

RELATING TO TAXATION.

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

- 1 SECTION 1. The purpose of this Act is to address the
2 county surcharge on state general excise and use taxes.
3 More specifically, this Act:
- 4 (1) Authorizes the extension of the surcharge by any
5 county that has adopted an ordinance to establish the
6 surcharge prior to the effective date of this Act;
 - 7 (2) Authorizes other counties to adopt ordinances
8 establishing the surcharge;
 - 9 (3) Limits the use of surcharge revenues by any county
10 that has adopted an ordinance to establish the
11 surcharge prior to the effective date of this Act to
12 "capital costs";
 - 13 (4) Expands the definition of "capital costs" for counties
14 with a population greater than five hundred thousand;
15 and
 - 16 (5) Requires certain actions by the board of the transit
17 agency that is constructing the locally preferred



1 alternative for a mass transit project funded by the
2 surcharge.

3 SECTION 2. This Act shall not affect the validity or
4 effect of any surcharge on state tax adopted pursuant to Act
5 247, Session Laws of Hawaii 2005, prior to the effective date of
6 this Act.

7 SECTION 3. Section 46-16.8, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~+~~]**\$46-16.8**[+] **County surcharge on state tax.** (a) Each
10 county may establish a surcharge on state tax at the rates
11 enumerated in sections 237-8.6 and 238-2.6. A county electing
12 to establish this surcharge shall do so by ordinance; provided
13 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 prior to December 31,
17 2005; and

18 (3) No county surcharge on state tax that may be
19 authorized under this [~~section~~] subsection shall be
20 levied prior to January 1, 2007[-], or after December
21 31, 2022, 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 ~~[(b)]~~ A county electing to exercise the authority granted
6 under this ~~[section]~~ subsection shall notify the director of
7 taxation within ten days after the county has adopted a
8 surcharge on state tax ordinance and, beginning no earlier than
9 January 1, 2007, the director of taxation shall levy, assess,
10 collect, and otherwise administer the county surcharge on state
11 tax.

12 (b) Each county that has established a surcharge on state
13 tax prior to the effective date of this Act under authority of
14 subsection (a) may extend the surcharge from January 1, 2023,
15 until December 31, 2027, at the same rates. A county electing
16 to extend this surcharge shall do so by ordinance; provided
17 that:

18 (1) No ordinance shall be adopted until the county has
19 conducted a public hearing on the proposed ordinance;
20 and



1 (2) The ordinance shall be adopted prior to January 1,
2 2016, but no earlier than July 1, 2015.

3 A county electing to exercise the authority granted under
4 this subsection shall notify the director of taxation within ten
5 days after the county has adopted an ordinance extending the
6 surcharge on state tax. Beginning on January 1, 2023, the
7 director of taxation shall levy, assess, collect, and otherwise
8 administer the extended surcharge on state tax.

9 (c) Each county that has not established a surcharge on
10 state tax prior to the effective date of this Act may establish
11 the surcharge at the rates enumerated in sections 237-8.6 and
12 238-2.6. A county electing to establish this surcharge shall do
13 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 prior to January 1,
17 2016, but no earlier than July 1, 2015; and

18 (3) No county surcharge on state tax that may be
19 authorized under this subsection shall be levied prior
20 to January 1, 2017, or after December 31, 2027.



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. Beginning on January 1, 2017, the director of
5 taxation shall levy, assess, collect, and otherwise administer
6 the county surcharge on state tax.

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

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

- 17 (1) [~~Operating or capital~~] Capital costs of a locally
18 preferred alternative for a mass transit project; and
- 19 (2) Expenses in complying with the Americans with
20 Disabilities Act of 1990 with respect to paragraph
21 (1).



1 The county surcharge on state tax shall not be used to build or
2 repair public roads or highways, bicycle paths, or support
3 public transportation systems already in existence prior to July
4 12, 2005.

5 ~~[(d)]~~ (f) Each county with a population equal to or less
6 than five hundred thousand that adopts a county surcharge on
7 state tax ordinance pursuant to ~~[subsection (a)]~~ this section
8 shall use the surcharges received from the State for:

9 (1) Operating or capital costs of public transportation
10 within each county for public transportation systems,
11 including public roadways or highways, public buses,
12 trains, ferries, pedestrian paths or sidewalks, or
13 bicycle paths; and

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

17 ~~[(e)]~~ (g) As used in this section, "capital costs" means
18 nonrecurring costs required to construct a transit facility or
19 system, including debt service, costs of land acquisition and
20 development, acquiring of rights-of-way, planning, design, and
21 construction, and including equipping and furnishing the



1 facility or system. For a county with a population greater than
2 five hundred thousand, capital costs also include non-recurring
3 personal services and other overhead costs that are not intended
4 to continue after completion of construction of the minimum
5 operable segment of the locally preferred alternative for a mass
6 transit project."

7 SECTION 4. Section 237-8.6, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

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

14 (1) Prior to:

15 (A) January 1, 2007[-], if the county surcharge on
16 state tax was established by the adoption of an
17 ordinance prior to January 1, 2007; or

18 (B) January 1, 2017, if the county surcharge on state
19 tax was established by the adoption of an
20 ordinance after June 30, 2015, but prior to
21 January 1, 2016; and



1 (2) After December 31, 2027."

2 SECTION 5. Section 238-2.6, Hawaii Revised Statutes, is
3 amended by amending subsection (b) to read as follows:

4 "(b) Each county surcharge on state tax that may be
5 adopted or extended shall be levied beginning in the taxable
6 year after the adoption of the relevant county ordinance;
7 provided that no surcharge on state tax may be levied [~~prior~~]:

8 (1) Prior to:

9 (A) January 1, 2007[-], if the county surcharge on
10 state tax was established by the adoption of an
11 ordinance prior to January 1, 2007; or

12 (B) January 1, 2017, if the county surcharge on state
13 tax was established by the adoption of an
14 ordinance after June 30, 2015, but prior to
15 January 1, 2016; and

16 (2) After December 31, 2027."

17 SECTION 6. Act 247, Session Laws of Hawaii 2005, is
18 amended by amending section 9 to read as follows:

19 "SECTION 9. This Act shall take effect upon its approval;
20 provided that:



- 1 (1) If none of the counties of the State adopt an
2 ordinance to levy a county surcharge on state tax by
3 December 31, 2005, this Act shall be repealed and
4 section 437D-8.4, Hawaii Revised Statutes, shall be
5 reenacted in the form in which it read on the day
6 prior to the effective date of this Act;
- 7 (2) If any county does not adopt an ordinance to levy a
8 county surcharge on state tax by December 31, 2005, it
9 shall be prohibited from adopting such an ordinance
10 pursuant to this Act, unless otherwise authorized by
11 the legislature through a separate legislative act;
12 and
- 13 (3) If an ordinance to levy a county surcharge on state
14 tax is adopted by December 31, 2005:
- 15 (A) The ordinance shall be repealed on December 31,
16 2022; provided that the repeal of the ordinance
17 shall not affect the validity or effect of an
18 ordinance to extend a surcharge on state tax
19 adopted pursuant to Act _____, Session Laws of
20 Hawaii 2015;



1 (B) This Act shall be repealed on December 31,
2 [~~2022~~] 2027; and

3 (C) Section 437D-8.4, Hawaii Revised Statutes, shall
4 be reenacted in the form in which it read on the
5 day prior to the effective date of this Act."

6 SECTION 7. (a) For the purposes of this section:

7 "Board" means the board of directors of the transit agency.

8 "County" means the county, of which the board is a part.

9 "Transit agency" means the agency constructing the locally
10 preferred alternative for a mass transit project, the capital
11 costs of which are funded by the county surcharge on state tax
12 authorized under section 46-16.8, Hawaii Revised Statutes, prior
13 to the effective date of this Act.

14 (b) The board shall submit annual reports to the
15 legislature and governor on its transit-oriented development
16 activities. The reports shall be submitted at least twenty days
17 prior to each regular session from 2016 to 2027.

18 The reports shall include a description of:

19 (1) The actions and coordination undertaken to integrate
20 transit-oriented development with anticipated
21 population and housing growth; and



1 (2) The plans and activities to integrate transit stations
2 with surrounding structures, facilities, and uses.

3 (c) With each annual report submitted pursuant to
4 subsection (b), the board shall also submit the following:

5 (1) Management and financial audits of the board, transit
6 agency, and locally preferred alternative for a mass
7 transit project under construction by the transit
8 agency;

9 (2) Project management reports on the construction of the
10 locally preferred alternative for a mass transit
11 project; and

12 (3) Status reports submitted to the Federal Transit
13 Administration by a third party contracted to monitor
14 the construction of the locally preferred alternative
15 for a mass transit project for the Administration.

16 (d) The board shall place, as discussion items on its
17 meeting agendas, each audit and report subject to subsection

18 (c). The audit or report shall be placed on the agenda of the
19 meeting next following the completion of the audit or report.

20 The board shall make available an electronic copy of the audit



1 or report on the board's website at the same time the meeting
2 agendas are posted for the public notice.

3 The board shall receive public testimony on the audits or
4 reports at the meetings, in accordance with chapter 92, Hawaii
5 Revised Statutes.

6 SECTION 8. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 9. This Act shall take effect on July 1, 2015.



Report Title:

Public Transit; County Surcharge on State Tax

Description:

Reauthorizes the counties' authority to establish a county surcharge on state tax for a limited time period, with the surcharge to be effective from 1/1/2017 to 12/31/2027, if adopted. Allows counties that have already established a county surcharge on state tax to extend the surcharge on state tax to 12/31/2027. Limits the use of surcharge revenues by counties that have already established a county surcharge on state tax to capital costs. Expands the definition of capital costs for counties with a population greater than 500,000. Requires the board of directors of the transit agency constructing the locally preferred alternative for a mass transit project to conduct audits, submit annual reports to the governor and the legislature, and conduct public hearings and take testimony on the audits and reports. (SD2)

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

