A BILL FOR AN ACT

RELATING TO TAXATION.

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

PART I

SECTION 1. Section 46-16.8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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

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

(2) The ordinance shall be adopted prior to January 1, 2018; and

(3) No county surcharge on state tax that may be authorized under this subsection shall be levied prior to January 1, 2019, or after December 31, 2027."
A county electing to exercise the authority granted under this subsection shall notify the director of taxation within ten days after the county has adopted a surcharge on state tax ordinance. Beginning on January 1, [2018,] 2019, the director of taxation shall levy, assess, collect, and otherwise administer the county surcharge on state tax."

SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

(1) Prior to:

(A) January 1, 2007, if the county surcharge on state tax was established by an ordinance adopted prior to December 31, 2005; or

(B) January 1, [2018,] 2019, if the county surcharge on state tax was established by the adoption of an ordinance after June 30, 2015, but prior to [July 1, 2016,] January 1, 2018; and
(2) After December 31, 2027."

SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is
amended by amending subsection (b) to read as follows:
"(b) Each county surcharge on state tax that may be
adopted or extended shall be levied beginning in [the] a taxable
year after the adoption of the relevant county ordinance;
provided that no surcharge on state tax may be levied:

(1) Prior to:

(A) January 1, 2007, if the county surcharge on state
tax was established by an ordinance adopted prior
to December 31, 2005; or

(B) January 1, [2018] 2019, if the county surcharge
on state tax was established by the adoption of
an ordinance after June 30, 2015, but prior to
[July 1, 2016] January 1, 2018; and

(2) After December 31, 2027."
collection, and shall be placed by the director of finance in special accounts. Out of the revenues generated by county surcharges on state tax paid into each respective state treasury special account, the director of finance shall deduct [ten] one per cent of the gross proceeds of a respective county's surcharge on state tax to reimburse the State for the costs of assessment, collection, [and] disposition, and oversight of the county surcharge on state tax incurred by the State. Amounts retained shall be general fund realizations of the State."

SECTION 5. Act 247, Session Laws of Hawaii 2005, as amended by Act 240, Session Laws of Hawaii 2015, is amended by amending section 9 to read as follows:

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

(1) If none of the counties of the State adopt an ordinance to levy a county surcharge on state tax by December 31, 2005, this Act shall be repealed and section 437D-8.4, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act;
(2) If any county does not adopt an ordinance to levy a county surcharge on state tax by December 31, 2005, it shall be prohibited from adopting such an ordinance pursuant to this Act, unless otherwise authorized by the legislature through a separate legislative act; and

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

(A) The ordinance shall be repealed on December 31, 2022; provided that the repeal of the ordinance shall not affect the validity or effect of an ordinance to extend a surcharge on state tax adopted pursuant to [Act 240, Session Laws of Hawaii 2015†] an act of the legislature; and

(B) This Act shall be repealed on December 31, 2027; and

[Section] section 437D-8.4, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act; provided that the amendments made to section 437D-8.4, Hawaii Revised Statutes, by Act

PART II

SECTION 6. Section 46-16.8, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

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

(1) Capital costs of a locally preferred alternative for a mass transit project; and

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

The; provided that revenues derived from the county surcharge on state tax shall not be used:

(1) To build or repair public roads or highways,

bicycle paths, or support public transportation
systems already in existence prior to July 12, 2005;

(2) For operating costs of the mass transit project or any purpose not consistent with this subsection; or

(3) For administrative or operating costs, including personnel costs, of a rapid transportation authority charged with the responsibility for constructing or operating the mass transit project, or both."

PART III

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

"Locally preferred alternative for a mass transit project" means the minimum operable segment of the locally preferred alternative for a mass transit project that the county rapid transportation authority is constructing under a full funding agreement with the Federal Transit Administration.

(b) A county shall not:

(1) Prohibit the use of county funds for the capital cost of the locally preferred alternative for a mass transit project; or

(2) Expend funds derived from the county surcharge on state tax revenues for purposes other than as provided
in section 46-16.8(e) or (f), Hawaii Revised Statutes, as applicable.

Notwithstanding any other law to the contrary, if there is an existing ordinance that violates paragraph (1) or (2), or both, in effect on the effective date of this Act, the county shall repeal the ordinance before December 31, 2017.

(c) The mayor of a county shall notify the director of taxation within ten days of the mayor's approval of the repeal of an ordinance that violates subsection (b)(1), (b)(2), or both.

PART IV

SECTION 8. Section 237D-2, Hawaii Revised Statutes, is amended to read as follows:

"§237D-2 Imposition and rates. (a) There is levied and shall be assessed and collected each month a tax of:

(1) Five per cent for the period beginning on January 1, 1987, to June 30, 1994;

(2) Six per cent for the period beginning on July 1, 1994, to December 31, 1998;

(3) 7.25 per cent for the period beginning on January 1, 1999, to June 30, 2009;
(4) 8.25 per cent for the period beginning on July 1, 2009, to June 30, 2010; and
(5) 9.25 per cent for the period beginning on July 1, 2010, and thereafter;
on the gross rental or gross rental proceeds derived from
furnishing transient accommodations.

(b) Every operator shall pay to the State the tax imposed
by subsection (a), as provided in this chapter.

(c) There is levied and shall be assessed and collected
each month, on the occupant of a resort time share vacation
unit, a transient accommodations tax of:

(1) 7.25 per cent on the fair market rental value until
December 31, 2015;
(2) 8.25 per cent on the fair market rental value for the
period beginning on January 1, 2016, to December 31, 2016; and
(3) 9.25 per cent on the fair market rental value for the
period beginning on January 1, 2017, and thereafter.

(d) Every plan manager shall be liable for and pay to the
State the transient accommodations tax imposed by subsection (c)
as provided in this chapter. Every resort time share vacation
plan shall be represented by a plan manager who shall be subject
to this chapter.

(e) Notwithstanding the tax rates established in
subsection (a)(5) and subsection (c)(3), the tax rates levied,
assessed, and collected pursuant to subsections (a) and (c)
shall be 12 per cent for the period beginning on January 1,
2018, to December 31, 2027; provided that of the tax revenues
collected pursuant to this section that are in excess of a 9.25
per cent tax:

(1) $50,000,000 shall be allocated to the new start
education special fund established under section
302A- ; and

(2) The remainder shall be remitted to a county with a
population greater than five hundred thousand that
adopts or extends a county surcharge on state tax
ordinance pursuant to section 46-16.8, and shall be
used only for the capital costs of a locally preferred
alternative for a mass transit project."

SECTION 9. Section 237D-6.5, Hawaii Revised Statutes, is
amended by amending subsection (b) to read as follows:
1 "(b) [Revenues] Except for the revenues collected pursuant
2 to section 237D-2(e), revenues collected under this chapter
3 shall be distributed in the following priority, with the excess
4 revenues to be deposited into the general fund:
5 (1) $1,500,000 shall be allocated to the Turtle Bay
6 conservation easement special fund beginning July 1,
7 2015, for the reimbursement to the state general fund
8 of debt service on reimbursable general obligation
9 bonds, including ongoing expenses related to the
10 issuance of the bonds, the proceeds of which were used
11 to acquire the conservation easement and other real
12 property interests in Turtle Bay, Oahu, for the
13 protection, preservation, and enhancement of natural
14 resources important to the State, until the bonds are
15 fully amortized;
16 (2) $26,500,000 shall be allocated to the convention
17 center enterprise special fund established under
18 section 201B-8;
19 (3) $82,000,000 shall be allocated to the tourism special
20 fund established under section 201B-11; provided that:
Beginning on July 1, 2012, and ending on June 30, 2015, $2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;

Of the $82,000,000 allocated:

(i) $1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and

(ii) 0.5 per cent of the $82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; and

Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure
from revenues subject to this paragraph,

beginning July 1, 2007, funds shall be deposited

into the tourism emergency special fund,

established in section 201B-10, in a manner

sufficient to maintain a fund balance of

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

(4) $103,000,000 for fiscal year 2014-2015, $103,000,000

for fiscal year 2015-2016, $103,000,000 for fiscal

year 2016-2017, and $93,000,000 for each fiscal year

thereafter shall be allocated as follows: Kauai

county shall receive 14.5 per cent, Hawaii county

shall receive 18.6 per cent, city and county of

Honolulu shall receive 44.1 per cent, and Maui county

shall receive 22.8 per cent; provided that

[commencing]:

(A) Commencing with fiscal year 2018-2019, a sum that

represents the difference between a county public

employer's annual required contribution for the

separate trust fund established under section

87A-42 and the amount of the county public

employer's contributions into that trust fund
shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-43; and

(B) For the period beginning on January 1, 2018, to December 31, 2027, of the 44.1 per cent of revenues allocated each year to the city and county of Honolulu pursuant to this paragraph, $13,000,000 shall be expended only for the capital costs of a locally preferred alternative for a mass transit project;

(5) $3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:
(A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;

(B) Planning, construction, and repair of facilities; and

(C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience.

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

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

PART V

SECTION 10. The legislature finds that the construction of major mass transit projects that are publicly funded places a substantial burden on taxpayers, especially when those projects far exceed the initial cost estimates that were provided to taxpayers. The legislature also finds that burdens imposed on
taxpayers by government at any single time should be limited.

Plans to renovate or redevelop the Neal S. Blaisdell Center are expected to require a large amount of taxpayer money, and imposing that additional burden on taxpayers through the issuance of general obligation bonds or other financing mechanisms available to political subdivisions, which are funded by tax revenues, is not prudent in a county that is already imposing such a heavy burden on taxpayers to fund a major mass transit project.

Accordingly, the purpose of this part is to prohibit a county with a population greater than five hundred thousand that is collecting a general excise tax surcharge to fund capital costs of a locally preferred alternative for a mass transit project from using public funds to reconstruct or redevelop the event venue known as the Neal S. Blaisdell Center, including its associated infrastructure and appurtenances.

SECTION 11. A county with a population greater than five hundred thousand that receives revenues from a county surcharge on state tax established pursuant to section 46-16.8, Hawaii Revised Statutes, is prohibited from using public funds to reconstruct or redevelop the event venue known as the Neal S.
Blaisdell Center, including its associated infrastructure and appurtenances, from the effective date of this Act to December 31, 2027; provided that this section shall not apply to aggregated expenditures that total no more than $100,000,000 from the effective date of this Act to December 31, 2027, for the operation or maintenance and repair of the Neal S. Blaisdell Center.

As used in this section, "maintenance and repair" means ordinary maintenance and repair that is necessary to keep a facility clean, safe, accessible, and operational, but excludes the construction of new facilities or the reconstruction or redevelopment of existing facilities.

PART VI

SECTION 12. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§302A- New start education special fund; established."

(a) There is established the new start education special fund to be administered by the department.

(b) Transient accommodations tax revenues allocated to the new start education special fund pursuant to section
237D-2(e)(1) shall be deposited into the new start education special fund.

(c) Moneys in the new start education special fund shall be expended for the purposes of the new start education program.

PART VII

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. (a) This Act shall take effect upon its approval; provided that the effect of this Act shall be subject to the conditions of subsections (b) and (c).

(b) For each county that has adopted and extended a surcharge on state tax pursuant to section 46-16.8(b), Hawaii Revised Statutes, if on December 31, 2017, all of the conditions set out in sections 7(b) and 11 of this Act are met, then effective January 1, 2018, the director of taxation may levy, assess, and collect the transient accommodations tax at the increased rate established under part IV of this Act; provided that:

(1) If on December 31, 2017, all of the conditions set out in sections 7(b) and 11 of this Act are not met, the
increase in transient accommodations tax rates and the remittance of the revenues thereof to a qualifying county, pursuant to part IV of this Act, shall not take effect; and

(2) If at any time between January 1, 2018, and December 31, 2027, the county is not in compliance with sections 7(b) and 11 of this Act, the increase in transient accommodations tax rates and the remittance of the revenues thereof to a qualifying county, pursuant to part IV of this Act, shall be immediately suspended until all of the conditions set out in sections 7(b) and 11 of this Act are met.

(c) For each county establishing a surcharge on state tax pursuant to section 46-16.8(c), Hawaii Revised Statutes, as amended in section 1 of this Act, if on December 31, 2018, all of the conditions pertaining to the surcharge adoption authority under section 46-16.8(c), Hawaii Revised Statutes, as amended in section 1 of this Act, and all of the conditions under section 7(b) of this Act are met, then effective January 1, 2019, the director of taxation may levy, assess, and collect the surcharge.
on state tax and disburse surcharge revenues pursuant to part I of this Act; provided that:

(1) If on December 31, 2018, all of the conditions under section 46-16.8(c), Hawaii Revised Statutes, as amended in section 1 of this Act, and all of the conditions in section 7(b) of this Act are not met, the authorization to levy, assess, and collect a surcharge on state tax and the disbursement of surcharge revenues, pursuant to part I of this Act, shall not take effect; and

(2) If at any time between January 1, 2019, and December 31, 2027, all of the conditions under section 46-16.8(c), Hawaii Revised Statutes, as amended in section 1 of this Act, and all of the conditions in section 7(b) of this Act are not met, the authorization to levy, assess, and collect a surcharge on state tax and the disbursement of surcharge revenues, pursuant to part I of this Act, shall be immediately suspended until all of the conditions under section 46-16.8(c), Hawaii Revised Statutes, as
amended in section 1 of this Act, and all of the conditions in section 7(b) of this Act are met.
Report Title:
County Surcharge on State Tax

Description:
Authorizes a county to adopt a surcharge on state tax before 1/1/2018, provided that certain conditions are met. Increases the transient accommodations tax by 2.75 per cent from 1/1/2018 to 12/31/2027 and provides that the revenue shall be remitted to a county with a population greater than five hundred thousand to be used only for capital costs of a locally preferred alternative for a mass transit project. Provides that $13 million per year from the portion of transient accommodations tax revenues allocated to the city and county of Honolulu shall be used only for capital costs of a locally preferred alternative for a mass transit project. Prohibits a county from using public funds to renovate or redevelop the Neal S. Blaisdell Center while the county is collecting a surcharge on state tax to finance capital costs of a locally preferred alternative for a mass transit project. Establishes the New Start Education Special Fund and allocates a portion of transient accommodations tax revenue to the fund. (CD1)

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