

JAN 19 2018

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

PART I

1
2 SECTION 1. The legislature finds that pursuant to Act 174,
3 Session Laws of Hawaii 2014, a state-county functions working
4 group was convened to evaluate the division of duties and
5 responsibilities between the State and counties relating to the
6 provision of public services and to recommend an appropriate
7 allocation of the transient accommodations tax revenues between
8 the State and counties that properly reflects that division of
9 duties and responsibilities. The legislature also finds that
10 the transient accommodations tax has been amended frequently in
11 order to meet perceived needs and purposes. However, the
12 numerous amendments, combined with the cyclical nature of the
13 visitor industry and the tax revenues generated by the visitor
14 industry, have resulted in ongoing discussions among various
15 stakeholders, including the State, the counties, the visitor
16 industry, the Hawaii tourism authority, and other recipients or
17 potential recipients of transient accommodations tax revenues.



1 The legislature recognizes that the state-county functions
2 working group, composed of state, county, and visitor industry
3 representatives and other knowledgeable and concerned citizens,
4 assisted by experts, worked for over a year before presenting
5 its report to the legislature. The working group concluded that
6 the application of the transient accommodations tax and the
7 allocation of its revenues should be simplified and stabilized
8 so as to be clear, consistent, and predictable over time, in
9 view of the need to invest in tourism as a premier industry.
10 The working group recommended that the tourism special fund be
11 provided a priority distribution of the transient accommodations
12 tax revenues at an ensured minimum level, adjusted for
13 inflation, and regardless of overall transient accommodations
14 tax collections. The working group also recommended that
15 allocations to the Turtle Bay conservation easement special
16 fund, convention center enterprise special fund, and special
17 land and development fund be maintained at their current levels
18 and that any additional state funding for these efforts be made
19 out of state general funds by separate appropriation.

20 The legislature believes that based on the working group's
21 report, an appropriate allocation of the remaining transient



1 accommodations tax revenues is fifty-five per cent to the state
2 general fund and forty-five per cent to the counties. There
3 should be no fixed dollar amounts, caps, floors, or similar
4 restrictions on allocations to the State and counties of the
5 remaining revenues. Instead, both the State and the county
6 allocations should increase or decrease proportionately with
7 increasing or decreasing transient accommodations tax revenues.
8 This plan reflects a fair, balanced, and reasonable compromise
9 between competing needs for scarce resources and provides a
10 sound policy base for the further administration of the
11 transient accommodations tax and its revenues.

12 The purpose of this Act is to:

- 13 (1) Provide a fair, consistent, and predictable priority
14 allocation of transient accommodations tax revenues,
15 with an ensured minimum amount, to the tourism special
16 fund;
- 17 (2) Maintain allocation of transient accommodations tax
18 revenues to existing obligations at present levels;
- 19 (3) Provide a fair, consistent, and predictable allocation
20 of the balance of the transient accommodations tax
21 revenues between the State and the counties; and



1 (1) \$82,000,000 shall be allocated to the tourism special
2 fund established under section 201B-11; provided that,
3 beginning July 1, 2018, and in each fiscal year
4 thereafter, the dollar amount of revenues allocated to
5 the tourism special fund under this paragraph shall be
6 adjusted by an amount equal to the dollar amount
7 multiplied by the percentage, if any, by which the
8 Honolulu region consumer price index for all urban
9 consumers (CPI-U), or a successor index, as calculated
10 by the United States Department of Labor, for the
11 preceding calendar year exceeds the consumer price
12 index for the calendar year 2017; provided further
13 that:

14 (A) Of the revenues allocated to the tourism special
15 fund:

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

20 (ii) 0.5 per cent shall be transferred to a sub-
21 account in the tourism special fund to



1 provide funding for a safety and security
2 budget, in accordance with the Hawaii
3 tourism strategic plan; and

4 (B) Of the revenues remaining in the tourism special
5 fund after revenues have been deposited as
6 provided in this paragraph and except for any sum
7 authorized by the legislature for expenditure
8 from revenues subject to this paragraph,
9 beginning July 1, 2007, funds shall be deposited
10 into the tourism emergency special fund,
11 established in section 201B-10, in a manner
12 sufficient to maintain a fund balance of
13 \$5,000,000 in the tourism emergency special fund;

14 (2) \$26,500,000 shall be allocated to the convention
15 center enterprise special fund established under
16 section 201B-8;

17 ~~[(3) \$82,000,000 shall be allocated to the tourism special~~
18 ~~fund established under section 201B-11; provided that:~~

19 ~~(A) Beginning on July 1, 2012, and ending on June 30,~~
20 ~~2015, \$2,000,000 shall be expended from the~~
21 ~~tourism special fund for development and~~



1 ~~implementation of initiatives to take advantage~~
2 ~~of expanded visa programs and increased travel~~
3 ~~opportunities for international visitors to~~
4 ~~Hawaii;~~

5 ~~(B) Of the \$82,000,000 allocated:~~

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

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

15 ~~(C) Of the revenues remaining in the tourism special~~
16 ~~fund after revenues have been deposited as~~
17 ~~provided in this paragraph and except for any sum~~
18 ~~authorized by the legislature for expenditure~~
19 ~~from revenues subject to this paragraph,~~
20 ~~beginning July 1, 2007, funds shall be deposited~~
21 ~~into the tourism emergency special fund,~~



S.B. NO. 2164

1 ~~established in section 201B-10, in a manner~~
2 ~~sufficient to maintain a fund balance of~~
3 ~~\$5,000,000 in the tourism emergency special fund,~~

4 ~~(4) \$103,000,000]~~

5 (3) \$3,000,000 shall be allocated to the special land and
6 development fund established under section 171-19;
7 provided that the allocation shall be expended in
8 accordance with the Hawaii tourism authority strategic
9 plan for:

10 (A) The protection, preservation, maintenance, and
11 enhancement of natural resources, including
12 beaches, important to the visitor industry;

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

15 (C) Operation and maintenance costs of public lands,
16 including beaches, connected with enhancing the
17 visitor experience;

18 (4) \$1,500,000 shall be allocated to the Turtle Bay
19 conservation easement special fund beginning July 1,
20 2018, for the reimbursement to the state general fund
21 of debt service on reimbursable general obligation



1 bonds, including ongoing expenses related to the
2 issuance of the bonds, the proceeds of which were used
3 to acquire the conservation easement and other real
4 property interests in Turtle Bay, Oahu, for the
5 protection, preservation, and enhancement of natural
6 resources important to the State, until the bonds are
7 fully amortized; and

8 (5) Of the remaining revenues collected under this
9 chapter, forty-five per cent shall be allocated to the
10 counties and shall be distributed as follows: Kauai
11 county shall receive 14.5 per cent, Hawaii county
12 shall receive 18.6 per cent, city and county of
13 Honolulu shall receive 44.1 per cent, and Maui county
14 shall receive 22.8 per cent; provided that commencing
15 with fiscal year 2018-2019, a sum that represents the
16 difference between a county public employer's annual
17 required contribution for the separate trust fund
18 established under section 87A-42 and the amount of the
19 county public employer's contributions into that trust
20 fund shall be retained by the state director of
21 finance and deposited to the credit of the county



1 public employer's annual required contribution into
2 that trust fund in each fiscal year, as provided in
3 section 87A-42, if the respective county fails to
4 remit the total amount of the county's required annual
5 contributions, as required under section 87A-43 [~~7 and~~
6 ~~(5) \$3,000,000 shall be allocated to the special land and~~
7 ~~development fund established under section 171-19,~~
8 ~~provided that the allocation shall be expended in~~
9 ~~accordance with the Hawaii tourism authority strategic~~
10 ~~plan for:~~

- 11 ~~(A) The protection, preservation, maintenance, and~~
12 ~~enhancement of natural resources, including~~
13 ~~beaches, important to the visitor industry;~~
- 14 ~~(B) Planning, construction, and repair of facilities,~~
15 ~~and~~
- 16 ~~(C) Operation and maintenance costs of public lands,~~
17 ~~including beaches, connected with enhancing the~~
18 ~~visitor experience].~~

19 All transient accommodations taxes shall be paid into the
20 state treasury each month within ten days after collection and



1 shall be kept by the state director of finance in special
2 accounts for distribution as provided in this subsection.

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

6 PART III

7 SECTION 3. Section 87A-42, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) In any fiscal year subsequent to the 2017-2018 fiscal
10 year in which a county public employer's contributions into the
11 fund are less than the amount of the annual required
12 contribution, the amount that represents the excess of the
13 annual required contribution over the county public employer's
14 contributions shall be deposited into the fund from a portion of
15 all transient accommodations tax revenues collected by the
16 department of taxation under section [~~237D-6.5(b)(4)~~]. 237D-
17 6.5(b)(5). The director of finance shall deduct the amount
18 necessary to meet the county public employer's annual required
19 contribution from the revenues derived under section [~~237D-~~
20 ~~6.5(b)(4)~~] 237D-6.5(b)(5) and transfer the amount to the board



1 for deposit into the appropriate account of the separate trust
2 fund."

3 SECTION 4. Section 171-19, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) There is created in the department a special fund to
6 be designated as the "special land and development fund".

7 Subject to the Hawaiian Homes Commission Act of 1920, as
8 amended, and section 5(f) of the Admission Act of 1959, all
9 proceeds of sale of public lands, including interest on deferred
10 payments; all moneys collected under section 171-58 for mineral
11 and water rights; all rents from leases, licenses, and permits
12 derived from public lands; all moneys collected from lessees of
13 public lands within industrial parks; all fees, fines, and other
14 administrative charges collected under this chapter and chapter
15 183C; a portion of the highway fuel tax collected under chapter
16 243; all moneys collected by the department for the commercial
17 use of public trails and trail accesses under the jurisdiction
18 of the department; transient accommodations tax revenues
19 collected pursuant to section [~~237D-6.5(b)(5)~~]; 237D-6.5(b)(3);
20 and private contributions for the management, maintenance, and
21 development of trails and accesses shall be set apart in the



1 fund and shall be used only as authorized by the legislature for
2 the following purposes:

3 (1) To reimburse the general fund of the State for
4 advances made that are required to be reimbursed from
5 the proceeds derived from sales, leases, licenses, or
6 permits of public lands;

7 (2) For the planning, development, management, operations,
8 or maintenance of all lands and improvements under the
9 control and management of the board pursuant to title
10 12, including but not limited to permanent or
11 temporary staff positions who may be appointed without
12 regard to chapter 76; provided that transient
13 accommodations tax revenues allocated to the fund
14 shall be expended as provided in section [~~237D-~~
15 ~~6.5(b)(5)~~], 237D-6.5(b)(3);

16 (3) To repurchase any land, including improvements, in the
17 exercise by the board of any right of repurchase
18 specifically reserved in any patent, deed, lease, or
19 other documents or as provided by law;



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



S.B. NO. 2164

Report Title:

Hawaii State Association of Counties Package; Transient Accommodations Tax; State-County Functions Working Group

Description:

Implements the recommendations of the state-county functions working group to restructure the revenue distribution of the transient accommodations tax revenues to ensure a minimum amount in the tourism special fund, maintain the allocations at present levels, and provide predictable allocations of the balances.

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