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# 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 general excise and use tax surcharge.
- 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 before the effective date of this Act;
- 7           (2) Authorizes other counties to adopt ordinances  
8           establishing the surcharge; and
- 9           (3) Requires certain actions by the board of the transit  
10           agency that is constructing the locally preferred  
11           alternative funded by the surcharge.

12           SECTION 2. This Act shall not affect the validity or  
13 effect of any surcharge on state tax adopted pursuant to Act  
14 247, Session Laws of Hawaii 2005, before the effective date of  
15 this Act.

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



1           "~~[+]~~§46-16.8~~[+]~~ County surcharge on state tax. (a) Each  
2 county may establish a surcharge on state tax at the rates  
3 enumerated in sections 237-8.6 and 238-2.6. A county electing  
4 to establish this surcharge shall do so by ordinance; provided  
5 that:

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

8           (2) The ordinance shall be adopted prior to December 31,  
9 2005; and

10          (3) No county surcharge on state tax that may be  
11 authorized under this ~~[section]~~ subsection shall be  
12 levied prior to January 1, 2007~~[+]~~, or after December  
13 31, 2022, unless extended pursuant to subsection (b).

14 Notice of the public hearing required under paragraph (1) shall  
15 be published in a newspaper of general circulation within the  
16 county at least twice within a period of thirty days immediately  
17 preceding the date of the hearing.

18          ~~[(b)]~~ A county electing to exercise the authority granted  
19 under this ~~[section]~~ subsection shall notify the director of  
20 taxation within ten days after the county has adopted a  
21 surcharge on state tax ordinance and, beginning no earlier than



1 January 1, 2007, the director of taxation shall levy, assess,  
2 collect, and otherwise administer the county surcharge on state  
3 tax.

4 (b) Each county that has established a surcharge on state  
5 tax before the effective date of this Act under authority of  
6 subsection (a) may extend the surcharge from January 1, 2023,  
7 until December 31, 2027, at the same rates. A county electing  
8 to extend this surcharge shall do so by ordinance; provided  
9 that:

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

13 (2) The ordinance shall be adopted prior to December 31,  
14 2015, but no earlier than July 1, 2015.

15 A county electing to exercise the authority granted under  
16 this subsection shall notify the director of taxation within ten  
17 days after the county has adopted an ordinance extending the  
18 surcharge on state tax. Beginning on January 1, 2023, the  
19 director of taxation shall levy, assess, collect, and otherwise  
20 administer the extended surcharge on state tax.



1        (c) Each county that has not established a surcharge on  
2 state tax before the effective date of this Act may establish  
3 the surcharge at the rates enumerated in sections 237-8.6 and  
4 238-2.6. A county electing to establish this surcharge shall do  
5 so by ordinance; provided that:

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

8        (2) The ordinance shall be adopted prior to December 31,  
9 2015, but no earlier than July 1, 2015; and

10       (3) No county surcharge on state tax that may be  
11 authorized under this section shall be levied prior to  
12 January 1, 2017, or after December 31, 2027.

13       A county electing to exercise the authority granted under  
14 this subsection shall notify the director of taxation within ten  
15 days after the county has adopted a surcharge on state tax  
16 ordinance. Beginning on January 1, 2017, the director of  
17 taxation shall levy, assess, collect, and otherwise administer  
18 the county surcharge on state tax.

19       (d) Notice of the public hearing required under subsection  
20 (b) or (c) before adoption of an ordinance establishing or  
21 extending the surcharge on state tax shall be published in a



1 newspaper of general circulation within the county at least  
2 twice within a period of thirty days immediately preceding the  
3 date of the hearing.

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

8 (1) Operating or capital costs of a locally preferred  
9 alternative for a mass transit project; and

10 (2) Expenses in complying with the Americans with  
11 Disabilities Act of 1990 with respect to paragraph  
12 (1).

13 The county surcharge on state tax shall not be used to build or  
14 repair public roads or highways, bicycle paths, or support  
15 public transportation systems already in existence prior to July  
16 12, 2005.

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



1           (1) Operating or capital costs of public transportation  
 2           within each county for public transportation systems,  
 3           including public roadways or highways, public buses,  
 4           trains, ferries, pedestrian paths or sidewalks, or  
 5           bicycle paths; and

6           (2) Expenses in complying with the Americans with  
 7           Disabilities Act of 1990 with respect to paragraph  
 8           (1).

9           [~~(e)~~] (g) As used in this section, "capital costs" means  
 10          nonrecurring costs required to construct a transit facility or  
 11          system, including debt service, costs of land acquisition and  
 12          development, acquiring of rights-of-way, planning, design, and  
 13          construction, and including equipping and furnishing the  
 14          facility or system."

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

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



- 1        (1) Prior to January 1, 2007[-], if the county surcharge
- 2            on state tax was established by the adoption of an
- 3            ordinance prior to January 1, 2007; or
- 4        (2) Prior to January 1, 2017, if the county surcharge on
- 5            state tax was established by the adoption of an
- 6            ordinance after July 1, 2015, but prior to January 1,
- 7            2016,
- 8        or after December 31, 2027."

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

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

- 15        (1) Prior to January 1, 2007[-], if the county surcharge
- 16            on state tax was established by the adoption of an
- 17            ordinance prior to January 1, 2007; or
- 18        (2) Prior to January 1, 2017, if the county surcharge on
- 19            state tax was established by the adoption of an
- 20            ordinance after July 1, 2015, but prior to January 1,
- 21            2016,



1 or after December 31, 2027."

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

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

6 (1) If none of the counties of the State adopt an  
7 ordinance to levy a county surcharge on state tax by  
8 December 31, 2005, this Act shall be repealed and  
9 section 437D 8.4, Hawaii Revised Statutes, shall be  
10 reenacted in the form in which it read on the day  
11 prior to the effective date of this Act;

12 (2) If any county does not adopt an ordinance to levy a  
13 county surcharge on state tax by December 31, 2005, it  
14 shall be prohibited from adopting such an ordinance  
15 pursuant to this Act, unless otherwise authorized by  
16 the legislature through a separate legislative act;  
17 and

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

20 (A) The ordinance shall be repealed on December 31,  
21 2022; provided that the repeal of the ordinance





1                   shall not affect the validity or effect of an  
 2                   ordinance to extend a surcharge on state tax  
 3                   adopted pursuant to Act       , Session Laws of  
 4                   Hawaii 2015;

5                   (B) This Act shall be repealed on December 31,  
 6                   [2022+] 2027; and

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

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

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

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

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

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



1 The reports shall include a description of:

2 (1) The actions and coordination undertaken to integrate

3 transit-oriented development with anticipated

4 population and housing growth; and

5 (2) The plans and activities to integrate transit stations

6 with surrounding structures, facilities, and uses.

7 (c) With each annual report submitted pursuant to

8 subsection (a), the board shall also submit the following:

9 (1) Management and financial audits of the board, transit

10 agency, and locally preferred alternative for a mass

11 transit project under construction by the transit

12 agency;

13 (2) Project management reports on the construction of the

14 locally preferred alternative for a mass transit

15 project; and

16 (3) Status reports submitted to the Federal Transit

17 Administration by a third party contracted to monitor

18 the construction of the locally preferred alternative

19 for a mass transit project for the Administration.

20 (d) The board shall place, as discussion items on its

21 meeting agendas, each audit and report subject to subsection



1 (c). The audit or report shall be placed on the agenda of the  
2 meeting next following the completion of the audit or report.  
3 The board shall make available an electronic copy of the audit  
4 or report on the board's website at the same time the meeting  
5 agendas are posted for the public notice.

6 The board shall receive public testimony on the audits or  
7 reports at the meetings in accordance with chapter 92, Hawaii  
8 Revised Statutes.

9 SECTION 8. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on July 1, 2050.



**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. 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. Effective 7/1/2050.  
(SD2)

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