

S.B. NO. 1123

JAN 28 2015

A BILL FOR AN ACT

RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

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

1 SECTION 1. Section 171-19, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) There is created in the department a special fund to
4 be designated as the "special land and development fund".
5 Subject to the Hawaiian Homes Commission Act of 1920, as
6 amended, and section 5(f) of the Admission Act of 1959, all
7 proceeds of sale of public lands, including interest on deferred
8 payments; all moneys collected under section 171-58 for mineral
9 and water rights; all rents from leases, licenses, and permits
10 derived from public lands; all moneys collected from lessees of
11 public lands within industrial parks; all fees, fines, and other
12 administrative charges collected under this chapter and chapter
13 183C; a portion of the highway fuel tax collected under chapter
14 243; all moneys collected by the department for the commercial
15 use of public trails and trail accesses under the jurisdiction
16 of the department; transient accommodations tax revenues
17 collected pursuant to section [~~237D-6.5(b)(2);~~] 237D-6.5(b)(5);

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1 and private contributions for the management, maintenance, and
2 development of trails and accesses shall be set apart in the
3 fund and shall be used only as authorized by the legislature for
4 the following purposes:

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

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

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

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- 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

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1 to be reimbursed from the special land and development
2 fund;

3 (10) For the protection, planning, management, and
4 regulation of water resources under chapter 174C; and

5 (11) For other purposes of this chapter."

6 SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Revenues collected under this chapter shall be
9 distributed as follows, with the excess revenues to be deposited
10 into the general fund:

11 (1) \$26,500,000 shall be allocated to the convention
12 center enterprise special fund established under
13 section 201B-8;

14 (2) \$82,000,000 shall be allocated to the tourism special
15 fund established under section 201B-11; provided that:

16 (A) Beginning on July 1, 2012, and ending on June 30,
17 2015, \$2,000,000 shall be expended from the
18 tourism special fund for development and
19 implementation of initiatives to take advantage
20 of expanded visa programs and increased travel
21 opportunities for international visitors to
22 Hawaii;

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- 1 (B) Of the \$82,000,000 allocated:
- 2 (i) \$1,000,000 shall be allocated for the
- 3 operation of a Hawaiian center and the
- 4 museum of Hawaiian music and dance at the
- 5 Hawaii convention center; and
- 6 (ii) 0.5 per cent of the \$82,000,000 shall be
- 7 transferred to a sub-account in the tourism
- 8 special fund to provide funding for a safety
- 9 and security budget, in accordance with the
- 10 Hawaii tourism strategic plan 2005-2015; and
- 11 (C) Of the revenues remaining in the tourism special
- 12 fund after revenues have been deposited as
- 13 provided in this paragraph and except for any sum
- 14 authorized by the legislature for expenditure
- 15 from revenues subject to this paragraph,
- 16 beginning July 1, 2007, funds shall be deposited
- 17 into the tourism emergency trust fund,
- 18 established in section 201B-10, in a manner
- 19 sufficient to maintain a fund balance of
- 20 \$5,000,000 in the tourism emergency trust fund;
- 21 (3) \$103,000,000 for fiscal year 2014-2015, \$103,000,000
- 22 for fiscal year 2015-2016, and \$93,000,000 for each

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1 fiscal year thereafter shall be allocated as follows:
2 Kauai county shall receive 14.5 per cent, Hawaii
3 county shall receive 18.6 per cent, city and county of
4 Honolulu shall receive 44.1 per cent, and Maui county
5 shall receive 22.8 per cent; provided that commencing
6 with fiscal year 2018-2019, a sum that represents the
7 difference between a county public employer's annual
8 required contribution for the separate trust fund
9 established under section 87A-42 and the amount of the
10 county public employer's contributions into that trust
11 fund shall be retained by the state director of
12 finance and deposited to the credit of the county
13 public employer's annual required contribution into
14 that trust fund in each fiscal year, as provided in
15 section 87A-42, if the respective county fails to
16 remit the total amount of the county's required annual
17 contributions, as required under section 87A-43;

18 (4) \$3,000,000 shall be allocated to the Turtle Bay
19 conservation easement special fund established under
20 section 201B-8.6 for the payment of debt service on
21 revenue bonds, the proceeds of which were used to

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1 acquire the conservation easement in Turtle Bay, Oahu,
2 until the bonds are fully amortized; and

3 (5) ~~[Of the excess revenues deposited into the general~~
4 ~~fund pursuant to this subsection,]~~ \$3,000,000 shall be
5 allocated ~~[subject to the mutual agreement]~~ and
6 deposited into the special land and development fund
7 of the ~~[board]~~ department of land and natural
8 resources ~~[and the board of directors of the Hawaii~~
9 ~~tourism authority],~~ provided that the allocation shall
10 be expended in accordance with the Hawaii tourism
11 authority strategic plan for:

12 (A) The protection, preservation, and enhancement of
13 natural resources important to the visitor
14 industry;

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

17 (C) Operation and maintenance costs of ~~[public lands]~~
18 of state parks, beaches, and trails, and costs
19 associated with improving enforcement of
20 ancillary regulations, connected with enhancing
21 the visitor experience.

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

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

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



13

BY REQUEST

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Report Title:

Transient Accommodations Tax; Special Land and Development Fund

Description:

Clarifies the distribution and allowable uses of Transient Accommodations Tax funds allocated and deposited into the Special Land and Development Fund in accordance with the Hawaii Tourism Authority's Strategic Plan.

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

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

PURPOSE: To clarify the distribution and allowable uses of Transient Accommodations Tax (TAT) funds allocated and deposited into the Special Land and Development Fund in accordance with the Hawaii Tourism Authority's Strategic Plan.

MEANS: Amend sections 171-19(a) and 237D-6.5(b), Hawaii Revised Statutes.

JUSTIFICATION: Hawaii is a major attraction due to its natural, recreational, and cultural locations, monuments, and sites. The Department is hard-pressed to keep up with maintenance, repair, and development costs due to visitor traffic.

Act 161, Session Laws of Hawaii 2013, revised the allocation of TAT funds for use by the Department in accordance with the Hawaii Tourism Authority's strategic plan for the overall enhancement of the visitor experience. Prior to Act 161, TAT funds of \$1,000,000 were deposited into two special funds of the Department:

- (1) \$900,000 into the State Parks Special Fund; and
- (2) \$100,000 into the Special Land and Development Fund.

While Act 161 was intended to increase the allocation of TAT funds to the Department from \$1,000,000 to \$3,000,000 ("\$3,000,000 shall be allocated subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with

the Hawaii tourism authority strategic plan..."), the actual language of the Act also deleted references to TAT funds deposited in the State Parks Special Fund and the Special Land and Development Fund, and stated that these TAT funds were to be first deposited into the General Fund. As such, the Department of the Attorney General and the Department of Budget and Finance concurred that the language precluded the Department from accessing these funds unless allocated to the Department through the budget approval process through the Legislature.

During the 2014 Legislative Session, House Bill 2434 was introduced to correct the ambiguous language of Act 161. The bill remained viable making its way into conference committee. However, in a "last ditch" effort to secure funding for the acquisition of a conservation easement for Turtle Bay, Oahu, House Bill 2434 was "gutted" and used as the vehicle to authorize the use of TAT revenues to pay the debt service on revenue bonds issued by the Hawaii Tourism Authority for this acquisition.

This bill seeks to clarify the intent of Act 161, that additional TAT funding be directly allocated to the Department.

Impact on the public: Increased TAT funding will be used for the protection, preservation, and enhancement of natural resources important to the visitor industry.

Impact on the department and other agencies: This bill seeks to insure that the increased TAT funding due is directly allocated to the Department for the protection, preservation, and enhancement of natural resources important to the visitor industry.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 101, LNR 405, LNR 804, LNR 806.

OTHER AFFECTED
AGENCIES: Department of Budget and Finance, Hawaii
Tourism Authority.

EFFECTIVE DATE: Upon approval.