

**Session Laws of Hawaii
Passed By The
Twenty-Ninth State Legislature
Special Session
2017**

ACT 1

S.B. NO. 4

A Bill for an Act Relating to Government.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The legislature finds that section 46-16.8, Hawaii Revised Statutes, previously authorized each county to adopt a surcharge on state tax. The legislature further finds that the city and county of Honolulu is the only county that adopted an ordinance for a surcharge. Specifically, in 2005, the city and county of Honolulu adopted an ordinance to establish a one-half of one per cent surcharge on state tax and for that surcharge to be levied, assessed, and collected beginning on January 1, 2007, to fund a rail transportation project.

The purpose of this Act is to:

- (1) Provide counties that have not previously adopted a surcharge on state tax with another opportunity to adopt a surcharge; and
- (2) Provide the city and county of Honolulu with a financial mechanism that will provide revenue sources for the construction of its rail transportation project.

SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Each county that has established a surcharge on state tax prior to ~~[] July 1, 2015, []~~ under authority of subsection (a) may extend the surcharge ~~[from January 1, 2023,]~~ until December 31, ~~[2027,]~~ 2030, at the same rates. A county electing to extend 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; and
- (2) The ordinance shall be adopted prior to ~~[July 1, 2016, but no earlier than July 1, 2015,]~~ January 1, 2018.

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 an ordinance extending the surcharge on state tax. ~~[Beginning on January 1, 2023, the]~~ The director of taxation shall levy, assess, collect, and otherwise administer the extended surcharge on state tax.

(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 sec-

tions 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 ~~[July 1, 2016, but no earlier than July 1, 2015;]~~ March 31, 2018; and
- (3) No county surcharge on state tax that may be authorized under this subsection shall be levied prior to January 1, ~~[2018;]~~ 2019, or after December 31, ~~[2027;]~~ 2030.

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 3. 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;]~~ March 31, 2018; and
- (2) After December 31, ~~[2027;]~~ 2030.”

SECTION 4. 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;]~~ March 31, 2018; and
- (2) After December 31, ~~[2027;]~~ 2030.”

SECTION 5. Section 248-2.6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§248-2.6]]~~ **County surcharge on state tax; disposition of proceeds.** (a) If adopted by county ordinance, all county surcharges on state tax collected by the director of taxation shall be paid into the state treasury quarterly, within ten working days after collection, and shall be placed by the director of finance in special accounts~~[-]~~; provided that county surcharge revenues levied, assessed, and collected in a county with a population greater than five hundred thousand shall be deposited into the mass transit special fund established under section 248-_____. Out of the revenues generated by county surcharges on state tax paid into each respective state treasury special account~~[-]~~ or the mass transit special

fund, 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.

(b) The amounts deducted for costs of assessment, collection, ~~and~~ disposition, and oversight of county surcharges on state tax shall be withheld from payment to the counties by the State out of the county surcharges on state tax collected for the current calendar year.

(c) For the purpose of this section, the costs of assessment, collection, ~~and~~ disposition, and oversight of the county surcharges on state tax shall include any and all costs, direct or indirect, that are deemed necessary and proper to effectively administer this section and sections 237-8.6 and 238-2.6.

(d) ~~[After]~~ For a county with a population equal to or less than five hundred thousand that adopts a county surcharge on state tax, after the deduction and withholding of the costs under subsections (a) and (b), the director of finance shall pay the remaining balance on [[a]] quarterly basis to the director of finance of each county that has adopted a county surcharge on state tax under section 46-16.8.

For a county with a population greater than five hundred thousand that adopts or extends a county surcharge on state tax ordinance, after the deduction and withholding of the costs under subsections (a) and (b), the director of finance shall administer the remaining surcharge revenues in accordance with section 248-_____.

The ~~quarterly~~ payments shall be made after the county surcharges on state tax have been paid into the state treasury special accounts or the mass transit special fund or after the disposition of any tax appeal, as the case may be. All county surcharges on state tax collected shall be distributed by the director of finance to the county in which the county surcharge on state tax is generated and shall be a general fund realization of the county, to be used for the purposes specified in section 46-16.8 by each of the counties.”

SECTION 6. 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:] 2030, and
 [(C) Section] section 437D-8.4, Hawaii Revised Statutes, shall be re-enacted 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 226, Session Laws of Hawaii 2008, as amended by Act 11, Session Laws of Hawaii 2009, and Act 110, Session Laws of Hawaii 2014, shall not be repealed.”

PART II

SECTION 7. 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 [~~surecharges~~] surcharge revenues received from the State for[:

- (1) ~~Capital~~ 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 [to]:

- (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 or maintenance costs of the mass transit project or any purpose not consistent with this subsection; or
- (3) For administrative or operating, marketing, or maintenance costs, including personnel costs, of a rapid transportation authority charged with the responsibility for constructing, operating, or maintaining the mass transit project;

provided further that nothing in this section shall be construed to prohibit a county from using county funds that are not derived from a surcharge on state tax for a purpose described in paragraph (2) or (3).”

PART III

SECTION 8. Chapter 248, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§248- Mass transit special fund; established; distribution of funds.

(a) There is established a mass transit special fund to be administered by the department of budget and finance.

(b) For the period beginning on January 1, 2018, to December 31, 2030, transient accommodations tax and surcharge on state tax revenues allocated to the mass transit special fund pursuant to sections 237D-2(e) and 248-2.6 shall be deposited into the special fund. All interest earned on the moneys in the special fund shall be credited to the general fund. The mass transit special fund shall be exempt from the central service expenses deduction under section 36-27 and departmental administrative expenses deduction under section 36-30.

(c) Upon receiving a certification statement from the comptroller pursuant to section 40- , the director of finance shall allocate and disburse moneys in the mass transit special fund to the director of finance of a county with a

population greater than five hundred thousand; provided that the director of finance shall only disburse those amounts that are certified in the certification statement for that county for the purposes specified in section 46-16.8; provided further that revenues allocated from the special fund shall not be used for:

- (1) Operating or maintenance costs of the mass transit project or any purpose not consistent with section 46-16.8(e); or
- (2) Administrative, operating, marketing, or maintenance costs, including personnel costs, of a rapid transportation authority charged with the responsibility for constructing, operating, or maintaining the mass transit project;

provided further that the total amount of funds that are available, allocated, and disbursed by the director of finance pursuant to this section shall not be in excess of the total amount indicated on the certification statement. The director of finance may allocate and disburse moneys pursuant to this section on a monthly basis.

Any amounts allocated and disbursed pursuant to this section shall be subject to the availability of funds deposited and on balance in the special fund. The director of finance shall not allocate or disburse any amounts from the special fund that are in excess of any amounts deposited and on balance in the special fund.

(d) The director of finance shall post all certification statements received from the comptroller pursuant to section 40- on the department of budget and finance's website within ten working days of payments made pursuant to this section.

(e) The department of budget and finance shall submit an annual report to the legislature not later than twenty days prior to the convening of each regular session on the total amount of funds allocated pursuant to this section.

(f) The director of finance may establish rules, exempt from chapter 91, for the purposes of this section."

SECTION 9. 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 subsections (a)(5) and (c)(3), the tax rates levied, assessed, and collected pursuant to subsections (a) and (c) shall be 10.25 per cent for the period beginning on January 1, 2018, to December 31, 2030; provided that:

- (1) The tax revenues levied, assessed, and collected pursuant to this subsection that are in excess of the revenues realized from the levy, assessment, and collection of tax at the 9.25 per cent rate shall be deposited quarterly into the mass transit special fund established under section 248- ; and
- (2) If a court of competent jurisdiction determines that the amount of county surcharge on state tax revenues deducted and withheld by the State, pursuant to section 248-2.6, violates statutory or constitutional law and, as a result, awards moneys to a county with a population greater than five hundred thousand, then an amount equal to the monetary award shall be deducted and withheld from the tax revenues deposited under paragraph (1) into the mass transit special fund, and those funds shall be a general fund realization of the State.

The remaining tax revenues levied, assessed, and collected at the 9.25 per cent tax rate pursuant to subsections (a) and (c) shall be distributed in accordance with section 237D-6.5(b)."

SECTION 10. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [Revenues] Except for the revenues collected pursuant to section 237D-2(e), revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

- (1) \$1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;
- (2) \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (3) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:
 - (A) 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;
 - (B) 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
- (C) 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 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
- (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 IV

SECTION 11. (a) The state auditor shall conduct an audit of the Honolulu authority for rapid transportation. The audit shall include an examination of the financial records and an analysis of the financial management of the Honolulu authority for rapid transportation, including but not limited to:

- (1) The Honolulu authority for rapid transportation's financial plan and related systems of accounting;
- (2) The Honolulu authority for rapid transportation's fiscal and management policies, practices, and processes associated with the plans, design, bidding, and construction of the Honolulu rail transit project;
- (3) All contracts awarded for, and expenditures associated with, the Honolulu rail transit project, including payments to contractors, subcontractors, and consultants, as well as any change orders;
- (4) Expenditures by the Honolulu authority for rapid transportation for personnel costs, lease rent, and any other costs associated with its management and operations; and
- (5) Any other subjects that the auditor deems necessary for review, to determine whether funds received by the Honolulu authority for rapid transportation from the county surcharge on state tax are being managed and used in a reasonable manner.

As part of its analysis, the state auditor shall research the criteria used by the Federal Transit Authority to determine whether expenditures comply with the requirements and restrictions of the full funding agreement of the Honolulu rail transit project.

(b) In addition to the audit required in this section, the state auditor shall:

- (1) Identify, based on information and prior analyses by the Honolulu authority for rapid transportation, alternative routes and development options and the projected costs for each alternative route and development option for the Middle Street to Ala Moana segment of the Honolulu rail transit project; and
- (2) Obtain from the Honolulu authority for rapid transportation a detailed financial plan that describes the predicted means by which the Honolulu authority for rapid transportation and the city and county of Honolulu will finance the ongoing costs of maintaining and operating the Honolulu rail transit project without the use of state moneys or other state-provided financial supports. The state auditor shall submit the auditor's findings and recommendations on the financial reasonableness of the financial plan and include these findings and recommendations in the audit report.

(c) To effectuate the purpose of this section, the state auditor shall have all the powers established pursuant to chapter 23, Hawaii Revised Statutes, including the power to subpoena the production of any documents from the Honolulu authority for rapid transportation that may be necessary to complete the audit required by this section.

(d) The state auditor shall report the auditor's findings and recommendations to the legislature, state director of finance, and the board of directors of the Honolulu authority for rapid transportation no later than twenty days prior to the convening of the regular session of 2019.

PART V

SECTION 12. Chapter 23, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§23- Rapid transportation authority; annual review. (a) Beginning on the effective date of Act _____, First Special Session of 2017, and ending on December 31, 2031, the auditor, on an annual basis, shall conduct a review of any

rapid transportation authority in the State charged with the responsibility of constructing, operating, or maintaining a locally preferred alternative for a mass transit project that receives moneys from a surcharge on state tax established pursuant to section 46-16.8, transient accommodations tax revenues pursuant to section 237D-2(e), or both. The annual review shall include a review of documents, including but not limited to invoices, contracts, progress reports, and time schedules, to determine that:

- (1) Expenditures by the authority comply with the criteria established pursuant to section 46-16.8(e); and
 - (2) The authority follows accounting best practices for substantiating its expenditures.
- (b) A rapid transportation authority subject to this section and any private company or agency contracted to provide services for the locally preferred alternative for a mass transit project shall cooperate with and assist the auditor as needed in conducting the annual review, including promptly providing all records and other information requested by the auditor in the course of the annual review.
- (c) The auditor shall submit the findings and recommendations of the auditor's review to the legislature and the rapid transportation authority no later than twenty days prior to the convening of the immediately following regular session."

SECTION 13. Chapter 40, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

"§40- Rapid transportation authority; certification statement. (a) Beginning on the effective date of Act , First Special Session of 2017, and ending on December 31, 2031, the comptroller, upon the request for payment by the rapid transportation authority, shall verify that the authority's invoices for the capital costs of a locally preferred alternative for a mass transit project comply with section 46-16.8(e).

(b) The rapid transportation authority subject to this section shall provide the comptroller with:

- (1) The authority's financial plan and related systems for accounting, including a budget for a locally preferred alternative for a mass transit project;
- (2) Expenditures for capital costs for a locally preferred alternative for a mass transit project;
- (3) Expenditures for personnel costs, lease rent, and any other costs associated with the authority's management and operations; and
- (4) Any other information the comptroller may require to accomplish the purpose of this section.

(c) After submission of invoices by the rapid transportation authority for capital costs of a locally preferred alternative for a mass transit project are verified by the comptroller as an acceptable use of funds received pursuant to a surcharge on state tax authorized pursuant to section 46-16.8, the comptroller shall submit a certification statement, including any appropriate supporting documents, to the department of budget and finance for the allocation of funds, if available, pursuant to sections 248- and 248-2.6(d). The certification statement shall include, at a minimum, the total amount contained in the invoices for capital costs that are verified as an appropriate use of funds pursuant to section 46-16.8(e).

(d) The comptroller may establish rules, exempt from chapter 91, for the purposes of this section.

(e) For the purposes of this section, “rapid transportation authority” means any entity established by a county in the State for the purpose of constructing, operating, or maintaining a locally preferred alternative for a mass transit project and that receives moneys from a surcharge on state tax established pursuant to section 46-16.8, transient accommodations tax revenues pursuant to section 237D-2(e), or both.”

PART VI

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2017-2018 to establish one full-time equivalent (1.0 FTE) civil service exempt position to assist the director of finance in determining the distribution and remittance of revenues derived from a county surcharge on state tax pursuant to section 248-2.6(d), Hawaii Revised Statutes, and the transient accommodations tax pursuant to part III of this Act.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act. The appropriation made pursuant to this section shall not lapse at the end of the fiscal year in which the appropriation is made; provided that any amounts that remain unencumbered on June 30, 2019, shall lapse on that date.

PART VII

SECTION 15. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2017-2018 to establish three full-time equivalent (3.0 FTE) civil service exempt positions to assist in verifying rapid transportation authority expenditures, pursuant to section 40- , Hawaii Revised Statutes. The comptroller may contract the services of persons or entities to effectuate the purposes of this Act. Any contract for services executed by the comptroller pursuant to this section or section 40- , Hawaii Revised Statutes, shall be exempt from chapter 103D, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act. The appropriation made pursuant to this section shall not lapse at the end of the fiscal year in which the appropriation is made; provided that any amounts that remain unencumbered on June 30, 2019, shall lapse on that date.

PART VIII

SECTION 16. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2017-2018 to:

- (1) Conduct annual reviews, pursuant to section 23- , Hawaii Revised Statutes; and
- (2) Conduct an audit of the Honolulu authority for rapid transportation pursuant to section 11 of this Act.

The sum appropriated shall be expended by the office of the auditor for the purposes of this Act. The appropriation made pursuant to this section shall not lapse at the end of the fiscal year in which the appropriation is made; provided that any amounts that remain unencumbered on June 30, 2019, shall lapse on that date.

PART IX

SECTION 17. There is appropriated out of the mass transit special fund established pursuant to section 248- , Hawaii Revised Statutes, the sum of \$1,000,000,000 or so much thereof as may be necessary for fiscal year 2017-2018 for the director of finance to pay the expenses of a rapid transit authority that are certified pursuant to section 40- , Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act. The appropriation made pursuant to this section shall not lapse at the end of the fiscal year in which the appropriation is made; provided that any amounts that remain unencumbered on June 30, 2019, shall lapse to the credit of the mass transit special fund on that date.

PART X

SECTION 18. Notwithstanding any law, charter provision, or ordinance to the contrary, in any county with a population greater than five hundred thousand, in order to ensure the appropriate use of state authorized funds to finance a locally preferred alternative for a mass transit project, the president of the senate and speaker of the house of representatives shall each appoint two non-voting, ex-officio members to the board of directors of the county's rapid transportation authority. The terms for each member appointed pursuant to this section shall be determined by the presiding officer who appointed them.

For the purposes of this section, "county rapid transportation authority" means any entity established by a county in the State with a population greater than five hundred thousand for the purpose of constructing, operating, or maintaining a locally preferred alternative for a mass transit project and that receives moneys from a surcharge on state tax established pursuant to section 46-16.8, Hawaii Revised Statutes, transient accommodations tax revenues pursuant to section 237D-2(e), Hawaii Revised Statutes, or both.

PART XI

SECTION 19. This Act shall not be construed to prohibit the use of funds generated by a county for purposes not prohibited by state law.

SECTION 20. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 21. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 22. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 23. This Act shall take effect upon its approval.

(Approved September 5, 2017.)

Note

1. Edited pursuant to HRS §23G-16.5.