



**TESTIMONY OF SIMEON R. ACOBA, CHAIR,
STATE-COUNTY FUNCTIONS WORKING GROUP, ON
SENATE BILL NO. 284, SENATE DRAFT 2,
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

**House Committee on Tourism
March 18, 2015**

Chair Brower and Members of the Committee:

I am Simeon R. Acoba, Chair of the State-County Functions Working Group. Thank you for the opportunity to comment on Senate Bill No. 284, Senate Draft 2, relating to the transient accommodations tax (TAT). This measure would, among other purposes, allocate \$3 million of TAT revenues to the Special Land and Development Fund.

The Working Group was created by Act 174 (SLH 2014) and administratively placed within the Office of the Auditor. The Working Group, which first convened in October 2014, is comprised of 13 members appointed by the Governor, the Senate President, the Speaker of the House of Representatives, each of the county mayors, and the Chief Justice. The group is assigned the following responsibilities:

- 1) Evaluate the division of duties and responsibilities between the State and counties relating to the provision of public services; and
- 2) Submit a recommendation to the Legislature on the appropriate allocation of the transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provision of public services.

Act 174 requires the Working Group to submit two reports: 1) an Interim Report, which was delivered to the Legislature, Governor, and each of the county mayors, on December 18, 2014; and 2) a Final Report with its findings and recommendations to the same parties 20 days prior to the convening of the 2016 Regular Session.

The Working Group will continue its work through 2015 and shall cease to exist upon the adjournment sine die of the 2016 Regular Session. We note that any TAT legislation passed this year may affect the on-going work of the Working Group. Accordingly, while we take no position on the merits of this bill, we respectfully request your consideration of deferring decisions on TAT legislation introduced this year to the 2nd year of the 28th State Legislature to enable the the Working Group to complete its work. As required by Act 174, the Working Group will report its findings and make recommendations prior to the 2016 Regular Session.

Thank you for the opportunity to offer comments on Senate Bill No. 284, Senate Draft 2. I am available for your questions.



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David Y. Ige
Governor

Ronald Williams
Chief Executive Officer

Testimony of
Ronald Williams
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. No. 284, Proposed S.D.2
Relating to the Transient Accommodations Tax
House Committee on Tourism
Wednesday, March 18, 2015
9:30 a.m.
Conference Room 312

The Hawaii Tourism Authority (HTA) supports S.B. No. 284, Proposed S.D.2, with some concerns.

Act 161, Session Laws of Hawaii 2013, amended section 237D-6.5, to provide that \$3 million of the excess TAT revenues deposited into the general fund be allocated for programs to support the protection, preservation, and enhancement of natural resources important to the visitor industry, including planning, construction, and repair of facilities, and operation and maintenance costs for public lands connected with enhancing the visitor experience. The phrase "deposited into the general fund," however, created a problem because those funds could not be expended by the Department of Land and Natural Resources (DLNR) without being further appropriated.

Part I of S.B. 284, Proposed S.D.2, corrects this error by:

- Providing, in SECTION 2, that the \$3 million be allocated to the Special Land and Development Fund for the operation and maintenance costs of state parks, beaches, and trails, and costs associated with improving enforcement of ancillary regulations;
- Amending section 171-19, which creates the Special Land and Development Fund, to provide that monies in the Fund can be used for the "planning, development, management, operations or maintenance of all lands and improvements under the control and management" of the Board of Land and Natural Resources, pursuant to title 12, HRS, provided that TAT funds allocated to the Fund shall be expended in conformance to the HTA's long-range strategic plan; and

Part II of S.B. No. 284, S.D. 2:

- Assigns to DLNR the acquisition of the Turtle Bay conservation easement;

- Authorizes the Department of Budget and Finance to issue \$40 million in revenue bonds to acquire the conservation easement;
- Provides for the allocation of \$3 million in TAT revenues for the payment of debt service on revenue bonds, including ongoing expenses related to the issuance of the bonds, for the acquisition of the Turtle Bay conservation easement; and
- Repeals the provisions of Act 81, which relate to the HTA's responsibilities for the acquisition of the Turtle Bay conservation easement.

We appreciate that the responsibility for the acquisition of the conservation easement have been given to DLNR. However, of concern to HTA is that Part II establishes as the highest priority for the allocation of TAT revenues, the allocation of \$3 million annually in TAT revenues to pay the debt service on the bonds for the Turtle Bay conservation easement, including the ongoing expenses for the acquisition. S.B. No. 284, S.D.2, also creates a confusion because, like Part I, it proposes a different to section 237d-6.5(b), HRS, which does not correct the error that the original S.B. No. 284 proposed.

We realize that S.B. No. 284 is a work in progress. While we support Part I of S.B. 284, and the provisions assigning the acquisition of the Turtle Bay conservation easement to DLNR, we have concerns about the changes to the priority of the allocation of TAT revenues and the changes to section 237D-6.5, which may conflict with the changes proposed in Part I.

Mahalo for the opportunity to offer these comments.

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON TOURISM
ON
SENATE BILL NO. 284, S.D. 2

March 18, 2015
9:30 A.M.

RELATING TO TRANSIENT ACCOMMODATIONS TAX

Senate Bill No. 284, S.D.2, allocates \$3,000,000 of transient accommodations tax (TAT) revenues to the special land and development fund to be expended in accordance with the long-range strategic plan for tourism. The bill also authorizes the Department of Budget and Finance (the "Department") to issue \$40,000,000 in revenue bonds and to use the proceeds to acquire a conservation easement in Turtle Bay, Oahu, requires the Department to transfer the conservation easement to the Department of Land and Natural Resources (DLNR), and allocates TAT revenues of \$3,000,000 annually to the Department to pay the debt service on the revenue bonds and ongoing expenses related to the bonds.

The Department supports this measure. With respect to the Department, the amendments to Senate Bill No. 284, S.D.2, in the attached proposed Senate Bill No. 284, S.D. 2, H.D. 1, prepared by the Department of the Attorney General, are primarily to 1) establish a special fund in the Department (as opposed to in DLNR) to receive the revenue bond proceeds and the TAT revenues for the payment of debt service, and 2) require DLNR to be responsible for the acquisition of the conservation easement and other matters relating to the conservation easement.

Furthermore, current market conditions with minimal structuring requirements may allow for the issuance of \$40,000,000 of revenue bonds with annual debt service and related issuance expenses being less than \$3,000,000 per year. However, should interest rates rise and/or investors require increased structuring considerations, such as a revenue coverage ratio in excess of one to one or the funding of a debt service reserve fund, additional funding in excess of \$3,000,000 per year may be necessary to finance the acquisition of the conservation easement in Turtle Bay.

In addition, the issuance of general obligation bonds would be a lower cost financing alternative and more efficient means of financing as it would not require the establishment of a new revenue bond credit.

Thank you for the opportunity to provide testimony on this measure.

3/16/2015

PROPOSED

A BILL FOR AN ACT

RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

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

PART I

SECTION 1. The purpose of this part is to establish a method to use transient accommodations tax revenues to pay for the debt service on revenue bonds, the proceeds of which will be used to acquire a conservation easement in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State.

The legislature finds that the transient accommodations tax revenues are substantially derived from the visitor industry and comprise user taxes. The source of funding for the Turtle Bay conservation easement will be revenue bonds issued by the department of budget and finance. The debt service on the revenue bonds will be paid from the transient accommodations

tax revenues. The proceeds from the revenue bonds and the transient accommodations tax revenues will be deposited into the North Shore special fund. The revenue bond proceeds in the North Shore special fund will then be transferred for deposit into the Turtle Bay conservation easement special fund administered by the department of land and natural resources. The role of the department of budget and finance is solely to facilitate the financing of this transaction and to pay debt service on the revenue bonds with the department of land and natural resources purchasing the Turtle Bay conservation easement. The legislature finds that the financing of the Turtle Bay conservation easement is essential to the execution of the transaction and is for a public purpose.

The legislature also finds that the acquisition of the Turtle Bay conservation easement by the department of [~~budget and finance~~] land and natural resources is for the purpose of supporting, encouraging and enhancing the natural beauty of Oahu's north shore, which, by sustaining the visitor industry attracting visitors to the State, will contribute to the amounts of transient accommodations tax revenues collected. The legislature further finds that the acquisition of the Turtle Bay conservation easement by the department of [~~budget and finance~~] land and natural resources [~~and its subsequent transfer to the department of land and natural resources~~] is crucial to the protection, preservation, and enhancement of the State's natural resources and to the State's economic well-being, and is for a public purpose.

This part:

(1) Authorizes the department of budget and finance to issue \$40,000,000 in revenue bonds and ~~[transfers and appropriates the proceeds]~~ deposits the proceeds into the North Shore special fund; [to use the proceeds to acquire a conservation easement in Turtle Bay, Oahu;]

(2) Requires the department of budget and finance~~[, upon acquisition,]~~ to transfer the ~~[conservation easement]~~ revenue bond proceeds from the North Shore special fund to the Turtle Bay conservation easement special fund; [to the department of land and natural resources; and]

(3) Appropriates \$40,000,000 out of the Turtle Bay conservation easement special fund for the department of land and natural resources to acquire a conservation easement at Turtle Bay, Oahu; and

~~[(3)]~~ (4) Allocates transient accommodations tax revenues of \$3,000,000 annually to the department of budget and finance to pay the debt service on the revenue bonds and ongoing expenses related to the issuance of the bonds.

SECTION 2. Chapter 37, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§37-A Revenue bonds for conservation easement in Turtle Bay, Oahu. (a) The department of budget and finance shall issue revenue bonds to provide funding for the acquisition of a conservation easement in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State. The conservation easement shall be in compliance with chapters 171 and 198.

(b) For the purpose of this section, the acquisition of the conservation easement shall be deemed an undertaking under part III of chapter 39.

(c) The revenue bonds issued to acquire the conservation easement shall be secured by and payable from the transient accommodations tax revenues allocated to the department of budget and finance special fund established by section 37-B. The transient accommodations tax revenues are and shall be deemed user taxes. The revenues allocated shall be deemed user taxes pursuant to chapter 39 for the undertaking.

(d) The revenue bonds shall be issued in accordance with chapter 39, part III.

§37-B North Shore special fund. (a) There is established the North Shore special fund to be administered by the department of budget and finance.

(b) Transient accommodations tax revenues allocated to the North Shore special fund pursuant to section 237D-6.5 shall be deposited into the special fund. All interest earned on the moneys in the special fund shall be credited to the special fund.

(c) Moneys in the North Shore special fund shall be expended to provided financing for the acquisition of a conservation easement in Turtle Bay, Oahu, and pay the debt service on revenue bonds issued to acquire that conservation easement.

(d) The North Shore special fund shall be exempt from the central service expenses of section 36-27 and departmental administrative expenses of section 36-30."

SECTION 3. Chapter 171, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§171-B Turtle Bay conservation easement special fund. (a) There is established the Turtle Bay conservation easement special fund to be administered by the department of ~~budget and finance~~ land and natural resources.

(b) All interest earned on the moneys in the special fund shall be credited to the special fund.

(c) Moneys in the Turtle Bay conservation easement special fund shall be expended to ~~pay the debt service on revenue bonds issued~~ to acquire the conservation easement in Turtle Bay, Oahu.

(d) The Turtle Bay conservation easement special fund shall be exempt from the central service expenses of section 36-27 and departmental administrative expenses of section 36-30.

(e) Upon payment of all debt service at maturity on the revenue bonds issued to acquire the conservation easement in Turtle Bay, Oahu, any unencumbered and unexpended moneys in the Turtle Bay conservation easement special fund shall be transferred to the tourism special fund established under section 201B-11.

§171-C Turtle Bay appraisal and due diligence. Any appraisal and due diligence completed by the Hawaii tourism authority may be used by the department of land and natural resources for the acquisition of the Turtle Bay conservation easement."

SECTION 4. Section 87A-42, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) In any fiscal year subsequent to the 2017-2018 fiscal year in which a county public employer's contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the county public employer's contributions shall be deposited into the fund from a portion of all transient accommodations tax revenues collected by the department of taxation under section ~~[237D-6.5(b)(3)]~~ 237D-6.5(b)(4). The director of finance shall deduct the amount necessary to meet the county public employer's annual required contribution from the revenues derived under section ~~[237D-6.5(b)(3)]~~ 237D-6.5(b)(4) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund."

SECTION 5. Section 171-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"§171-19 Special land and development fund. (a) There is created in the department a special fund to be designated as the "special land and development fund". Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred payments; all moneys collected under section 171-58 for mineral and water rights; all rents from leases, licenses, and permits derived from public lands; all moneys collected from lessees of public lands within industrial parks; all fees, fines, and other administrative charges collected under this chapter and chapter 183C; a portion of the highway fuel tax collected under chapter 243; all moneys

collected by the department for the commercial use of public trails and trail accesses under the jurisdiction of the department; transient accommodations tax revenues collected pursuant to section [~~237D-6.5(b)(2)~~] 237D-6.5(b)(3); and private contributions for the management, maintenance, and development of trails and accesses shall be set apart in the fund and shall be used only as authorized by the legislature for the following purposes:

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

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

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

(4) For the payment of all appraisal fees; provided that all fees reimbursed to the board shall be deposited in the fund;

(5) For the payment of publication notices as required under this chapter; provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules adopted by the board;

(6) For the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department;

(7) For the payment to private land developers who have contracted with the board for development of public lands under section 171-60;

(8) For the payment of debt service on revenue bonds issued by the department, and the establishment of debt service and other reserves deemed necessary by the board;

(9) To reimburse the general fund for debt service on general obligation bonds issued to finance departmental projects, where the bonds are designated to be reimbursed from the special land and development fund;

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

(11) For other purposes of this chapter."

SECTION 6. Section 201B-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Moneys in the convention center enterprise special fund shall be used by the authority for the payment of any and all of the following:

(1) Debt owed to the department of budget and finance relating to the convention center~~]; provided that, after the restructuring required by section 5 of Act 81, Session Laws of~~

~~Hawaii 2014, the annual debt service payment owed to the department shall not exceed \$16,500,000 from fiscal year 2014-2015 until fully retired]; and~~

(2) Expenses arising from any and all use, operation, maintenance, alteration, improvement, or any unforeseen or unplanned repairs of the convention center, including without limitation the food and beverage service and parking service provided at the convention center facility, the sale of souvenirs, logo items, or other items, for any future major repair, maintenance, and improvement of the convention center facility as a commercial enterprise or as a world class facility for conventions, entertainment, or public events, and for marketing the facility pursuant to section 201B-7(a)(7)."

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

"(b) Revenues collected under this chapter shall be distributed ~~[as follows,]~~ in the following priority, with the excess revenues to be deposited into the general fund:

(1) \$3,000,000 shall be allocated to the North Shore special fund beginning July 1, 2015, for the payment of debt service on revenue bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement 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;

~~[(2)]~~ (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 trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund;

~~[(3)]~~ (4) \$103,000,000 for fiscal year 2014-2015, \$103,000,000 for fiscal year 2015-2016, 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

~~[(4) \$3,000,000 shall be allocated to the Turtle Bay conservation easement special fund established under section 201B-8.6 for the payment of debt service on revenue bonds, the proceeds of which were used to acquire the conservation easement in Turtle Bay, Oahu, until the bonds are fully amortized; and]~~

(5) ~~[Of the excess revenues deposited into the general fund pursuant to this subsection,]~~ \$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]~~ to the special land and development fund established under section 171-19, to be expended pursuant to title 12 in accordance with the [Hawaii tourism authority] long range strategic plan for tourism developed by the Hawaii tourism authority for:

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

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

(C) Operation and maintenance costs of ~~[public lands]~~ state parks, beaches, and trails, and costs associated with improving enforcement of ancillary regulations, 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."

SECTION 8. Section 201B-8.5, Hawaii Revised Statutes, is repealed.

~~["§201B-8.5] Revenue bonds for conservation easement in Turtle Bay, Oahu. (a) As authorized by section 6 of Act 81, Session Laws of Hawaii 2014, the authority shall issue revenue bonds to acquire a conservation easement in Turtle Bay, Oahu. The public shall have perpetual public access to said conservation easement. The conservation easement shall be in compliance with chapter 198.~~

~~Prior to executing the agreement to acquire the conservation easement, the authority shall:~~

~~(1) Obtain an appraisal and perform its due diligence on the conservation easement and property rights proposed to be acquired; and~~

~~(2) Offer to hold an informational briefing for the legislature. The offer shall be made through the president of the senate and speaker of the house of representatives.~~

~~(b) For the purpose of this section, the authority shall be deemed a "department" and the acquisition of the conservation easement shall be deemed an "undertaking" under chapter 39.~~

~~(c) The revenue bonds issued to acquire the conservation easement shall be secured by and payable from the transient accommodations tax revenues allocated to the Turtle Bay conservation easement special fund established pursuant to section 201B-8.6. For this purpose, the revenues allocated shall be deemed "user taxes" for the undertaking.~~

~~(d) The revenue bonds shall be issued in accordance with chapter 39, part III. The authority shall request the director of finance, on behalf of the authority, to perform the duties specified under section 39-68 regarding the preparation, sale, and administration of the revenue bonds."]~~

SECTION 9. Section 201B-8.6, Hawaii Revised Statutes, is repealed.

~~[{"§201B-8.6} Turtle Bay conservation easement special fund. (a) There is established the Turtle Bay conservation easement special fund.~~

~~(b) Transient accommodations tax revenues allocated to the Turtle Bay conservation easement special fund pursuant to section 237D-6.5 shall be deposited into the special fund. All interest earned on the moneys in the special fund shall be credited to the special fund.~~

~~(c) Moneys in the Turtle Bay conservation easement special fund shall be expended to pay the debt service on revenue bonds issued to acquire the conservation easement in Turtle Bay, Oahu, pursuant to section 201B-8.5.~~

~~(d) The Turtle Bay conservation easement special fund shall be exempt from the central service expenses of section 36-27 and departmental administrative expenses of section 36-30."]~~

SECTION 10. Act 81, Session Laws of Hawaii 2014, is amended by repealing sections 5 through 8.

~~"[SECTION 5. (a) The executive director of the Hawaii tourism authority and the director of finance shall enter into negotiations to restructure the debt owed to the department of budget and finance for the convention center so that the annual amount payable on the debt service is not more than \$16,500,000 until fully retired.~~

~~(b) If the debt is not restructured as required under subsection (a), no state funds, including revenue bond funds, shall be expended to acquire any conservation easement or other real property interest in Turtle Bay, Oahu, notwithstanding the authorization under section 201B-A, Hawaii Revised Statutes, and sections 6 and 7 of this Act.~~

~~SECTION 6. (a) The board of directors of the Hawaii tourism authority, with the approval of the governor, is authorized to issue revenue bonds in the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the purpose of acquiring a conservation easement in Turtle Bay, Oahu, as authorized under section 201B-A, Hawaii Revised Statutes.~~

~~(b) The board of directors, with the approval of the governor, shall issue the revenue bonds under such terms, conditions, and maturity dates that do not require any debt service payment to exceed \$3,000,000 in any fiscal year.~~

~~(c) If the board of directors cannot issue revenue bonds in accordance with the conditions of this section or section 201B-A or chapter 39, part III, Hawaii Revised Statutes, no state funds shall be expended to acquire any conservation easement or other real property interest in Turtle Bay, Oahu.~~

~~SECTION 7. There is appropriated out of the revenue bond proceeds authorized by section 6 of this Act the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 to carry out the purpose of section 6; provided that any unexpended or unencumbered balance of the appropriation shall not lapse at the end of fiscal year 2014-2015 and shall lapse instead on June 30, 2016.~~

~~The sum appropriated shall be expended by the Hawaii tourism authority for the purpose of this Act.~~

~~SECTION 8. This Act shall not be severable. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, then the entire Act shall be invalid.]"~~

SECTION 11. (a) The department of budget and finance, with the approval of the governor, is authorized to issue revenue bonds in the sum of \$40,000,000 or so much thereof as

may be necessary for the purpose of financing the acquisition of a conservation easement in Turtle Bay, Oahu, and the same sum shall be deposited into the North Shore special fund.

(b) The department of budget and finance, with the approval of the governor, shall issue the revenue bonds in such aggregate principal amount and under such terms, conditions, and maturity dates such that the required payments of principal and interest on the revenue bonds shall not exceed \$3,000,000 in any fiscal year.

SECTION 12. There is appropriated out of the North Shore special fund the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 to finance the acquisition of a conservation easement in Turtle Bay, Oahu. This sum shall be deposited in the Turtle Bay conservation easement special fund.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 13. There is appropriated out of the Turtle Bay conservation easement special fund the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 to acquire a conservation easement in Turtle Bay, Oahu.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

PART II

SECTION 14. In codifying the new sections added by [~~section 4 of~~] this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect upon approval.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the House Committee on
TOURISM**

**Wednesday, March 18, 2015
9:30 AM
State Capitol, Conference Room 312**

**In consideration of
SENATE BILL 284, SENATE DRAFT 2
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

Senate Bill 284, Senate Draft 2 proposes in PART I to allocate \$3,000,000 of Transient Accommodations Tax (TAT) revenues to the Special Land and Development Fund to be expended in accordance with the long-range strategic plan for tourism, and in PART II proposes to authorize the Department of Budget and Finance to issue \$40,000,000 in revenue bonds and to use the proceeds to acquire a conservation easement in Turtle Bay, Oahu, and requires the transfer of the conservation easement to the Department of Land and Natural Resources (Department). The measure also proposes to allocate transient accommodations tax revenues of \$3,000,000 annually to the Department of Budget and Finance to pay the debt service on the revenue bonds and ongoing expenses related to the bonds. **The Department supports the intent of this measure but respectfully ask this committee to consider instead, the Administration's Proposed Senate Draft 2 which has been attached as part of this testimony.**

In 2013, the Legislature passed Senate Bill 1194, Conference Draft 1, which was signed into law as Act 161, Session Laws of Hawaii 2013. Prior to this bill being enacted into law, \$1,000,000 from TAT revenues budgeted for the Hawaii Tourism Authority (HTA) was deposited into the Department's State Parks Special Fund, and the Special Land and Development Fund for the state-wide trail and access program. Act 161 in part left that \$1,000,000 in the HTA budget and instead allocated \$3,000,000 subject to the mutual agreement of the Board of Land and Natural Resources and the Board of Directors of the HTA in accordance with the HTA Strategic Plan for the same purposes outlined in this measure. Act 161 specified an amount "of the excess revenue deposited into the general fund", but did not provide authority to expend the funds. Thus, to date, the Department has received none of the funding intended for it by the Act in Fiscal Year 2013-2014 or the current fiscal year.

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Last session, a measure was introduced which included language that solved the issue. The bill remained viable and made it into conference committee. However, last minute revisions related to the acquisition of the Turtle Bay Conservation Easement resulted in elimination of that language.

With regard to the Turtle Bay Conservation Easement, the Department will continue to work with the Administration on its acquisition.

THE SENATE

S.B. NO.

284

TWENTY-EIGHTH LEGISLATURE, 2015

S.D. 2

STATE OF HAWAII

3/16/2015

PROPOSED

A BILL FOR AN ACT

RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

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

PART I

SECTION 1. The purpose of this part is to establish a method to use transient accommodations tax revenues to pay for the debt service on revenue bonds, the proceeds of which will be used to acquire a conservation easement in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State.

The legislature finds that the transient accommodations tax revenues are substantially derived from the visitor industry and comprise user taxes. The source of funding for the Turtle Bay conservation easement will be revenue bonds issued by the department of budget and finance. The

debt service on the revenue bonds will be paid from the transient accommodations tax revenues. The proceeds from the revenue bonds and the transient accommodations tax revenues will be deposited into the North Shore special fund. The revenue bond proceeds in the North Shore special fund will then be transferred for deposit into the Turtle Bay conservation easement special fund administered by the department of land and natural resources. The role of the department of budget and finance is solely to facilitate the financing of this transaction and to pay debt service on the revenue bonds with the department of land and natural resources purchasing the Turtle Bay conservation easement. The legislature finds that the financing of the Turtle Bay conservation easement is essential to the execution of the transaction and is for a public purpose.

The legislature also finds that the acquisition of the Turtle Bay conservation easement by the department of ~~[budget and finance]~~ land and natural resources is for the purpose of supporting, encouraging and enhancing the natural beauty of Oahu's north shore, which, by sustaining the visitor industry attracting visitors to the State, will contribute to the amounts of transient accommodations tax revenues collected. The legislature further finds that the acquisition of the Turtle Bay conservation easement by the department of ~~[budget and finance]~~ land and natural resources ~~[and its subsequent transfer to the department of land and natural resources]~~ is crucial to the protection, preservation, and enhancement of the State's natural resources and to the State's economic well-being, and is for a public purpose.

This part:

(1) Authorizes the department of budget and finance to issue \$40,000,000 in revenue bonds and ~~[transfers and appropriates the proceeds]~~ deposits the proceeds into the North Shore special fund; ~~[to use the proceeds to acquire a conservation easement in Turtle Bay, Oahu;]~~

(2) Requires the department of budget and finance~~[-upon acquisition,]~~ to transfer the ~~[conservation easement]~~ revenue bond proceeds from the North Shore special fund to the Turtle Bay conservation easement special fund; ~~[to the department of land and natural resources; and]~~

(3) Appropriates \$40,000,000 out of the Turtle Bay conservation easement special fund for the department of land and natural resources to acquire a conservation easement at Turtle Bay, Oahu; and

~~[(3)]~~ (4) Allocates transient accommodations tax revenues of \$3,000,000 annually to the department of budget and finance to pay the debt service on the revenue bonds and ongoing expenses related to the issuance of the bonds.

SECTION 2. Chapter 37, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§37-A Revenue bonds for conservation easement in Turtle Bay, Oahu. (a) The department of budget and finance shall issue revenue bonds to provide funding for the acquisition of a conservation easement in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State. The conservation easement shall be in compliance with chapters 171 and 198.

(b) For the purpose of this section, the acquisition of the conservation easement shall be deemed an undertaking under part III of chapter 39.

(c) The revenue bonds issued to acquire the conservation easement shall be secured by and payable from the transient accommodations tax revenues allocated to the department of budget and finance special fund established by section 37-B. The transient accommodations tax revenues are and shall be deemed user taxes. The revenues allocated shall be deemed user taxes pursuant to chapter 39 for the undertaking.

(d) The revenue bonds shall be issued in accordance with chapter 39, part III.

§37-B North Shore special fund. (a) There is established the North Shore special fund to be administered by the department of budget and finance.

(b) Transient accommodations tax revenues allocated to the North Shore special fund pursuant to section 237D-6.5 shall be deposited into the special fund. All interest earned on the moneys in the special fund shall be credited to the special fund.

(c) Moneys in the North Shore special fund shall be expended to provided financing for the acquisition of a conservation easement in Turtle Bay, Oahu, and pay the debt service on revenue bonds issued to acquire that conservation easement.

(d) The North Shore special fund shall be exempt from the central service expenses of section 36-27 and departmental administrative expenses of section 36-30."

SECTION 3. Chapter 171, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§171-B Turtle Bay conservation easement special fund. (a) There is established the Turtle Bay conservation easement special fund to be administered by the department of ~~[budget and finance.]~~ land and natural resources.

(b) All interest earned on the moneys in the special fund shall be credited to the special fund.

(c) Moneys in the Turtle Bay conservation easement special fund shall be expended to ~~[pay the debt service on revenue bonds issued]~~ to acquire the conservation easement in Turtle Bay, Oahu.

(d) The Turtle Bay conservation easement special fund shall be exempt from the central service expenses of section 36-27 and departmental administrative expenses of section 36-30.

(e) Upon payment of all debt service at maturity on the revenue bonds issued to acquire the conservation easement in Turtle Bay, Oahu, any unencumbered and unexpended moneys in the Turtle Bay conservation easement special fund shall be transferred to the tourism special fund established under section 201B-11.

§171-C Turtle Bay appraisal and due diligence. Any appraisal and due diligence completed by the Hawaii tourism authority may be used by the department of land and natural resources for the acquisition of the Turtle Bay conservation easement."

SECTION 4. Section 87A-42, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) In any fiscal year subsequent to the 2017-2018 fiscal year in which a county public employer's contributions into the fund are less than the amount of the annual required contribution,

the amount that represents the excess of the annual required contribution over the county public employer's contributions shall be deposited into the fund from a portion of all transient accommodations tax revenues collected by the department of taxation under section [~~237D-6.5(b)(3)~~] 237D-6.5(b)(4). The director of finance shall deduct the amount necessary to meet the county public employer's annual required contribution from the revenues derived under section [~~237D-6.5(b)(3)~~] 237D-6.5(b)(4) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund."

SECTION 5. Section 171-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"§171-19 Special land and development fund. (a) There is created in the department a special fund to be designated as the "special land and development fund". Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred payments; all moneys collected under section 171-58 for mineral and water rights; all rents from leases, licenses, and permits derived from public lands; all moneys collected from lessees of public lands within industrial parks; all fees, fines, and other administrative charges collected under this chapter and chapter 183C; a portion of the highway fuel tax collected under chapter 243; all moneys collected by the department for the commercial use of public trails and trail accesses under the jurisdiction of the department; transient accommodations tax revenues collected pursuant to section [~~237D-6.5(b)(2)~~] 237D-6.5(b)(3); and private contributions for the management, maintenance, and development of trails and accesses shall be set apart in the fund and shall be used only as authorized by the legislature for the following purposes:

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

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

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

(4) For the payment of all appraisal fees; provided that all fees reimbursed to the board shall be deposited in the fund;

(5) For the payment of publication notices as required under this chapter; provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules adopted by the board;

(6) For the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department;

(7) For the payment to private land developers who have contracted with the board for development of public lands under section 171-60;

(8) For the payment of debt service on revenue bonds issued by the department, and the establishment of debt service and other reserves deemed necessary by the board;

(9) To reimburse the general fund for debt service on general obligation bonds issued to finance departmental projects, where the bonds are designated to be reimbursed from the special land and development fund;

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

(11) For other purposes of this chapter."

SECTION 6. Section 201B-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Moneys in the convention center enterprise special fund shall be used by the authority for the payment of any and all of the following:

(1) Debt owed to the department of budget and finance relating to the convention center[; ~~provided that, after the restructuring required by section 5 of Act 81, Session Laws of Hawaii 2014, the annual debt service payment owed to the department shall not exceed \$16,500,000 from fiscal year 2014-2015 until fully retired~~]; and

(2) Expenses arising from any and all use, operation, maintenance, alteration, improvement, or any unforeseen or unplanned repairs of the convention center, including without limitation the food and beverage service and parking service provided at the convention center facility, the sale of souvenirs, logo items, or other items, for any future major repair, maintenance, and improvement of

the convention center facility as a commercial enterprise or as a world class facility for conventions, entertainment, or public events, and for marketing the facility pursuant to section 201B-7(a)(7)."

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

"(b) Revenues collected under this chapter shall be distributed [~~as follows,~~] in the following priority, with the excess revenues to be deposited into the general fund:

(1) \$3,000,000 shall be allocated to the North Shore special fund beginning July 1, 2015, for the payment of debt service on revenue bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;

~~[(1)]~~ (2) \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;

~~[(2)]~~ (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 trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund;

~~[(3)]~~ (4) \$103,000,000 for fiscal year 2014-2015, \$103,000,000 for fiscal year 2015-2016, 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

~~[(4) \$3,000,000 shall be allocated to the Turtle Bay conservation easement special fund established under section 201B-8.6 for the payment of debt service on revenue bonds, the proceeds of which were used to acquire the conservation easement in Turtle Bay, Oahu, until the bonds are fully amortized; and]~~

(5) ~~[Of the excess revenues deposited into the general fund pursuant to this subsection,]~~ \$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]~~ to the special land and development fund established under section 171-19, to be expended pursuant to title 12 in accordance with the [Hawaii tourism authority] long range strategic plan for tourism developed by the Hawaii tourism authority for:

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

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

(C) Operation and maintenance costs of ~~[public lands]~~ state parks, beaches, and trails, and costs associated with improving enforcement of ancillary regulations, 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."

SECTION 8. Section 201B-8.5, Hawaii Revised Statutes, is repealed.

~~["§201B-8.5] Revenue bonds for conservation easement in Turtle Bay, Oahu. (a) As authorized by section 6 of Act 81, Session Laws of Hawaii 2014, the authority shall issue revenue bonds to acquire a conservation easement in Turtle Bay, Oahu. The public shall have perpetual public access to said conservation easement. The conservation easement shall be in compliance with chapter 198.~~

~~Prior to executing the agreement to acquire the conservation easement, the authority shall:~~

~~(1) Obtain an appraisal and perform its due diligence on the conservation easement and property rights proposed to be acquired; and~~

~~(2) Offer to hold an informational briefing for the legislature. The offer shall be made through the president of the senate and speaker of the house of representatives.~~

~~(b) For the purpose of this section, the authority shall be deemed a "department" and the acquisition of the conservation easement shall be deemed an "undertaking" under chapter 39.~~

~~(c) The revenue bonds issued to acquire the conservation easement shall be secured by and payable from the transient accommodations tax revenues allocated to the Turtle Bay conservation easement special fund established pursuant to section 201B-8.6. For this purpose, the revenues allocated shall be deemed "user taxes" for the undertaking.~~

~~(d) The revenue bonds shall be issued in accordance with chapter 39, part III. The authority shall request the director of finance, on behalf of the authority, to perform the duties specified under section 39-68 regarding the preparation, sale, and administration of the revenue bonds."~~

SECTION 9. Section 201B-8.6, Hawaii Revised Statutes, is repealed.

~~"[**§201B-8.6** **Turtle Bay conservation easement special fund.** (a) There is established the Turtle Bay conservation easement special fund.~~

~~(b) Transient accommodations tax revenues allocated to the Turtle Bay conservation easement special fund pursuant to section 237D-6.5 shall be deposited into the special fund. All interest earned on the moneys in the special fund shall be credited to the special fund.~~

~~(c) Moneys in the Turtle Bay conservation easement special fund shall be expended to pay the debt service on revenue bonds issued to acquire the conservation easement in Turtle Bay, Oahu, pursuant to section 201B-8.5.~~

~~(d) The Turtle Bay conservation easement special fund shall be exempt from the central service expenses of section 36-27 and departmental administrative expenses of section 36-30."~~

SECTION 10. Act 81, Session Laws of Hawaii 2014, is amended by repealing sections 5 through 8.

~~"[SECTION 5. (a) The executive director of the Hawaii tourism authority and the director of finance shall enter into negotiations to restructure the debt owed to the department of budget and~~

finance for the convention center so that the annual amount payable on the debt service is not more than \$16,500,000 until fully retired.

~~(b) If the debt is not restructured as required under subsection (a), no state funds, including revenue bond funds, shall be expended to acquire any conservation easement or other real property interest in Turtle Bay, Oahu, notwithstanding the authorization under section 201B-A, Hawaii Revised Statutes, and sections 6 and 7 of this Act.~~

~~SECTION 6. (a) The board of directors of the Hawaii tourism authority, with the approval of the governor, is authorized to issue revenue bonds in the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the purpose of acquiring a conservation easement in Turtle Bay, Oahu, as authorized under section 201B-A, Hawaii Revised Statutes.~~

~~(b) The board of directors, with the approval of the governor, shall issue the revenue bonds under such terms, conditions, and maturity dates that do not require any debt service payment to exceed \$3,000,000 in any fiscal year.~~

~~(c) If the board of directors cannot issue revenue bonds in accordance with the conditions of this section or section 201B-A or chapter 39, part III, Hawaii Revised Statutes, no state funds shall be expended to acquire any conservation easement or other real property interest in Turtle Bay, Oahu.~~

~~SECTION 7. There is appropriated out of the revenue bond proceeds authorized by section 6 of this Act the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 to carry out the purpose of section 6; provided that any unexpended or unencumbered balance~~

of the appropriation shall not lapse at the end of fiscal year 2014-2015 and shall lapse instead on June 30, 2016.

~~The sum appropriated shall be expended by the Hawaii tourism authority for the purpose of this Act.~~

~~SECTION 8. This Act shall not be severable. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, then the entire Act shall be invalid.]"~~

SECTION 11. (a) The department of budget and finance, with the approval of the governor, is authorized to issue revenue bonds in the sum of \$40,000,000 or so much thereof as may be necessary for the purpose of financing the acquisition of a conservation easement in Turtle Bay, Oahu, and the same sum shall be deposited into the North Shore special fund.

(b) The department of budget and finance, with the approval of the governor, shall issue the revenue bonds in such aggregate principal amount and under such terms, conditions, and maturity dates such that the required payments of principal and interest on the revenue bonds shall not exceed \$3,000,000 in any fiscal year.

SECTION 12. There is appropriated out of the North Shore special fund the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 to finance the acquisition of a conservation easement in Turtle Bay, Oahu. This sum shall be deposited in the Turtle Bay conservation easement special fund.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 13. There is appropriated out of the Turtle Bay conservation easement special fund the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 to acquire a conservation easement in Turtle Bay, Oahu.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

PART II

SECTION 14. In codifying the new sections added by [~~section 4 of~~] this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect upon approval.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Disposition for special land and development fund

BILL NUMBER: SB 284, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

EXECUTIVE SUMMARY: This bill adjusts earmarks on the transient accommodations tax (TAT) that feed various special funds. Earmarks decrease transparency and accountability of government operations and should be avoided.

BRIEF SUMMARY: Amends HRS section 237D-6.5(b)(5) to specify that \$3 million of transient accommodations tax revenues shall be allocated to the special land and development fund to be expended pursuant to title 12 in accordance with the long-range strategic plan for tourism developed by the Hawaii tourism authority. Also provides that such revenue shall also be used for the operation and maintenance costs of state parks, beaches, and trails, and costs associated with improving enforcement of ancillary regulations connected with enhancing the visitor experience.

The proposed measure also makes nontax amendments to authorize the department of budget and finance to issue \$40 million in revenue bonds and to use the proceeds to acquire a conservation easement in Turtle Bay, Oahu. Allocates transient accommodations tax revenues of \$3 million annually to department of budget and finance to pay the debt service on the revenue bonds and ongoing expenses related to the bonds

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: The legislature by Act 161, SLH 2013, made permanent the TAT rate of 9.5% and changed the allocations of TAT from a percentage basis to a specific dollar amount. Currently, TAT revenues are allocated as follows: (1) \$26.5 million is deposited into the convention center enterprise special fund; (2) \$82 million is deposited into the tourism special fund; (3) \$103 million is transferred to the various counties; (4) \$3 million for debt service of the Turtle Bay conservation easement, and (5) any remaining revenues deposited into the general fund of which \$3 million is to be allocated according to the Hawaii tourism strategic plan. While this measure would delete the phrase “of the excess revenues deposited into the general fund pursuant to this subsection” and provide that \$3 million of TAT revenues shall be allocated to the special land and development fund, it would appear that any excess revenues after all allocations of TAT revenues are made will still be deposited into the general fund since HRS section 237D-6.5(b) states that TAT revenues shall be distributed as follows with excess revenues to be deposited into the general fund.

The proposed measure would add another siphon of TAT revenues, and would perpetuate the earmarking of TAT revenues. While proponents of earmarking of the TAT argue that if these projects or programs are not funded, none of the pristine beauty that visitors come to see will be preserved, one could make the argument on the other side. If there are insufficient funds to promote the industry, then

visitor counts will drop and so will the income that fuels the state's economy. Lawmakers seem to have lost sight of the fact that visitors also contribute to state coffers directly through the 4% on everything they purchase in Hawaii including hotel rooms, visitor activities and purchases of food and souvenirs. To that extent, a good part of the general fund tax collections is contributed by visitors. If the argument is that visitors should pay for other "visitor related" programs, then paying for those programs out of general funds would be more appropriate than stealing the money from what is identified as a tax paid specifically by the visitor.

Rather than the continual earmarking of TAT revenues, a direct appropriation of general funds would be preferable. Earmarking the TAT revenues for these programs that not only benefit the visitors but the community at large, decreases transparency and accountability.

Finally, it should be remembered that revenues earmarked into a special fund, in this case the special land and development fund, will not be counted against the state's spending ceiling or debt limit and will obscure the state's true financial condition.

Digested 3/16/15

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 14, 2015 1:48 PM
To: TOUtestimony
Cc: darakawa@lurf.org
Subject: Submitted testimony for SB284 on Mar 18, 2015 09:30AM

SB284

Submitted on: 3/14/2015
Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--|---------------------------|---------------------------|
| David Z. Arakawa | Land Use Research Foundation of Hawaii | Support | No |

Comments: The Land Use Research Foundation of Hawaii SUPPORTS the intent of SB 284, SD2, RELATING TO THE TRANSIENT ACCOMMODATIONS TAX, which allocates \$3,000,000 of TAT revenues to the special land and development fund to be expended in accordance with the long-range strategic plan for tourism; authorizes the B&F to issue \$40,000,000 in revenue bonds and to use the proceeds to acquire a conservation easement in Turtle Bay, Oahu; requires the B&F to transfer the conservation easement to the DLNR; allocates transient accommodations tax revenues of \$3,000,000 annually to the B&F to pay the debt service on the revenue bonds and ongoing expenses related to the bonds. Effective 7/1/2050. (SD2)

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HOUSE COMMITTEE ON TOURISM
Hearing Scheduled 9:30 am Wednesday, March 18, 2015, Conference Room 312
SB 284 SD 2, RELATING TO THE TRANSIENT ACCOMMODATIONS TAX
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Brower, Vice Chair Ohno, and Committee Members:

The League of Women Voters of Hawaii has concerns with SB 284, SD 2. This bill allocates \$3,000,000 of transient accommodations tax revenues to the special land and development fund to be expended in accordance with the long-range strategic plan for tourism; authorizes the Department of Budget and Finance to issue \$40,000,000 in revenue bonds to acquire a conservation easement at Turtle Bay, Oahu; requires transfer of the conservation easement to the Department of Land and Natural Resources; and allocates transient accommodations tax revenues of \$3,000,000 annually to amortize the revenue bonds

To resolve procedural issues the League requests that SB 284, SD 2, HD 1 be reformatted and rewritten in a manner which involves total repeal rather than amendment of Act 81, Session Laws of Hawaii (SLH) 2014. Because neither the subject nor the provisions of Act 81, SLH 2014, had a public hearing during the 2014 legislative session, we question whether Act 81 was enacted in the manner required under our State Constitution.

To minimize ambiguity and risk of litigation, the League requests that SB 284, SD 2, HD 1 clarify what public uses and what private uses will be permitted on the property where a conservation easement will be acquired. Under the current wording of SB 284, SD 2, after expenditure of \$40 million of public funds, it is entirely possible that no public uses will be allowed on private property. In fact Section 9 of SB 284, SD 2, repeals Section 201B-8.5, Hawaii Revised Statutes, under which "The public shall have perpetual access to said conservation easement...."

To minimize ambiguity and risk of litigation, the League requests that SB 284, SD 2, HD 1 clarify whether the State EIS law will be "triggered" by either the proposed use of public funds to acquire a conservation easement or by private applications for discretionary approvals to use property where public funds were spent to acquire a conservation easement. It is not clear to us whether SB 284, SD 2 proposes to use public funds to acquire development rights for improved property (which would "trigger" Chapter 343, Hawaii Revised Statutes). It also is not clear to us whether private property subject to a conservation easement would be treated as "state lands" under Chapter 343, Hawaii Revised Statutes.

Thank you for the opportunity to submit testimony.

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 11:56 PM
To: TOUtestimony
Cc: teresa.parsons@hawaii.edu
Subject: *Submitted testimony for SB284 on Mar 18, 2015 09:30AM*

SB284

Submitted on: 3/15/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Teresa Parsons | Individual | Support | No |

Comments:

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brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 14, 2015 8:16 AM
To: TOUtestimony
Cc: lenora@hawaii.edu
Subject: *Submitted testimony for SB284 on Mar 18, 2015 09:30AM*

SB284

Submitted on: 3/14/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Dr. Lenora Lorenzo | Individual | Support | No |

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brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 7:36 PM
To: TOUtestimony
Cc: amybrinker@mac.com
Subject: *Submitted testimony for SB284 on Mar 18, 2015 09:30AM*



SB284

Submitted on: 3/17/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Amy Brinker | Individual | Support | No |

Comments:

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