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GOVERNOR OF HAWAII



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

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

**Before the House Committee on
WATER & LAND**

**Friday, February 6, 2015
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 954
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

House Bill 954 proposes to clarify that a portion of the Transient Accommodations Tax (TAT) shall be deposited into the Special Land and Development Fund and expended in accordance with the Hawaii Tourism Authority's (HTA) strategic plan. **The Department of Land and Natural Resources (Department) strongly supports this Administration measure.**

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 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 (BLNR) 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.

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.

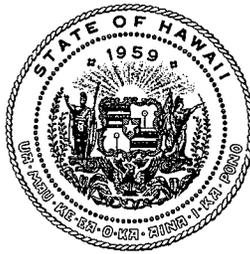
This measure, House Bill 954, solves the issue of authority to expend the funds. With that issue resolved, the Department urges your strong support of this measure.

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**TESTIMONY OF SIMEON R. ACOBA, CHAIR, STATE-COUNTY FUNCTIONS
WORKING GROUP, ON
HOUSE BILL NO. 954, RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

**House Committee on Water & Land
February 6, 2015**

Chair Evans 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 House Bill No. 954, relating to the transient accommodations tax (TAT). This measure would clarify the distribution and allowable uses of TAT funds allocated and deposited into the Special Land and Development Fund in accordance with the Hawai'i Tourism Authority's Strategic Plan.

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 House Bill No. 954. 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
H.B. No. 954
Relating to the Transient Accommodations Tax
House Committee on Water & Land
Friday, February 6, 2015
9:00 a.m.
Conference Room 325

The Hawaii Tourism Authority strongly supports H.B. No. 954, which corrects an error in Act 161, Session Laws of Hawaii 2013.

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 without being further appropriated. H.B. 954 corrects this error by:

- Providing that the \$3 million be allocated to the Special Land and Development Fund; and
- 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 according in conformance with to the HTA’s Strategic Plan.

For these reasons, we strongly support H.B. 954, and urge its passage.

Mahalo for the opportunity to offer these comments.

TAXBILLSERVICE

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

BILL NUMBER: SB 1123; HB 954 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki by request

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 (TAT) revenues shall be allocated to the special land and development fund of the department of land and natural resources (DLNR) provided the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan. The strategic plan shall include operation and maintenance costs of state parks, beaches, and trails and costs associated with improving enforcement of ancillary regulations.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: This is an administration measure submitted by the department of land and natural resources LNR-03 (15). 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 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. 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. Thus, 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 for activities other than tourism. 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.

Also, 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.

Finally, the adoption of this measure may set a precedent that may lead to other requests for funding from the TAT for other “tourist-related” purposes.

Digested 2/5/15

Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 954 Relating to the Transient Accommodations Tax
House Committee on Water and Land
Friday, February 6, 2015, 9:00AM, Room 325

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports H.B. 954 to clarify the distribution and allowable uses of the TAT allocated to the Department of Land and Natural Resources

Hawai'i's globally unique environment is amongst the top reasons visitors from all over the world come to these islands. There is also widespread agreement that Hawai'i's fragile environment is in need of improved management and protection. In addition, climate change is an imminent and unprecedented threat to natural systems (forests, coastlines, coral reefs) and to every resident and visitor that—whether they know it or not—depends on services from a healthy and functioning natural environment.

Presently, the DLNR receives about 1% of the State's general fund budget to oversee and care for millions of acres of natural lands and waters. Obviously, not all of the cost of protecting these resources should be laid at the feet of the visitor industry; it's everyone's responsibility because we all benefit and are at risk. And, while litter and graffiti clean ups and park restroom repairs are important, long term, larger investments are needed in:

- **Forest** management to ensure that they are as healthy as possible to capture as much rain (drinking water) and hold as much soil as possible as climate change brings more severe individual storm events, but overall less rainfall and more long term drought events;
- **Coral reef** and near shore management to ensure that they are as healthy as possible to withstand the warming and acidification effects of climate change and still provide storm protection, seafood, and a continuing visitor attraction;
- **Invasive pest** prevention and control so that at the same time we are inviting the world to our shores, we are not also granting easy access to the world's pests and diseases; and
- **Compliance** and enforcement for those who choose not to respect these natural resources.

We all have a stake—including the visitor industry—in the general health and function of Hawai'i's finite natural environment and resources as a:

- **Raw material** that supports the lifestyle and livelihood of every resident, visitor and business;
- **Service** that if not healthy and functioning will not deliver basic elements like fresh water needed for any person or business to thrive in the middle of the Pacific ocean; and
- **Product** that we market to the world to get them to vacation, do business and invest here.

Thank you for this opportunity to offer our support for this measure.

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