

# **SB 1356**

Repeals expenditure 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, which expires June 30, 2015. Allocates funds to the special land and development fund to be expended according to a mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with the long-range strategic plan for tourism developed by the Hawaii tourism authority instead of authorizing the allocation to be subject to the mutual agreement under the Hawaii tourism authority strategic plan.

DAVID Y. IGE  
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 Senate Committees on  
TOURISM AND INTERNATIONAL AFFAIRS  
and  
WATER AND LAND**

**Wednesday, February 11, 2015  
2:45 PM  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 1356  
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

Senate Bill 1356 proposes to repeal the expenditure 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, which expires on June 30, 2015. **The Department of Land and Natural Resources (Department) supports this bill with amendments.**

SECTION 1 (b)(5) of the bill allocates funds to the Special Land and Development Fund to be expended according to a mutual agreement of the Board of Land and Natural Resources (BLNR) and the Board of Directors of the Hawaii Tourism Authority (HTA) in accordance with the long-range strategic plan for tourism developed by the HTA instead of authorizing the allocation to be subject to the mutual agreement under the Hawaii tourism authority strategic plan. This testimony is limited to SECTION 1 (b)(5) regarding the allocation of funds. The Department offers the following amendments:

Amend SECTION 1 by including the attached language to amend Section 171-19, Hawaii Revised Statutes (HRS), that addresses a housekeeping change in reference from Section 237D-6.5(b)(2), Hawaii Revised Statutes to Section 237D-6.5(b)(5), HRS.

Amend page 4, line 9, by removing the underscored language:  
"according to a".

**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

In its place, amend page 4, line 9, by adding the underscored language:  
“pursuant to title 12 and”.

Amend page 4, lines 9-12 by removing the following existing statutory language:  
“mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority “

As such, Section 237D-6.5, HRS, should now read as follows:

- “(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 to be expended pursuant to title 12 and 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 state parks, beaches, and trails, and costs  
associated with improving enforcement of ancillary regulations, connected with  
enhancing the visitor experience.”

This will help increase the efficiency of implementing the work, and clarifies the use of funds. The Department also requests that this measure be amended to take effect upon approval in order to allow the Department to make use of the current fiscal year’s funds.

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 Transient Accommodation Tax (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 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, Senate Bill 1356, solves the issue of authority to expend the funds. The Department urges your strong support of this measure with the requested amendments. We note that should any increase in funding be approved, the ceilings of the Conservation and Resources Enforcement Special Fund, and other Department special funds, may need to be adjusted accordingly.

**SB1356 – RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**Attachment 1**

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

SECTION 1. Section 171-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(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)(5); and private contributions for the management, maintenance, and development of

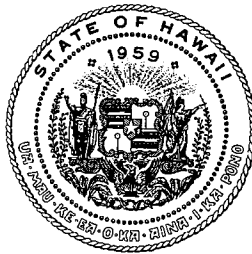
trails and accesses shall be set apart in the fund and shall be used only as authorized by the legislature for the following purposes:

- (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 pursuant to section 237D-6.5(b)(5) shall be expended in accordance with the Hawaii tourism authority strategic plan 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."





**TESTIMONY OF SIMEON R. ACOBA, CHAIR,  
STATE-COUNTY FUNCTIONS WORKING GROUP, ON  
SENATE BILL NO. 1356,  
RELATING TO THE TRANSIENT ACCOMMODATIONS TAX**

**Senate Committees on Tourism and International Affairs and Water and Land  
February 11, 2015**

Chair Kahele, Chair Thielen, 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. 1356, relating to the transient accommodations tax (TAT). This measure would, among other purposes, allocate funds 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 2<sup>nd</sup> year of the 28<sup>th</sup> 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. 1356. 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. 1356**  
**Relating to the Transient Accommodations Tax**  
Senate Committee on Tourism  
Senate Committee on Water and Land  
Wednesday, February 11, 2015  
2:45 a.m.  
Conference Room 225

The Hawaii Tourism Authority strongly supports S.B. No. 1356, which clarifies an amendment made in 2012, by Act 171, Session Laws of Hawaii 2012.

In 2012, 34.2 per cent of the transient accommodations tax (TAT) revenues collected were deposited into the Tourism Special Fund. Act 171, Session Laws of Hawaii 2012, provided that beginning July 1, 2012 and ending June 30, 2015, \$2,000,000 was to be expended from the Fund for the development and initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii. In 2013, the amount of TAT revenues allocated to the Tourism Special Fund was changed from 34.2 percent to \$82 million. A proviso was also inserted which provided that, "beginning July 1, 2012, and ending on June 30, 2015, \$2 million from the Tourism Special Fund was to be expended "to take advantage of expanded visa programs and increased travel opportunities for international visitors..."

S.B. 1356 makes it clear that the allocation of TAT revenues into the Tourism Special Fund is \$82 million by deleting the provision making the \$2 million allocation from 2012 to 2015. This is consistent with the language that follows that provide that of the \$82 million allocated: \$1 million is allocated for the Hawaiian center and the museum of Hawaiian music and dance; and 0.5 percent transferred to the sub-account for safety and security.

This will eliminate ambiguity that may reduce by \$2 million the funds available to the HTA for its operation when the allocation was fixed at \$82 million rather than 34.2 per cent of TAT revenues.

Mahalo for the opportunity to offer these comments.

Testimony of The Nature Conservancy of Hawai'i  
Supporting S.B. 1356 Relating to the Transient Accommodations Tax  
Senate Committee on Tourism and International Affairs  
Senate Committee on Water and Land  
Wednesday, February 11, 2015, 2:45PM, Room 225

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*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.*

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The Nature Conservancy supports S.B. 1356 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 Hawaii'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 Hawaii'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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# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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

**BILL NUMBER:** SB 1356; HB 1448 (Identical)

**INTRODUCED BY:** SB by Kim; HB by Brower, Cachola, Hashem, Ito, Matsumoto, Ohno, Souki, Tokioka, Tsuji and 7 Democrats

**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 TAT revenues shall be allocated to the special land and development fund, subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with the long range strategic plan of for tourism.

**EFFECTIVE DATE:** July 1, 2015

**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 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 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.

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 2/3/2015