
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature notes that one county has
2 established the county surcharge on state tax as authorized by
3 section 46-16.8, Hawaii Revised Statutes, to fund a rail
4 transportation project. This Act authorizes that county to
5 extend the county surcharge on state tax for a limited time
6 period; provided that the county adopts an ordinance to extend
7 the county surcharge on state tax. This Act also authorizes
8 counties that have not established a county surcharge on state
9 tax to adopt an ordinance to establish a surcharge.

10 This Act is contingent upon the repeal of any provision in
11 a county ordinance that prohibits the use of county funds for
12 the capital cost of the project and interest to finance that
13 capital cost. The legislature notes that Ordinance 07-001 of
14 the city and county of Honolulu is an example of such an
15 ordinance. The legislature finds that if the State experiences
16 a revenue loss as a result of this Act, the county also should



1 bear the risk of funding any contingency or cost overrun with
2 county funds.

3 This Act also requires the mayor of a county that has
4 established the county surcharge on state tax as authorized by
5 section 46-16.8, Hawaii Revised Statutes, to submit a plan and
6 annual updates of the plan to pay for the capital cost of the
7 project and any interest that will finance the capital cost with
8 county funds if necessary. The legislature intends that the
9 plan and updates inform the public as to the status of the
10 project and the variances of its funding needs as construction
11 moves forward.

12 This Act also requires the mayor to submit a plan to fund
13 the operation and maintenance costs and ongoing systemwide
14 capital cost of the integrated rail and bus transportation
15 system. The importance of the bus component is for feeder
16 service to rail stations and islandwide mobility outside the
17 rail corridor is often overlooked or ignored in the public
18 debate about the rail system. The operating and maintenance and
19 ongoing systemwide capital costs of the integrated system are of
20 major concern. Those costs probably will be greater than the
21 operating and maintenance costs for the current bus



1 transportation system and must be paid for with county funds.
2 Therefore, the legislature finds that the public should be
3 informed about the total future cost of and the funding plan for
4 the integrated rail and bus transportation system.

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

7 "(b) Each county that has established a surcharge on state
8 tax prior to ~~[+]July 1, 2015, [+]~~ under authority of subsection
9 (a) may extend the surcharge from January 1, 2023, until
10 ~~[December 31, 2027,]~~ _____, at the ~~[same]~~ rates~~[-]~~ enumerated
11 in sections 237-8.6 and 238-2.6. A county electing to extend
12 this surcharge shall do so by ordinance; provided that:

13 (1) No ordinance shall be adopted until the county has
14 conducted a public hearing on the proposed ordinance;
15 and

16 (2) The ordinance shall be adopted prior to July 1, ~~[2016,~~
17 ~~but no earlier than July 1, 2015]~~ 2018.

18 A county electing to exercise the authority granted under
19 this subsection shall notify the director of taxation within ten
20 days after the county has adopted an ordinance extending the
21 surcharge on state tax. Beginning on January 1, 2023, the



1 director of taxation shall levy, assess, collect, and otherwise
2 administer the extended surcharge on state tax.

3 (c) Each county that has not established a surcharge on
4 state tax prior to [+]July 1, 2015, [+] may establish the
5 surcharge at the rates enumerated in sections 237-8.6 and 238-
6 2.6. A county electing to establish this surcharge shall do so
7 by ordinance; provided that:

8 (1) No ordinance shall be adopted until the county has
9 conducted a public hearing on the proposed ordinance;

10 (2) The ordinance shall be adopted prior to July 1,
11 [~~2016~~] 2018, but no earlier than July 1, [~~2015~~]
12 2017; and

13 (3) No county surcharge on state tax that may be
14 authorized under this subsection shall be levied prior
15 to January 1, [~~2018, or after December 31, 2027~~] 2019.

16 A county electing to exercise the authority granted under
17 this subsection shall notify the director of taxation within ten
18 days after the county has adopted a surcharge on state tax
19 ordinance. Beginning on January 1, [~~2018~~] 2019, the director
20 of taxation shall levy, assess, collect, and otherwise
21 administer the county surcharge on state tax."



1 SECTION 3. Section 237-8.6, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Each county surcharge on state tax that may be
4 adopted or extended pursuant to section 46-16.8 shall be levied
5 beginning in the taxable year after the adoption of the relevant
6 county ordinance; provided that no surcharge on state tax may be
7 levied[+]

8 ~~(1) Prior~~ prior to:

9 ~~[(A)]~~ (1) January 1, 2007, if the county surcharge on state
10 tax was established by an ordinance adopted prior
11 to December 31, 2005; [ex]

12 ~~[(B)]~~ (2) January 1, 2018, if the county surcharge on state
13 tax was established by the adoption of an
14 ordinance after June 30, 2015, but prior to
15 July 1, 2016; [and] or

16 ~~[(2) After December 31, 2027.]~~

17 (3) January 1, 2019, if the county surcharge on state tax
18 was established by the adoption of an ordinance after
19 June 30, 2017, but prior to July 1, 2018."

20 SECTION 4. Section 238-2.6, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 collection, and shall be placed by the director of finance in
2 special accounts. Out of the revenues generated by county
3 surcharges on state tax paid into each respective state treasury
4 special account, the director of finance shall deduct [~~ten~~]:

5 (1) _____ per cent of the gross proceeds of a respective
6 county's surcharge on state tax to reimburse the State
7 for the costs of assessment, collection, and
8 disposition of the county surcharge on state tax
9 incurred by the State [-]; and

10 (2) _____ per cent of the gross proceeds of a respective
11 county's surcharge on state tax to be used by the
12 department of transportation for the purpose of state
13 highway projects.

14 Amounts retained shall be general fund realizations of the
15 State."

16 SECTION 6. Act 247, Session Laws of Hawaii 2005, as
17 amended by Act 240, Session Laws of Hawaii 2015, is amended by
18 amending section 9 to read as follows:

19 "SECTION 9. This Act shall take effect upon its approval;
20 provided that:



1 (1) If none of the counties of the State adopt an
 2 ordinance to levy a county surcharge on state tax by
 3 December 31, 2005, this Act shall be repealed and
 4 section 437D-8.4, Hawaii Revised Statutes, shall be
 5 reenacted in the form in which it read on the day
 6 prior to the effective date of this Act;

7 (2) If any county does not adopt an ordinance to levy a
 8 county surcharge on state tax by December 31, 2005, it
 9 shall be prohibited from adopting such an ordinance
 10 pursuant to this Act, unless otherwise authorized by
 11 the legislature through a separate legislative act;
 12 and

13 (3) If an ordinance to levy a county surcharge on state
 14 tax is adopted by December 31, 2005[+]
 15 (A) The ordinance shall be repealed on December 31,
 16 2022; provided that the repeal of the ordinance
 17 shall not affect the validity or effect of an
 18 ordinance to extend a surcharge on state tax
 19 adopted pursuant to Act 240, Session Laws of
 20 Hawaii 2015[+] and Act _____, Session Laws of
 21 Hawaii 2017;



1 (B) This Act shall be repealed on [~~December 31,~~
2 ~~2027,~~] _____; and

3 (C) Section 437D-8.4, Hawaii Revised Statutes, shall
4 be reenacted in the form in which it read on the
5 day prior to the effective date of this Act;
6 provided that the amendments made to section
7 437D-8.4, Hawaii Revised Statutes, by Act 226,
8 Session Laws of Hawaii 2008, as amended by Act
9 11, Session Laws of Hawaii 2009, and Act 110,
10 Session Laws of Hawaii 2014, shall not be
11 repealed."

12 SECTION 7. (a) For the purposes of this section:

13 "Council" means the council of the county.

14 "Council chair" means the chair of the council of the
15 county.

16 "County" means a county that has established the county
17 surcharge on state tax as authorized under section 46-16.8(b),
18 Hawaii Revised Statutes.

19 "County funds" means funds other than general excise and
20 use tax surcharge revenues, interest earned on the revenues, and
21 any federal or state funds appropriated to and received by the



1 county. "County funds" includes transient accommodations tax
2 revenues, franchise tax revenues, and any other revenues
3 transferred or deposited into the general or highway fund of the
4 county without necessity of state legislative appropriation;
5 provided that the term shall not include general excise and use
6 tax surcharge revenues.

7 "County rapid transportation authority" means the authority
8 of the county that is charged with the responsibility under the
9 county charter for constructing the project.

10 "Mayor" means the mayor of the county.

11 "Project" means the minimum operable segment of the locally
12 preferred alternative that the county rapid transportation
13 authority is constructing under a full funding agreement with
14 the Federal Transit Administration.

15 "Updated project financial plan" means the updated
16 financial plan for the project that is prepared by the county
17 rapid transportation authority, accepted by the Federal Transit
18 Administration, and in effect on July 1, 2017. The "updated
19 project financial plan" includes the plans for funding the
20 capital cost, operations and maintenance costs, and ongoing
21 systemwide capital cost of the project.



1 (b) No later than August 1, 2017, the mayor shall submit
2 to the council chair a bill proposing to amend an existing
3 ordinance or establish a new ordinance to allow the capital cost
4 of the project and any interest to finance that capital cost to
5 be paid from county funds. The mayor shall request the council
6 chair to introduce the bill on behalf of the mayor.

7 If the bill is passed by the council and approved by the
8 mayor before December 31, 2017, the mayor shall notify the
9 legislature that the bill has become an ordinance.

10 If the bill is not passed by the council and approved by
11 the mayor before December 31, 2017, or the mayor does not notify
12 the legislature before December 31, 2017, that the bill has
13 become an ordinance, then the authority for the county to
14 collect the county surcharge on state tax shall be rescinded.

15 (c) By January 1, 2018, the mayor shall submit to the
16 legislature a plan to pay for the capital cost of the project
17 and any interest to finance that capital cost with county funds
18 under the scenario that:

19 (1) The general excise and use tax surcharge revenues,
20 interest earned on the revenues, and federal or state
21 revenues are insufficient; and



1 (2) Any amount budgeted by the county rapid transportation
2 authority under the updated project financial plan as
3 a contingency will be necessary to complete the
4 construction of the project.

5 At a minimum, the plan shall identify the source of county funds
6 to pay for the capital cost or interest.

7 (d) By January 1, 2019 through January 1, 2028, the mayor
8 shall submit to the legislature an annual update of the plan
9 required under subsection (c); except that the update shall not
10 be required after completion of construction of the project.

11 Each updated plan shall identify the following:

12 (1) Source of county funds to pay for the capital cost or
13 interest;

14 (2) Status of construction of the project;

15 (3) Estimates of the:

16 (A) Capital cost and interest to finance the capital
17 cost of the project;

18 (B) General excise and use tax surcharge revenues;
19 and

20 (C) Other federal or state revenues for the project;
21 and



1 (4) The difference between the information provided under
2 paragraphs (1) to (3) from the information provided in
3 the update of the previous year and an explanation for
4 the difference.

5 (e) By January 1, 2018, the mayor shall submit to the
6 legislature a plan to fund the operation and maintenance cost
7 and ongoing systemwide capital cost of the integrated rail and
8 bus transportation system of the county. At a minimum, the plan
9 shall identify the estimated operation and maintenance cost and
10 ongoing systemwide capital cost of the system and sources of
11 funding for those costs. The plan shall cover the period
12 through fiscal year 2042-2043. The mayor shall estimate the
13 operation and maintenance cost and ongoing systemwide capital
14 cost of the integrated rail and bus transportation system based
15 on the updated project financial plan.

16 (f) The mayor shall submit to the legislature in
17 accordance with section 93-16, Hawaii Revised Statutes, the
18 notification required under subsection (b) and plans required
19 under subsections (c) through (e).

20 SECTION 8. (a) For the purposes of this section:

21 "Council" means the council of the county.



1 "Council chair" means the chair of the council of the
2 county.

3 "County" means a county that has established a county
4 surcharge on state tax as authorized under section 46-16.8(c),
5 Hawaii Revised Statutes.

6 "County funds" means funds other than general excise and
7 use tax surcharge revenues, interest earned on the revenues, and
8 any federal or state funds appropriated to and received by the
9 county. "County funds" includes transient accommodations tax
10 revenues, franchise tax revenues, and any other revenues
11 transferred or deposited into the general or highway fund of the
12 county without necessity of state legislative appropriation;
13 provided that the term shall not include general excise and use
14 tax surcharge revenues.

15 "County rapid transportation authority" means the authority
16 of the county that is charged with the responsibility under the
17 county charter for constructing the project.

18 "Mayor" means the mayor of the county.

19 "Project" means the minimum operable segment of the locally
20 preferred alternative that the county rapid transportation



1 authority is constructing under a full funding agreement with
2 the Federal Transit Administration.

3 "Updated project financial plan" means the updated
4 financial plan for the project that is prepared by the county
5 rapid transportation authority and accepted by the Federal
6 Transit Administration. The "updated project financial plan"
7 includes the plans for funding the capital cost, operations and
8 maintenance costs, and ongoing systemwide capital cost of the
9 project.

10 (b) By January 1, 2019, the mayor shall submit to the
11 legislature a plan to pay for the capital cost of the project
12 and any interest to finance that capital cost with county funds
13 under the scenario that:

14 (1) The general excise and use tax surcharge revenues,
15 interest earned on the revenues, and federal or state
16 revenues are insufficient; and

17 (2) Any amount budgeted by the county rapid transportation
18 authority under the updated project financial plan as
19 a contingency will be necessary to complete the
20 construction of the project.



1 At a minimum, the plan shall identify the source of county funds
2 to pay for the capital cost or interest.

3 (c) By January 1, 2020 through January 1, 2028, the mayor
4 shall submit to the legislature an annual update of the plan
5 required under subsection (c); except that the update shall not
6 be required after completion of construction of the project.

7 Each updated plan shall identify the following:

8 (1) Source of county funds to pay for the capital cost or
9 interest;

10 (2) Status of construction of the project;

11 (3) Estimates of the:

12 (A) Capital cost and interest to finance the capital
13 cost of the project;

14 (B) General excise and use tax surcharge revenues;
15 and

16 (C) Other federal or state revenues for the project;
17 and

18 (4) The difference between the information provided under
19 paragraphs (1) to (3) from the information provided in
20 the update of the previous year and an explanation for
21 the difference.



1 (d) By January 1, 2019, the mayor shall submit to the
2 legislature a plan to fund the operation and maintenance cost
3 and ongoing systemwide capital cost of the completed project of
4 the county. At a minimum, the plan shall identify the estimated
5 operation and maintenance cost and ongoing systemwide capital
6 cost of the system and sources of funding for those costs. The
7 plan shall cover the period through fiscal year 2042-2043. The
8 mayor shall estimate the operation and maintenance cost and
9 ongoing systemwide capital cost of the completed project based
10 on the updated project financial plan.

11 (e) The mayor shall submit to the legislature in
12 accordance with section 93-16, Hawaii Revised Statutes, the
13 notification required under subsection (b) and plans required
14 under subsections (c) through (e).

15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

County Surcharge on State Tax

Description:

Authorizes a county that has established a county surcharge on state tax to extend the surcharge for a limited time period. Authorizes counties that have not established a surcharge to adopt an ordinance to establish a surcharge prior to 7/1/2018. Provides that the State shall retain an unspecified portion of surcharge. Requires the mayor of the county to submit certain plans with respect to the alternative transportation system.
(SB1183 HD1)

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

