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# 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 repeals the requirement that  
5 ten per cent of the surcharge revenues be withheld to reimburse  
6 the State for administrative costs incurred for the assessment,  
7 collection, and disposition of the county surcharge.

8           The legislature intends this Act to provide more surcharge  
9 revenues to fund the construction costs of the rail  
10 transportation project of the county that imposes the surcharge.

11           The legislature finds that, if the county controls the  
12 construction cost of the rail transportation project, the  
13 additional surcharge revenues from this Act will be sufficient  
14 to complete the project.

15           This Act is contingent upon the repeal of any provision in  
16 a county ordinance that prohibits the use of county funds for  
17 the capital cost of the project and interest to finance that



1 capital cost. The legislature notes that Ordinance 07-001 of  
2 the city and county of Honolulu is an example of such an  
3 ordinance. The legislature finds that if the State experiences  
4 a revenue loss as a result of this Act, the county also should  
5 bear the risk of funding any contingency or cost overrun with  
6 county funds.

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

16 This Act also requires the mayor to submit a plan to fund  
17 the operation and maintenance costs and ongoing systemwide  
18 capital cost of the integrated rail and bus transportation  
19 system. The importance of the bus component for feeder service  
20 to rail stations and islandwide mobility outside the rail  
21 corridor is often overlooked or ignored in the public debate



1 about the rail system. The operating and maintenance and  
2 ongoing systemwide capital costs of the integrated system are of  
3 major concern. Those costs probably will be greater than the  
4 operating and maintenance costs for the current bus  
5 transportation system and must be paid for with county funds.  
6 Therefore, the legislature finds that the public should be  
7 informed about the total future cost of and the funding plan for  
8 the integrated rail and bus transportation system.

9 SECTION 2. Section 248-2.6, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~+~~§248-2.6~~+~~ **County surcharge on state tax; disposition**  
12 **of proceeds.** (a) If adopted by county ordinance, all county  
13 surcharges on state tax collected by the director of taxation  
14 shall be paid into the state treasury quarterly, within ten  
15 working days after collection, and shall be placed by the  
16 director of finance in special accounts. ~~[Out of the revenues~~  
17 ~~generated by county surcharges on state tax paid into each~~  
18 ~~respective state treasury special account, the director of~~  
19 ~~finance shall deduct ten per cent of the gross proceeds of a~~  
20 ~~respective county's surcharge on state tax to reimburse the~~  
21 ~~state for the costs of assessment, collection, and disposition~~



1 ~~of the county surcharge on state tax incurred by the State.~~  
2 ~~Amounts retained shall be general fund realizations of the~~  
3 ~~State.~~

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

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

14 ~~(d) After the deduction and withholding of the costs under~~  
15 ~~subsections (a) and (b), the] (b) The director of finance shall~~  
16 ~~pay the [remaining balance] amount in a special account on~~  
17 ~~[+]a[+] quarterly basis to the director of finance of each~~  
18 ~~county that has adopted a county surcharge on state tax under~~  
19 ~~section 46-16.8. The quarterly payments shall be made after the~~  
20 ~~county surcharges on state tax have been paid into the state~~  
21 ~~treasury special accounts or after the disposition of any tax~~



1 appeal, as the case may be. All county surcharges on state tax  
2 collected shall be distributed by the director of finance to the  
3 county in which the county surcharge on state tax is generated  
4 and shall be a general fund realization of the county, to be  
5 used for the purposes specified in section 46-16.8 by each of  
6 the counties."

7 SECTION 3. (a) For the purposes of this section:

8 "Council" means the council of the county.

9 "Council chair" means the chair of the council of the  
10 county.

11 "County" means a county that has established the county  
12 surcharge on state tax as authorized under section 46-16.8,  
13 Hawaii Revised Statutes.

14 "County funds" means funds other than general excise and  
15 use tax surcharge revenues, interest earned on the revenues, and  
16 any federal or state funds appropriated to and received by the  
17 county. "County funds" includes transient accommodations tax  
18 revenues, franchise tax revenues, and any other revenues  
19 transferred or deposited into the general or highway fund of the  
20 county without necessity of state legislative appropriation;



1 provided that the term shall not include general excise and use  
2 tax surcharge revenues.

3 "County rapid transportation authority" means the authority  
4 of the county that is charged with the responsibility under the  
5 county charter for constructing the project.

6 "Mayor" means the mayor of the county.

7 "Project" means the minimum operable segment of the locally  
8 preferred alternative that the county rapid transportation  
9 authority is constructing under a full funding agreement with  
10 the Federal Transit Administration.

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

18 (b) No later than August 1, 2017, the mayor shall submit  
19 to the council chair a bill proposing to amend an existing  
20 ordinance or establish a new ordinance to allow the capital cost  
21 of the project and any interest to finance that capital cost to



1 be paid from county funds. The mayor shall request the council  
2 chair to introduce the bill on behalf of the mayor.

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

6 If the bill is not passed by the council and approved by  
7 the mayor before December 31, 2017, or the mayor does not notify  
8 the legislature before December 31, 2017, that the bill has  
9 become an ordinance, then this Act shall be deemed repealed on  
10 and have no effect after December 31, 2017.

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

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

18 (2) Any amount budgeted by the county rapid transportation  
19 authority under the updated project financial plan as  
20 a contingency will be necessary to complete the  
21 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 (d) By January 1, 2019 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           (e) By January 1, 2018, 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 integrated rail and  
4 bus transportation system of the county. At a minimum, the plan  
5 shall identify the estimated operation and maintenance cost and  
6 ongoing systemwide capital cost of the system and sources of  
7 funding for those costs. The plan shall cover the period  
8 through fiscal year 2042-2043. The mayor shall estimate the  
9 operation and maintenance cost and ongoing systemwide capital  
10 cost of the integrated rail and bus transportation system based  
11 on the updated project financial plan.

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

16           SECTION 4. (a) Notwithstanding any other law to the  
17 contrary, the state director of finance shall retain in the  
18 state treasury ten per cent of the county general excise and use  
19 tax surcharge revenues collected by the State as provided in  
20 section 248-2.6, Hawaii Revised Statutes, between July 1, 2017  
21 and December 31, 2017.



1           (b) The state director of finance shall transmit the  
2 retained surcharge revenues to the county, as defined under  
3 section 3 of this Act, on January 1, 2018, if this Act remains  
4 effective after December 31, 2017, as provided under section  
5 3(b) of this Act.

6           (c) Notwithstanding any other law to the contrary, if this  
7 Act is deemed repealed on December 31, 2017, the state director  
8 of finance shall deposit the retained surcharge revenues into  
9 the state general fund. The retained surcharge revenues shall  
10 be deemed a general fund realization of the State.

11           SECTION 5. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13           SECTION 6. This Act shall take effect on July 1, 2017;  
14 provided that this Act shall be subject to repeal on  
15 December 31, 2017, pursuant to section 3(b) of this Act, and if  
16 the repeal provisions of section 3(b) of this Act become  
17 operative, the amendments made to section 248-2.6, Hawaii  
18 Revised Statutes, by section 2 of this Act shall be repealed and  
19 the underlying provisions of section 248-2.6, Hawaii Revised  
20 Statutes, shall be reenacted in the form in which it read on the  
21 day prior to the effective date of this Act.



**Report Title:**

County Surcharge on State Tax; Administrative Expense

**Description:**

Repeals the requirement that 10% of revenues from the county surcharge on state tax be withheld to reimburse the State for administrative costs. Sunsets if an ordinance that allows the capital costs of a rapid transportation system to be paid from county funds is not enacted before December 31, 2017. Requires the mayor of the county to submit certain plans with respect to the rapid transportation system. (SD2)

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

