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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. Section 46-16.8, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "~~§~~46-16.8 County surcharge on state tax. (a) Each county  
4 may establish a surcharge on state tax at the rates enumerated  
5 in sections 237-8.6 and 238-2.6. A county electing to establish  
6 this surcharge shall do so by ordinance; provided that [~~-~~  
7           ~~(1)~~ ~~No~~] no ordinance shall be adopted until the county has  
8           conducted a public hearing on the proposed ordinance [~~-~~  
9           ~~(2)~~ ~~The ordinance shall be adopted prior to December 31,~~  
10           ~~2005; and~~  
11           ~~(3)~~ ~~No county surcharge on state tax that may be~~  
12           ~~authorized under this subsection shall be levied prior~~  
13           ~~to January 1, 2007, or after December 31, 2022, unless~~  
14           ~~extended pursuant to subsection (b)].~~  
15 Notice of the public hearing required under [~~paragraph (1)~~] this  
16 subsection shall be published in a newspaper of general



1 circulation within the county at least twice within a period of  
2 thirty days immediately preceding the date of the hearing.

3 (b) A county electing to exercise the authority granted  
4 under this subsection shall notify the director of taxation  
5 within ten days after the county has adopted a surcharge on  
6 state tax ordinance, and ~~[, beginning no earlier than January 1,~~  
7 ~~2007,]~~ the director of taxation shall levy, assess, collect, and  
8 otherwise administer the county surcharge on state tax ~~[-];~~  
9 provided that for any ordinance that is adopted after July 1,  
10 2017, pursuant to this section, the director of taxation shall  
11 not levy, assess, collect, or otherwise administer the county  
12 surcharge on state tax earlier than January 1 of the year  
13 succeeding the adoption of the authorizing ordinance.

14 ~~[(b) Each county that has established a surcharge on state~~  
15 ~~tax prior to [July 1, 2015,] under authority of subsection (a)~~  
16 ~~may extend the surcharge from January 1, 2023, until December~~  
17 ~~31, 2027, at the same rates. A county electing to extend this~~  
18 ~~surcharge shall do so by ordinance; provided that:~~

19 ~~(1) No ordinance shall be adopted until the county has~~  
20 ~~conducted a public hearing on the proposed ordinance;~~  
21 ~~and~~



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

3       ~~A county electing to exercise the authority granted under~~  
4 ~~this subsection shall notify the director of taxation within ten~~  
5 ~~days after the county has adopted an ordinance extending the~~  
6 ~~surcharge on state tax. Beginning on January 1, 2023, the~~  
7 ~~director of taxation shall levy, assess, collect, and otherwise~~  
8 ~~administer the extended surcharge on state tax.~~

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

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

16       ~~(2) The ordinance shall be adopted prior to July 1, 2016,~~  
17               ~~but no earlier than July 1, 2015; and~~

18       ~~(3) No county surcharge on state tax that may be~~  
19               ~~authorized under this subsection shall be levied prior~~  
20               ~~to January 1, 2018, or after December 31, 2027.~~



1       ~~A county electing to exercise the authority granted under~~  
2 ~~this subsection shall notify the director of taxation within ten~~  
3 ~~days after the county has adopted a surcharge on state tax~~  
4 ~~ordinance. Beginning on January 1, 2018, the director of~~  
5 ~~taxation shall levy, assess, collect, and otherwise administer~~  
6 ~~the county surcharge on state tax.~~

7       ~~(d) Notice of the public hearing required under subsection~~  
8 ~~(b) or (c) before adoption of an ordinance establishing or~~  
9 ~~extending the surcharge on state tax shall be published in a~~  
10 ~~newspaper of general circulation within the county at least~~  
11 ~~twice within a period of thirty days immediately preceding the~~  
12 ~~date of the hearing.~~

13       ~~(e)]~~ (c) Each county with a population greater than five  
14 hundred thousand that adopts [~~or extends~~] a county surcharge on  
15 state tax ordinance pursuant to subsection (a) [~~or (b)~~] shall  
16 use the surcharges received from the State for:

- 17       (1) Capital costs of a locally preferred alternative for a
- 18             mass transit project; and
- 19       (2) Expenses in complying with the Americans with
- 20             Disabilities Act of 1990 with respect to paragraph
- 21             (1).



1 The county surcharge on state tax shall not be used to build or  
2 repair public roads or highways, bicycle paths, or support  
3 public transportation systems already in existence prior to July  
4 12, 2005.

5 ~~[(f)]~~ (d) Each county with a population equal to or less  
6 than five hundred thousand that adopts a county surcharge on  
7 state tax ordinance pursuant to this section shall use the  
8 surcharges received from the State for:

9 (1) Operating or capital costs of public transportation  
10 within each county for public transportation systems,  
11 including public roadways or highways, public buses,  
12 trains, ferries, pedestrian paths or sidewalks, or  
13 bicycle paths; and

14 (2) Expenses in complying with the Americans with  
15 Disabilities Act of 1990 with respect to paragraph  
16 (1).

17 ~~[(g)]~~ (e) As used in this section, "capital costs" means  
18 nonrecurring costs required to construct a transit facility or  
19 system, including debt service, costs of land acquisition and  
20 development, acquiring of rights-of-way, planning, design, and  
21 construction, and including equipping and furnishing the



1 facility or system. For a county with a population greater than  
 2 five hundred thousand, capital costs also include non-recurring  
 3 personal services and other overhead costs that are not intended  
 4 to continue after completion of construction of the minimum  
 5 operable segment of the locally preferred alternative for a mass  
 6 transit project."

7 SECTION 2. Section 238-2.6, Hawaii Revised Statutes, is  
 8 amended by amending subsection (b) to read as follows:

9 "(b) Each county surcharge on state tax that may be  
 10 adopted [~~or extended~~] shall be levied beginning in the taxable  
 11 year after the adoption of the relevant county ordinance[~~+~~  
 12 ~~provided that no surcharge on state tax may be levied:~~

13 ~~(1) Prior to:~~

14 ~~(A) January 1, 2007, if the county surcharge on state~~  
 15 ~~tax was established by an ordinance adopted prior~~  
 16 ~~to December 31, 2005; or~~

17 ~~(B) January 1, 2018, if the county surcharge on state~~  
 18 ~~tax was established by the adoption of an~~  
 19 ~~ordinance after June 30, 2015, but prior to July~~  
 20 ~~1, 2016; and~~

21 ~~(2) After December 31, 2027]."~~



1 SECTION 3. Section 248-2.6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 1. By amending subsection (a) to read:

4 "(a) If adopted by county ordinance, all county surcharges  
5 on state tax collected by the director of taxation shall be paid  
6 into the state treasury [~~quarterly,~~ monthly, within ten working  
7 days after collection, and shall be placed by the director of  
8 finance in special accounts. Out of the revenues generated by  
9 county surcharges on state tax paid into each respective state  
10 treasury special account, the director of finance shall deduct  
11 ten per cent of the gross proceeds of a respective county's  
12 surcharge on state tax to reimburse the State for the costs of  
13 assessment, collection, and disposition of the county surcharge  
14 on state tax incurred by the State. Amounts retained shall be  
15 general fund realizations of the State."

16 2. By amending subsection (d) to read:

17 "(d) After the deduction and withholding of the costs  
18 under subsections (a) and (b), the director of finance shall pay  
19 the remaining balance on [+]~~a~~[+] ~~quarterly~~ monthly basis to the  
20 director of finance of each county that has adopted a county  
21 surcharge on state tax under section 46-16.8. The [~~quarterly~~]



1 monthly payments shall be made after the county surcharges on  
 2 state tax have been paid into the state treasury special  
 3 accounts or after the disposition of any tax appeal, as the case  
 4 may be. All county surcharges on state tax collected shall be  
 5 distributed by the director of finance to the county in which  
 6 the county surcharge on state tax is generated and shall be a  
 7 general fund realization of the county, to be used for the  
 8 purposes specified in section 46-16.8 by each of the counties."

9 SECTION 4. Act 247, Session Laws of Hawaii 2005, as  
 10 amended by section 7 of Act 240, Session Laws of Hawaii 2015, is  
 11 amended by amending section 9 to read as follows:

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

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

20 (2) If any county does not adopt an ordinance to levy a  
 21 county surcharge on state tax by December 31, 2005, it



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1 shall be prohibited from adopting such an ordinance  
 2 pursuant to this Act, unless otherwise authorized by  
 3 the legislature through a separate legislative act;  
 4 and

5 (3) If an ordinance to levy a county surcharge on state  
 6 tax is adopted by December 31, 2005 [+

7 ~~(A) The ordinance shall be repealed on December 31,~~  
 8 ~~2022; provided that the], the~~ repeal of the  
 9 ordinance shall not affect the validity or effect  
 10 of an ordinance to extend a surcharge on state  
 11 tax adopted pursuant to Act 240, Session Laws of  
 12 Hawaii 2015 [+

13 ~~(B) This Act shall be repealed on December 31, 2027;~~  
 14 and

15 ~~(C) Section 437D-8.4, Hawaii Revised Statutes, shall~~  
 16 ~~be reenacted in the form in which it read on the~~  
 17 ~~date prior to the effective date of this Act;~~  
 18 ~~provided that the amendments made to section~~  
 19 ~~437D-8.4, Hawaii Revised Statutes, by Act 226,~~  
 20 ~~Session Laws of Hawaii 2008, as amended by Act~~  
 21 ~~11, Session Laws of Hawaii 2009, and Act 110,~~



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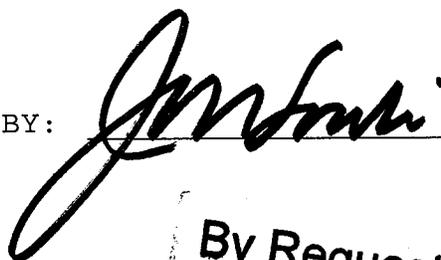
1                   ~~Session Laws of Hawaii 2014, shall not be~~  
2                   ~~repealed.]~~"

3           SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 6. This Act shall take effect upon its approval.

6

INTRODUCED BY:



By Request

JAN 24 2017



# H.B. NO. 1353

**Report Title:**

Taxation; General Excise Tax; Counties

**Description:**

Extends each county's authority to establish and collect a surcharge on state general excise and use taxes. Requires a county's share of the county surcharge on state tax to be paid to the county on a monthly basis. Deletes the repeal date for Act 247, Session Laws of Hawaii 2005, authorizing counties to levy a surcharge to fund public transportation systems.

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

