
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 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~~,]
14 2035; unless extended pursuant to subsection (b).

15 Notice of the public hearing required under paragraph (1) shall
16 be published in a newspaper of general circulation within the



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

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 a surcharge on state tax
6 ordinance and, beginning no earlier than January 1, 2007, the
7 director of taxation shall levy, assess, collect, and otherwise
8 administer the county surcharge on state tax.

9 (b) Each county that has established a surcharge on state
10 tax prior to July 1, 2015, under authority of subsection (a) may
11 extend the surcharge until December 31, [~~2030,~~] 2035, at the
12 same rates. A county electing to extend this surcharge shall do
13 so by ordinance; provided that:

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

17 (2) The ordinance shall be adopted prior to January 1,
18 2018 [~~-~~]; and

19 (3) If the county that elects to extend the surcharge is a
20 county with a population greater than five hundred
21 thousand, then the county shall not levy a county



1 surcharge on state tax if, prior to December 31, 2035,
2 the revenues collected through the county surcharge
3 established under this section and sections 237-8.6
4 and 238-2.6 and the additional transient
5 accommodations tax established under section 237D-2(e)
6 exceed the annual debt service following the completed
7 construction of the minimum operable segment of the
8 locally preferred alternative for a mass transit
9 project. As used in this paragraph, "annual debt
10 service" means debt service principal, debt service
11 interest, transfer to and from reserve, and other debt
12 service fees as referenced in the 2017 financial plan
13 prepared by a county rapid transportation authority
14 subject to section 23-14 and accepted by the Federal
15 Transit Administration.

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 an ordinance extending the
19 surcharge on state tax. The director of taxation shall levy,
20 assess, collect, and otherwise administer the extended surcharge
21 on state tax.



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

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

8 (2) The ordinance shall be adopted prior to March 31,
9 2018; and

10 (3) No county surcharge on state tax that may be
11 authorized under this subsection shall be levied prior
12 to January 1, 2019, or after December 31, [~~2030-~~]
13 2035.

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

20 (d) Notice of the public hearing required under subsection
21 (b) or (c) before adoption of an ordinance establishing or



1 extending the surcharge on state tax shall be published in a
2 newspaper of general circulation within the county at least
3 twice within a period of thirty days immediately preceding the
4 date of the hearing.

5 (e) Each county with a population greater than five
6 hundred thousand that adopts or extends a county surcharge on
7 state tax ordinance pursuant to subsection (a) or (b) shall use
8 the surcharge revenues received from the State for [capital]
9 costs of a locally preferred alternative for a mass transit
10 project[, provided that revenues derived from the county
11 surcharge on state tax shall not be used:

12 ~~(1) To build or repair public roads or highways, bicycle~~
13 ~~paths, or support public transportation systems~~
14 ~~already in existence prior to July 12, 2005;~~

15 ~~(2) For operating costs or maintenance costs of the mass~~
16 ~~transit project or any purpose not consistent with~~
17 ~~this subsection; or~~

18 ~~(3) For administrative or operating, marketing, or~~
19 ~~maintenance costs, including personnel costs, of a~~
20 ~~rapid transportation authority charged with the~~



1 ~~responsibility for constructing, operating, or~~
2 ~~maintaining the mass transit project,~~
3 ~~provided further that nothing in this section shall be construed~~
4 ~~to prohibit a county from using county funds that are not~~
5 ~~derived from a surcharge on state tax for a purpose described in~~
6 ~~paragraph (2) or (3)].~~

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

11 (1) ~~[Operating or capital costs]~~ Costs of public
12 transportation within each county for public
13 transportation systems, including public roadways or
14 highways, public buses, trains, ferries, pedestrian
15 paths or sidewalks, or bicycle paths; and

16 (2) Expenses in complying with the Americans with
17 Disabilities Act of 1990 with respect to paragraph
18 (1).

19 ~~[(g) As used in this section, "capital costs" means~~
20 ~~nonrecurring costs required to construct a transit facility or~~
21 ~~system, including debt service, costs of land acquisition and~~



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

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

11 "(b) Each county surcharge on state tax that may be
12 adopted or extended pursuant to section 46-16.8 shall be levied
13 beginning in a taxable year after the adoption of the relevant
14 county ordinance; provided that no surcharge on state tax may be
15 levied:

16 (1) Prior to:

17 (A) January 1, 2007, if the county surcharge on state
18 tax was established by an ordinance adopted prior
19 to December 31, 2005; or

20 (B) January 1, 2019, if the county surcharge on state
21 tax was established by the adoption of an



ordinance after June 30, 2015, but prior to March
31, 2018; and

- (2) After December 31, ~~[2030.]~~ 2035; provided that a
county with a population greater than five hundred
thousand shall not levy a county surcharge on state
tax if, prior to December 31, 2035, the revenues
collected through the county surcharge established
under this section and sections 46-16.8 and 238-2.6
and the additional transient accommodations tax
established under section 237D-2(e) exceed the annual
debt service following the completed construction of
the minimum operable segment of the locally preferred
alternative for a mass transit project. As used in
this paragraph, "annual debt service" means debt
service principal, debt service interest, transfer to
and from reserve, and other debt service fees as
referenced in the 2017 financial plan prepared by a
county rapid transportation authority subject to
section 23-14 and accepted by the Federal Transit
Administration."



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

"(e) Notwithstanding the tax rates established in subsections (a)(5) and (c)(3), the tax rates levied, assessed, and collected pursuant to subsections (a) and (c) shall be 10.25 per cent for transient accommodations furnished in a county with a population greater than five hundred thousand for the period beginning on January 1, 2018, to December 31, [~~2030~~] 2035; provided that:

(1) The tax revenues levied, assessed, and collected pursuant to this subsection that are in excess of the revenues realized from the levy, assessment, and collection of tax at the 9.25 per cent rate shall be deposited quarterly into the mass transit special fund established under section 248-2.7; [~~and~~]

(2) If a court of competent jurisdiction determines that the amount of county surcharge on state tax revenues deducted and withheld by the State, pursuant to section 248-2.6, violates statutory or constitutional law and, as a result, awards moneys to a county with a population greater than five hundred thousand, then an



1 amount equal to the monetary award shall be deducted
2 and withheld from the tax revenues deposited under
3 paragraph (1) into the mass transit special fund, and
4 those funds shall be a general fund realization of the
5 State[-]; and

6 (3) If, prior to December 31, 2035, the revenues collected
7 through the additional one per cent tax established
8 under this section and the county surcharge
9 established under sections 46-16.8, 237-8.6, and 238-
10 2.6 exceed the annual debt service following the
11 completed construction of the minimum operable segment
12 of the locally preferred alternative for a mass
13 transit project, the tax rates levied, assessed, and
14 collected pursuant to subsections (a) and (c) shall be
15 9.25 per cent for transient accommodations furnished
16 in a county with a population greater than five
17 hundred thousand. As used in this paragraph, "annual
18 debt service" means debt service principal, debt
19 service interest, transfer to and from reserve, and
20 other debt service fees as referenced in the 2017
21 financial plan prepared by a county rapid



1 transportation authority subject to section 23-14 and
2 accepted by the Federal Transit Administration.

3 The remaining tax revenues levied, assessed, and collected
4 at the 9.25 per cent tax rate pursuant to subsections (a) and
5 (c) shall be distributed in accordance with section
6 237D-6.5(b)."

7 SECTION 4. 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 a taxable year
11 after the adoption of the relevant county ordinance; provided
12 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, 2019, if the county surcharge on state
18 tax was established by the adoption of an
19 ordinance after June 30, 2015, but prior to March
20 31, 2018; and



(2) After December 31, [2030.] 2035; provided that a
county with a population greater than five hundred
thousand shall not levy a county surcharge on state
tax if, prior to December 31, 2035, the revenues
collected through the county surcharge established
under this section and sections 46-16.8 and 237-8.6
and the additional transient accommodations tax
established under section 237D-2(e) exceed the annual
debt service following the completed construction of
the minimum operable segment of the locally preferred
alternative for a mass transit project. As used in
this paragraph, "annual debt service" means debt
service principal, debt service interest, transfer to
and from reserve, and other debt service fees as
referenced in the 2017 financial plan prepared by a
county rapid transportation authority subject to
section 23-14 and accepted by the Federal Transit
Administration."

SECTION 5. Section 248-2.7, Hawaii Revised Statutes, is
amended to read as follows:



1 " ~~[+]~~ §248-2.7 ~~[+]~~ Mass transit special fund; established;
2 distribution of funds. (a) There is established a mass transit
3 special fund to be administered by the department of budget and
4 finance.

5 (b) For the period beginning on January 1, 2018, to
6 December 31, ~~[2030,]~~ 2035, transient accommodations tax and
7 surcharge on state tax revenues allocated to the mass transit
8 special fund pursuant to sections 237D-2(e) and 248-2.6 shall be
9 deposited into the special fund. All interest earned on the
10 moneys in the special fund shall be credited to the general
11 fund. The mass transit special fund shall be exempt from the
12 central service expenses deduction under section 36-27 and
13 departmental administrative expenses deduction under section
14 36-30.

15 (c) ~~[Upon receiving a certification statement from the~~
16 ~~comptroller pursuant to section 40-81.5, the director of finance~~
17 ~~shall allocate and disburse moneys in the mass transit special~~
18 ~~fund to the director of finance of a county with a population~~
19 ~~greater than five hundred thousand; provided that the director~~
20 ~~of finance shall only disburse those amounts that are certified~~
21 ~~in the certification statement for that county for the purposes~~



1 ~~specified in section 46-16.8; provided further that revenues~~
2 ~~allocated from the special fund shall not be used for:~~

3 ~~(1) Operating or maintenance costs of the mass transit~~
4 ~~project or any purpose not consistent with section 46-~~
5 ~~16.8(e); or~~

6 ~~(2) Administrative, operating, marketing, or maintenance~~
7 ~~costs, including personnel costs, of a rapid~~
8 ~~transportation authority charged with the~~
9 ~~responsibility for constructing, operating, or~~
10 ~~maintaining the mass transit project;~~

11 ~~provided further that the total amount of funds that are~~
12 ~~available, allocated, and disbursed by the director of finance~~
13 ~~pursuant to this section shall not be in excess of the total~~
14 ~~amount indicated on the certification statement.] The director~~
15 ~~of finance may allocate and disburse moneys pursuant to this~~
16 ~~section on a monthly basis.~~

17 Any amounts allocated and disbursed pursuant to this
18 section shall be subject to the availability of funds deposited
19 and on balance in the special fund. The director of finance
20 shall not allocate or disburse any amounts from the special fund



1 that are in excess of any amounts deposited and on balance in
2 the special fund.

3 ~~[(d) The director of finance shall post all certification~~
4 ~~statements received from the comptroller pursuant to section 40-~~
5 ~~81.5 on the department of budget and finance's website within~~
6 ~~ten working days of payments made pursuant to this section.]~~

7 ~~[(e)]~~ (d) The department of budget and finance shall
8 submit an annual report to the legislature not later than twenty
9 days prior to the convening of each regular session on the total
10 amount of funds allocated pursuant to this section.

11 ~~[(f)]~~ (e) The director of finance may establish rules,
12 exempt from chapter 91, for the purposes of this section."

13 SECTION 6. Act 247, Session Laws of Hawaii 2005, as
14 amended by Act 240, Session Laws of Hawaii 2015, as amended by
15 Act 1, First Special Session Laws of Hawaii 2017, is amended by
16 amending section 9 to read as follows:

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

19 (1) If none of the counties of the State adopt an
20 ordinance to levy a county surcharge on state tax by
21 December 31, 2005, this Act shall be repealed and



1 section 437D-8.4, Hawaii Revised Statutes, shall be
2 reenacted in the form in which it read on the day
3 prior to the effective date of this Act;

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

10 (3) If an ordinance to levy a county surcharge on state
11 tax is adopted by December 31, 2005:

12 (A) The ordinance shall be repealed on December 31,
13 2022; provided that the repeal of the ordinance
14 shall not affect the validity or effect of an
15 ordinance to extend a surcharge on state tax
16 adopted pursuant to an act of the legislature;
17 and

18 (B) This Act shall be repealed on December 31,
19 ~~[2030,]~~ 2035, and section 437D-8.4, Hawaii
20 Revised Statutes, shall be reenacted in the form
21 in which it read on the day prior to the



1 effective date of this Act; provided that the
2 amendments made to section 437D-8.4, Hawaii
3 Revised Statutes, by Act 226, Session Laws of
4 Hawaii 2008, as amended by Act 11, Session Laws
5 of Hawaii 2009, and Act 110, Session Laws of
6 Hawaii 2014, shall not be repealed."

7 SECTION 7. Section 40-81.5, Hawaii Revised Statutes, is
8 repealed.

9 " ~~[\S40-81.5] Rapid transportation authority; certification~~
10 ~~statement. (a) Beginning on September 5, 2017, and ending on~~
11 ~~December 31, 2031, the comptroller, upon the request for payment~~
12 ~~by the rapid transportation authority, shall verify that the~~
13 ~~authority's invoices for the capital costs of a locally~~
14 ~~preferred alternative for a mass transit project comply with~~
15 ~~section 46-16.8(c).~~

16 ~~(b) The rapid transportation authority subject to this~~
17 ~~section shall provide the comptroller with:~~

18 ~~(1) The authority's financial plan and related systems for~~
19 ~~accounting, including a budget for a locally preferred~~
20 ~~alternative for a mass transit project;~~



1 ~~(2) Expenditures for capital costs for a locally preferred~~
2 ~~alternative for a mass transit project;~~
3 ~~(3) Expenditures for personnel costs, lease rent, and any~~
4 ~~other costs associated with the authority's management~~
5 ~~and operations; and~~
6 ~~(4) Any other information the comptroller may require to~~
7 ~~accomplish the purpose of this section.~~
8 ~~(c) After submission of invoices by the rapid~~
9 ~~transportation authority for capital costs of a locally~~
10 ~~preferred alternative for a mass transit project are verified by~~
11 ~~the comptroller as an acceptable use of funds received pursuant~~
12 ~~to a surcharge on state tax authorized pursuant to section 46-~~
13 ~~16.8, the comptroller shall submit a certification statement,~~
14 ~~including any appropriate supporting documents, to the~~
15 ~~department of budget and finance for the allocation of funds, if~~
16 ~~available, pursuant to sections 248-2.7 and 248-2.6(d). The~~
17 ~~certification statement shall include, at a minimum, the total~~
18 ~~amount contained in the invoices for capital costs that are~~
19 ~~verified as an appropriate use of funds pursuant to section 46-~~
20 ~~16.8(e).~~



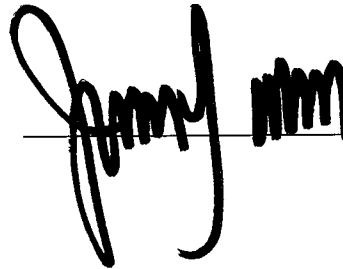
1 ~~(d) The comptroller may establish rules, exempt from~~
2 ~~chapter 91, for the purposes of this section.~~

3 ~~(e) For the purposes of this section, "rapid~~
4 ~~transportation authority" means any entity established by a~~
5 ~~county in the State for the purpose of constructing, operating,~~
6 ~~or maintaining a locally preferred alternative for a mass~~
7 ~~transit project and that receives moneys from a surcharge on~~
8 ~~state tax established pursuant to section 46 16.8, transient~~
9 ~~accommodations tax revenues pursuant to section 237D-2(e), or~~
10 ~~both.] "~~

11 SECTION 8. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 9. This Act shall take effect on July 1, 2018.

14 INTRODUCED BY: _____



JAN 23 2018



H.B. NO. 2519

Report Title:

Taxation; General Excise Tax; Transient Accommodations Tax; Use Tax; County Surcharge

Description:

Extends the county surcharge on the general excise tax and use tax through 2035. Repeals the county surcharge on the general excise tax and use tax by a county with a population greater than 500,000 if, prior to 12/31/2035, the revenues collected through the county surcharge exceed the annual debt service following the completed construction of the minimum operable segment of the locally preferred alternative for a mass transit project. Makes the current transient accommodations tax rate of 10.25% applicable only to transient accommodations furnished in a county with a population greater than 500,000, extends the 10.25% rate through 2035, and reduces the rate to 9.25% if, prior to 12/31/2035, the revenues collected through the county surcharge exceed the annual debt service following the completed construction of the minimum operable segment of the locally preferred alternative for a mass transit project. Repeals requirement that the Director of Finance only disburse surcharge revenues for certified costs incurred by a county to build its mass transit project. Repeals the requirement that a county with a population greater than 500,000 use funds collected pursuant to a county surcharge only for capital costs associated with the construction of a locally preferred alternative for a mass transit project.

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

