
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1 PART I

2 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
3 by adding a new section to be appropriately designated and to
4 read as follows:

5 "§46- County surcharge on transient accommodations tax.

6 (a) Each county may establish a surcharge on transient
7 accommodations tax at the rate enumerated in section 237D- .

8 A county electing to establish a surcharge pursuant to this
9 section shall do so by ordinance; provided that:

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

12 (2) The ordinance shall be adopted prior to July 1, 2022;
13 and

14 (3) No county surcharge on transient accommodations tax
15 that may be authorized under this subsection shall be
16 levied after December 31, 2026.



1 Notice of the public hearing required under paragraph (1) shall
2 be published in a newspaper of general circulation within the
3 county at least twice within a period of thirty days immediately
4 preceding the date of the hearing.

5 (b) A county electing to exercise the authority granted
6 under this section shall notify the director of taxation within
7 ten days after the county has adopted a surcharge on transient
8 accommodations tax ordinance and, beginning no earlier than
9 January 1, 2023, the director of taxation shall levy, assess,
10 collect, and otherwise administer the county surcharge on
11 transient accommodations tax."

12 SECTION 2. Chapter 237D, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 **"§237D- County surcharge on transient accommodations**
16 **tax; administration.** (a) The county surcharge on transient
17 accommodations tax, upon the adoption of county ordinances and
18 in accordance with the requirements of section 46- , shall be
19 levied, assessed, and collected as provided in this section on
20 all gross rental, gross rental proceeds, and fair market rental

1 value taxable under this chapter. No county shall set the
2 surcharge on transient accommodations tax at a rate greater than
3 twenty-five per cent of all gross rental, gross rental proceeds,
4 and fair market rental value taxable under this chapter. All
5 provisions of this chapter shall apply to the county surcharge
6 on transient accommodations tax. With respect to the surcharge,
7 the director of taxation shall have all the rights and powers
8 provided under this chapter.

9 (b) Each county surcharge on transient accommodations tax
10 that may be adopted pursuant to section 46- shall be levied
11 beginning on January 1, 2023; provided that no surcharge on
12 transient accommodations tax may be levied after December 31,
13 2026.

14 (c) The county surcharge on transient accommodations tax,
15 if adopted, shall be imposed on the gross rental, gross rental
16 proceeds, and fair market rental value of all written contracts
17 that require the passing on of the taxes imposed under this
18 chapter; provided that if the gross rental, gross rental
19 proceeds, and fair market rental value are received as payments
20 beginning in the taxable year in which the taxes become



1 effective, on contracts entered into before January 1, 2022, and
2 the written contracts do not provide for the passing on of
3 increased rates of taxes, the county surcharge on transient
4 accommodations tax shall not be imposed on the gross rental,
5 gross rental proceeds, and fair market rental value covered
6 under the written contracts. The county surcharge on transient
7 accommodations tax shall be imposed on the gross rental, gross
8 rental proceeds, and fair market rental value from all contracts
9 entered into on or after January 1, 2022, regardless of whether
10 the contract allows for the passing on of any tax or any tax
11 increases.

12 (d) No county surcharge on transient accommodations tax
13 shall be established on any form of accommodation exempt from
14 the taxes imposed by this chapter pursuant to section 237D-3.

15 (e) The director of taxation shall revise the transient
16 accommodations tax forms to provide for the clear and separate
17 designation of the imposition and payment of the county
18 surcharge on transient accommodations tax.

19 (f) The county surcharge on transient accommodations tax
20 shall be assigned to the taxation district in which the



1 transient accommodations or resort time share vacation unit is
2 located. The taxpayer shall file a schedule with the taxpayer's
3 periodic and annual transient accommodations tax returns
4 summarizing the amount of taxes assigned to each taxation
5 district.

6 (g) The penalties provided by section 231-39 for failure
7 to file a tax return shall be imposed on the amount of surcharge
8 due on the return being filed for the failure to file the
9 schedule required to accompany the return. In addition, there
10 shall be added to the tax an amount equal to ten per cent of the
11 amount of the surcharge and tax due on the return being filed
12 for the failure to file the schedule or the failure to correctly
13 report the assignment of the transient accommodations tax by
14 taxation district on the schedule required under subsection
15 (f)."

16 SECTION 3. Chapter 248, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§248- County surcharge on transient accommodations
20 tax; disposition of proceeds. (a) If adopted by county



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

14 (b) The amounts deducted for costs of assessment,
15 collection, and disposition of county surcharges on transient
16 accommodations tax shall be withheld from payment to the
17 counties by the State out of the county surcharges on transient
18 accommodations tax collected for the current calendar year.

19 (c) For the purposes of this section, the costs of
20 assessment, collection, and disposition of the county surcharges



1 on transient accommodations tax shall include any and all costs,
2 direct or indirect, that are deemed necessary and proper to
3 effectively administer this section and section 237D- .

4 (d) After the deduction and withholding of the costs under
5 subsections (a) and (b), the director of finance shall pay the
6 remaining balance on a quarterly basis to the director of
7 finance of each county that has adopted a county surcharge on
8 transient accommodations tax under section 46- . The
9 quarterly payments shall be made after the county surcharges on
10 transient accommodations tax have been paid into the state
11 treasury special accounts or after the disposition of any tax
12 appeal, as the case may be. All county surcharges on transient
13 accommodations tax collected shall be distributed by the
14 director of finance to the county in which the county surcharge
15 on transient accommodations tax is generated and shall be a
16 general fund realization of the county."

17 PART II

18 SECTION 4. Section 87A-42, Hawaii Revised Statutes, is
19 amended to read as follows:



1 "**§87A-42 Other post-employment benefits trust.** (a)
2 Notwithstanding sections 87A-31 and 87A-31.5, the board, upon
3 terms and conditions set by the board, shall establish and
4 administer a separate trust fund for the purpose of receiving
5 employer contributions that will prefund other post-employment
6 health and other benefit plan costs for retirees and their
7 beneficiaries. The separate trust fund shall meet the
8 requirements of the Governmental Accounting Standards Board
9 regarding other post-employment benefits trusts. The board
10 shall establish and maintain a separate account for each public
11 employer within the separate trust fund to accept and account
12 for each public employer's contributions. Employer
13 contributions to the separate trust fund shall be irrevocable,
14 all assets of the fund shall be dedicated exclusively to
15 providing health and other benefits to retirees and their
16 beneficiaries, and assets of the fund shall not be subject to
17 appropriation for any other purpose and shall not be subject to
18 claims by creditors of the employers or the board or plan
19 administrator. The board's powers under section 87A-24 shall
20 also apply to the fund established pursuant to this section.



1 (b) Public employer contributions shall be paid into the
2 fund in each fiscal year, and commencing with the 2018-2019
3 fiscal year, the amount of the annual public employer
4 contribution shall be equal to the amount of the annual required
5 contribution, as determined by an actuary retained by the board.

6 (c) In any fiscal year subsequent to the 2017-2018 fiscal
7 year in which the state public employer's contributions into the
8 fund are less than the amount of the annual required
9 contribution, the amount that represents the excess of the
10 annual required contribution over the state public employer's
11 contributions shall be deposited into the appropriate account of
12 the separate trust fund from a portion of all general excise tax
13 revenues collected by the department of taxation under section
14 237-31.

15 If any general excise tax revenues are deposited into the
16 separate trust fund in any fiscal year as a result of this
17 subsection, the director of finance shall notify the legislature
18 and governor whether the general fund expenditure ceiling for
19 that fiscal year would have been exceeded if those revenues had
20 been legislatively appropriated instead of deposited without



1 appropriation into the trust fund. The notification shall be
2 submitted within thirty days following the end of the applicable
3 fiscal year.

4 ~~[(d) In any fiscal year subsequent to the 2017-2018 fiscal~~
5 ~~year in which a county public employer's contributions into the~~
6 ~~fund are less than the amount of the annual required~~
7 ~~contribution, the amount that represents the excess of the~~
8 ~~annual required contribution over the county public employer's~~
9 ~~contributions shall be deposited into the fund from a portion of~~
10 ~~all transient accommodations tax revenues collected by the~~
11 ~~department of taxation under section 237D 6.5(b)(4). The~~
12 ~~director of finance shall deduct the amount necessary to meet~~
13 ~~the county public employer's annual required contribution from~~
14 ~~the revenues derived under section 237D 6.5(b)(4) and transfer~~
15 ~~the amount to the board for deposit into the appropriate account~~
16 ~~of the separate trust fund.~~

17 ~~(e)]~~ (d) In any fiscal year subsequent to fiscal year
18 2017-2018 in which a public employer's contributions into the
19 fund are less than the amount of the annual required
20 contribution and the public employer is not entitled to



1 transient accommodations tax revenues sufficient to satisfy the
2 total amount of the annual required contribution, the public
3 employer's contributions shall be deposited into the fund from
4 portions of any other revenues collected on behalf of the public
5 employer or held by the State. The director of finance shall
6 deduct the amount necessary to meet the public employer's annual
7 required contribution from any revenues collected on behalf of
8 the public employer held by the State and transfer the amount to
9 the board for deposit into the appropriate account of the
10 separate trust fund.

11 [~~f~~] (e) For the purposes of this section, "annual
12 required contribution" means a public employer's required
13 contribution to the trust fund established in this section that
14 is sufficient to cover:

- 15 (1) The normal cost, which is the cost of other post-
16 employment benefits attributable to the current year
17 of service; and
- 18 (2) An amortization payment, which is a catch-up payment
19 for past service costs to fund the unfunded actuarial
20 accrued liability over the next thirty years."



1 SECTION 5. Section 171-19, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There is created in the department a special fund to
4 be designated as the "special land and development fund".

5 Subject to the Hawaiian Homes Commission Act of 1920, as
6 amended, and section 5(f) of the Admission Act of 1959, all
7 proceeds of sale of public lands, including interest on deferred
8 payments; all moneys collected under section 171-58 for mineral
9 and water rights; all rents from leases, licenses, and permits
10 derived from public lands; all moneys collected from lessees of
11 public lands within industrial parks; all fees, fines, and other
12 administrative charges collected under this chapter and chapter
13 183C; a portion of the highway fuel tax collected under chapter
14 243; all moneys collected by the department for the commercial
15 use of public trails and trail accesses under the jurisdiction
16 of the department; transient accommodations tax revenues
17 collected pursuant to section [~~237D-6.5(b)(5)~~] 237D-6.5(b); and
18 private contributions for the management, maintenance, and
19 development of trails and accesses shall be set apart in the



1 fund and shall be used only as authorized by the legislature for
2 the following purposes:

3 (1) To reimburse the general fund of the State for
4 advances made that are required to be reimbursed from
5 the proceeds derived from sales, leases, licenses, or
6 permits of public lands;

7 (2) For the planning, development, management, operations,
8 or maintenance of all lands and improvements under the
9 control and management of the board pursuant to title
10 12, including but not limited to permanent or
11 temporary staff positions who may be appointed without
12 regard to chapter 76; provided that transient
13 accommodations tax revenues allocated to the fund
14 shall be expended as provided in section
15 ~~[237D-6.5(b)-(5)-]~~ 237D-6.5(b);

16 (3) To repurchase any land, including improvements, in the
17 exercise by the board of any right of repurchase
18 specifically reserved in any patent, deed, lease, or
19 other documents or as provided by law;



- 1 (4) For the payment of all appraisal fees; provided that
2 all fees reimbursed to the board shall be deposited in
3 the fund;
- 4 (5) For the payment of publication notices as required
5 under this chapter; provided that all or a portion of
6 the expenditures may be charged to the purchaser or
7 lessee of public lands or any interest therein under
8 rules adopted by the board;
- 9 (6) For the management, maintenance, and development of
10 trails and trail accesses under the jurisdiction of
11 the department;
- 12 (7) For the payment to private land developers who have
13 contracted with the board for development of public
14 lands under section 171-60;
- 15 (8) For the payment of debt service on revenue bonds
16 issued by the department, and the establishment of
17 debt service and other reserves deemed necessary by
18 the board;
- 19 (9) To reimburse the general fund for debt service on
20 general obligation bonds issued to finance



1 departmental projects, where the bonds are designated
2 to be reimbursed from the special land and development
3 fund;

4 (10) For the protection, planning, management, and
5 regulation of water resources under chapter 174C; and

6 (11) For other purposes of this chapter."

7 SECTION 6. Section 237D-6.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§237D-6.5 Remittances** [~~,- distribution to counties~~]. (a)

10 All remittances of taxes imposed under this chapter shall be
11 made by cash, bank drafts, cashier's check, money order, or
12 certificate of deposit to the office of the taxation district to
13 which the return was transmitted.

14 (b) Except for the revenues collected pursuant to section
15 237D-2(e), revenues collected under this chapter shall be
16 distributed in the following priority, with the excess revenues
17 to be deposited into the general fund:

18 (1) \$1,500,000 shall be allocated to the Turtle Bay
19 conservation easement special fund beginning July 1,
20 2015, for the reimbursement to the state general fund



1 of debt service on reimbursable general obligation
2 bonds, including ongoing expenses related to the
3 issuance of the bonds, the proceeds of which were used
4 to acquire the conservation easement and other real
5 property interests in Turtle Bay, Oahu, for the
6 protection, preservation, and enhancement of natural
7 resources important to the State, until the bonds are
8 fully amortized;

9 (2) \$16,500,000 shall be allocated to the convention
10 center enterprise special fund established under
11 section 201B-8;

12 (3) \$79,000,000 shall be allocated to the tourism special
13 fund established under section 201B-11; provided that:

14 (A) Beginning on July 1, 2012, and ending on June 30,
15 2015, \$2,000,000 shall be expended from the
16 tourism special fund for development and
17 implementation of initiatives to take advantage
18 of expanded visa programs and increased travel
19 opportunities for international visitors to
20 Hawaii;



- 1 (B) Of the \$79,000,000 allocated:
- 2 (i) \$1,000,000 shall be allocated for the
- 3 operation of a Hawaiian center and the
- 4 museum of Hawaiian music and dance; and
- 5 (ii) 0.5 per cent of the \$79,000,000 shall be
- 6 transferred to a sub-account in the tourism
- 7 special fund to provide funding for a safety
- 8 and security budget, in accordance with the
- 9 Hawaii tourism strategic plan 2005-2015; and
- 10 (C) Of the revenues remaining in the tourism special
- 11 fund after revenues have been deposited as
- 12 provided in this paragraph and except for any sum
- 13 authorized by the legislature for expenditure
- 14 from revenues subject to this paragraph,
- 15 beginning July 1, 2007, funds shall be deposited
- 16 into the tourism emergency special fund,
- 17 established in section 201B-10, in a manner
- 18 sufficient to maintain a fund balance of
- 19 \$5,000,000 in the tourism emergency special fund;



1 ~~[(4) \$103,000,000 shall be allocated as follows: Kauai~~
2 ~~county shall receive 14.5 per cent, Hawaii county~~
3 ~~shall receive 18.6 per cent, city and county of~~
4 ~~Honolulu shall receive 44.1 per cent, and Maui county~~
5 ~~shall receive 22.8 per cent; provided that commencing~~
6 ~~with fiscal year 2018-2019, a sum that represents the~~
7 ~~difference between a county public employer's annual~~
8 ~~required contribution for the separate trust fund~~
9 ~~established under section 87A-42 and the amount of the~~
10 ~~county public employer's contributions into that trust~~
11 ~~fund shall be retained by the state director of~~
12 ~~finance and deposited to the credit of the county~~
13 ~~public employer's annual required contribution into~~
14 ~~that trust fund in each fiscal year, as provided in~~
15 ~~section 87A-42, if the respective county fails to~~
16 ~~remit the total amount of the county's required annual~~
17 ~~contributions, as required under section 87A-43;] and~~
18 ~~[(+5)]~~ (4) \$3,000,000 shall be allocated to the special land
19 and development fund established under section 171-19;
20 provided that the allocation shall be expended in



1 accordance with the Hawaii tourism authority strategic
2 plan for:

3 (A) The protection, preservation, maintenance, and
4 enhancement of natural resources, including
5 beaches, important to the visitor industry;

6 (B) Planning, construction, and repair of facilities;
7 and

8 (C) Operation and maintenance costs of public lands,
9 including beaches, connected with enhancing the
10 visitor experience.

11 All transient accommodations taxes shall be paid into the
12 state treasury each month within ten days after collection and
13 shall be kept by the state director of finance in special
14 accounts for distribution as provided in this subsection.

15 As used in this subsection, "fiscal year" means the
16 twelve-month period beginning on July 1 of a calendar year and
17 ending on June 30 of the following calendar year.

18 ~~[(c) On or before January or July 1 of each year or after~~
19 ~~the disposition of any tax appeal with respect to an assessment~~
20 ~~for periods after June 30, 1990, the state director of finance~~



1 ~~shall compute and pay the amount due as provided in subsection~~
2 ~~(b) to the director of finance of each county to become a~~
3 ~~general realization of the county expendable as such, except as~~
4 ~~otherwise provided by law.] "~~

5 PART III

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect upon its approval;
9 provided that:

10 (1) If none of the counties of the State adopt an
11 ordinance to levy a county surcharge on transient
12 accommodations tax by July 1, 2022, this Act shall be
13 repealed;

14 (2) If any county does not adopt an ordinance to levy a
15 county surcharge on transient accommodations tax by
16 July 1, 2022, it shall be prohibited from adopting
17 such an ordinance pursuant to this Act, unless
18 otherwise authorized by the legislature through a
19 separate legislative act; and



- 1 (3) If an ordinance to levy a county surcharge on
2 transient accommodations tax is adopted by July 1,
3 2022:
4 (A) The ordinance shall be repealed on December 31,
5 2026; and
6 (B) This Act shall be repealed on December 31, 2026.



Report Title:

Transit Accommodations Tax; County Surcharge

Description:

Repeals the distribution of transit accommodations tax revenues to the counties. Authorizes each county to impose a surcharge on transient accommodations tax. (SD1)

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

