
A BILL FOR AN ACT

RELATING TO TAXATION.

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

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PART I

SECTION 1. The legislature finds that the development of housing is of critical importance to the State. Historically, the development of infrastructure (e.g., water, drainage, sewer, waste disposal, and waste treatment systems) to support housing has been the responsibility of the developers of housing projects. Accordingly, housing developers were responsible for raising large, additional amounts of capital to finance required infrastructure. These high infrastructure costs have often been cited by developers as a major impediment. Furthermore, these costs are ultimately passed on to homebuyers. This drives up the prices of new homes and is a reason why homes are so expensive, to the point of being unattainable for many local families.

The legislature further finds that because developers are focused on their specific housing developments, there are few incentives for the developers to design infrastructure in a



1 manner that takes into account state and county planning
2 objectives, long-range planning, or regional or island-wide
3 cohesion. As a result, infrastructure development is often done
4 in a haphazard, piecemeal manner that has caused problems for
5 county residents and governments alike. For example, this has
6 resulted in infrastructure being developed in inconvenient
7 locations, far from necessary societal services to which
8 residents would require access.

9 Accordingly, the legislature further finds that it is in
10 the best interest of the people of Hawaii to implement a policy
11 shift with regard to the development of housing. Specifically,
12 the counties, rather than private developers, should be
13 responsible for the location, planning, and development of
14 infrastructure to support housing. The legislature believes
15 that authorizing a county to use revenues from the county
16 surcharge on state tax for housing infrastructure would provide
17 the funding necessary to effect this change in policy.

18 The legislature believes that the implementation of this
19 policy would result in more efficient community planning. In
20 particular, because counties typically take ownership of
21 infrastructure upon completion of a housing project, it makes



1 sense for the counties to also take ownership over the
2 placement, infrastructure planning, and construction process.
3 By taking charge of this process, counties would be able to
4 direct the development of housing in locations that make the
5 most sense. Counties can also ensure that infrastructure
6 systems are designed in a manner that minimizes long-term
7 operational and maintenance costs, allowing for better
8 management of public resources.

9 Perhaps most significantly, under this policy, housing
10 developers would no longer need to finance the costs of
11 installing infrastructure up front, and homebuyers would no
12 longer see these high costs passed on to them. This will result
13 in lower housing prices, making home ownership attainable for
14 more residents, and situating new housing developments closer to
15 needed societal services.

16 Accordingly, the purpose of this Act is to:

- 17 (1) Extend the period within which a county may adopt a
18 surcharge on state tax, under certain conditions, from
19 March 31, 2019, to December 31, 2023;
- 20 (2) Authorize, in certain instances, the use of county
21 surcharge revenues for housing infrastructure; and



1 (3) Temporarily authorize counties that have previously
2 adopted a surcharge on state tax to amend the uses of
3 the surcharge.

4 PART II

5 SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§46-16.8 County surcharge on state tax.** (a) Each county
8 may establish a surcharge on state tax at the rates enumerated
9 in sections 237-8.6 and 238-2.6. A county electing to establish
10 this surcharge shall do so by ordinance; provided that:

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

13 (2) The ordinance shall be adopted prior to December 31,
14 2005; and

15 (3) No county surcharge on state tax that may be
16 authorized under this subsection shall be levied prior
17 to January 1, 2007, or after December 31, 2022, unless
18 extended pursuant to subsection (b).

19 Notice of the public hearing required under paragraph (1) shall
20 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, at the same rates.
12 A county electing to extend 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 and

17 (2) The ordinance shall be adopted prior to January 1,
18 2018.

19 A county electing to exercise the authority granted under
20 this subsection shall notify the director of taxation within ten
21 days after the county has adopted an ordinance extending the



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

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

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

11 (2) The ordinance shall be adopted prior to [~~March 31,~~
12 ~~2019;~~] December 31, 2023; 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, 2019, or after December 31, 2030.

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, 2019, [~~on~~] January 1, 2020,
20 or January 1, 2025, as applicable pursuant to sections 237-8.6
21 and 238-2.6, the director of taxation shall levy, assess,



1 collect, and otherwise administer the county surcharge on state
2 tax.

3 (d) Each county that has established a surcharge on state
4 tax prior to March 31, 2019, under authority of subsection (a)
5 or (c) may amend the authorized uses of surcharge revenues,
6 pursuant to subsection (g); provided that:

7 (1) No ordinance shall be amended pursuant to this section
8 until the county has conducted a public hearing on the
9 proposed amendment; and

10 (2) The ordinance shall be amended prior to December 31,
11 2023.

12 [~~(d)~~] (e) Notice of the public hearing required under
13 subsection (b) [~~(c)~~], (c), or (d), before adoption or amendment
14 of an ordinance establishing or extending the surcharge on state
15 tax shall be published in a newspaper of general circulation
16 within the county at least twice within a period of thirty days
17 immediately preceding the date of the hearing.

18 [~~(e)~~] (f) Each county with a population greater than five
19 hundred thousand that adopts or extends a county surcharge on
20 state tax ordinance pursuant to subsection (a) or (b) shall use
21 the surcharge revenues received from the State for capital costs



1 of a locally preferred alternative for a mass transit project;
2 provided that revenues derived from the county surcharge on
3 state tax shall not be used:

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

7 (2) For operating costs or maintenance costs of the mass
8 transit project or any purpose not consistent with
9 this subsection; or

10 (3) For administrative or operating, marketing, or
11 maintenance costs, including personnel costs, of a
12 rapid transportation authority charged with the
13 responsibility for constructing, operating, or
14 maintaining the mass transit project;

15 provided further that nothing in this section shall be construed
16 to prohibit a county from using county funds that are not
17 derived from a surcharge on state tax for a purpose described in
18 paragraph (2) or (3).

19 [~~f~~] (g) Each county [~~with~~] having a population equal to
20 or less than five hundred thousand that adopts a county
21 surcharge on state tax ordinance pursuant to this section prior



1 to January 1, 2023, shall use the surcharges received from the
2 State for:

3 (1) Operating or capital costs of public transportation
4 within each county for public transportation systems,
5 including public roadways or highways, public buses,
6 trains, ferries, pedestrian paths or sidewalks, [~~or~~]
7 bicycle paths[~~;~~and], or pedestrian paths or sidewalks
8 on a county road near or around a public school;

9 (2) Expenses in complying with the Americans with
10 Disabilities Act of 1990 with respect to paragraph (1)
11 [~~;~~]; and

12 (3) Housing infrastructure; provided that a county that
13 uses surcharge revenues for housing infrastructure
14 shall not pass on related infrastructure costs to the
15 developer of a housing project;

16 provided that each county having a population equal to or less
17 than five hundred thousand that adopts a county surcharge on
18 state tax ordinance pursuant to this section after December 31,
19 2022, shall use the surcharges received from the State only for
20 the purposes described in paragraph (3).

21 [~~g~~] (h) As used in this section[~~;~~]:



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

12 "Housing infrastructure" includes water, drainage, sewer,
13 waste disposal, and waste treatment systems that connect to the
14 infrastructure of the county."

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

17 "(b) Each county surcharge on state tax that may be
18 adopted or extended pursuant to section 46-16.8 shall be levied
19 beginning in a taxable year after the adoption of the relevant
20 county ordinance; provided that no surcharge on state tax may be
21 levied:



- 1 (1) Prior to:
- 2 (A) January 1, 2007, if the county surcharge on state
- 3 tax was established by an ordinance adopted prior
- 4 to December 31, 2005;
- 5 (B) January 1, 2019, if the county surcharge on state
- 6 tax was established by the adoption of an
- 7 ordinance after June 30, 2015, but prior to
- 8 June 30, 2018; [~~or~~]
- 9 (C) January 1, 2020, if the county surcharge on state
- 10 tax was established by the adoption of an
- 11 ordinance on or after June 30, 2018, but prior to
- 12 March 31, 2019; [~~and~~] or
- 13 (D) January 1, 2025, if the county surcharge on state
- 14 tax was established by the adoption of an
- 15 ordinance on or after March 31, 2019, but prior
- 16 to December 31, 2023; and
- 17 (2) After December 31, 2030."

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

20 "(b) Each county surcharge on state tax that may be
 21 adopted or extended shall be levied beginning in a taxable year



1 after the adoption of the relevant county ordinance; provided
2 that no surcharge on state tax may be levied:

3 (1) Prior to:

4 (A) January 1, 2007, if the county surcharge on state
5 tax was established by an ordinance adopted prior
6 to December 31, 2005;

7 (B) January 1, 2019, if the county surcharge on state
8 tax was established by the adoption of an
9 ordinance after June 30, 2015, but prior to
10 June 30, 2018; [~~or~~]

11 (C) January 1, 2020, if the county surcharge on state
12 tax was established by the adoption of an
13 ordinance on or after June 30, 2018, but prior to
14 March 31, 2019; [~~and~~] or

15 (D) January 1, 2025, if the county surcharge on state
16 tax was established by the adoption of an
17 ordinance on or after March 31, 2019, but prior
18 to December 31, 2023; and

19 (2) After December 31, 2030."

20 PART III



1 SECTION 5. Section 23-14, Hawaii Revised Statutes, is
 2 amended by amending subsection (a) to read as follows:
 3 "(a) Beginning on September 5, 2017, and ending on
 4 December 31, 2031, the auditor, on an annual basis, shall
 5 conduct a review of any rapid transportation authority in the
 6 State charged with the responsibility of constructing,
 7 operating, or maintaining a locally preferred alternative for a
 8 mass transit project that receives moneys from a surcharge on
 9 state tax established pursuant to section 46-16.8, transient
 10 accommodations tax revenues pursuant to section 237D-2(e), or
 11 both. The annual review shall include a review of documents,
 12 including but not limited to invoices, contracts, progress
 13 reports, and time schedules, to determine that:

- 14 (1) Expenditures by the authority comply with the criteria
 15 established pursuant to section [~~46-16.8(e);~~
 16 46-16.8(f)]; and
- 17 (2) The authority follows accounting best practices for
 18 substantiating its expenditures."

19 SECTION 6. Section 40-81.5, Hawaii Revised Statutes, is
 20 amended as follows:

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



1 "(a) Beginning on September 5, 2017, and ending on
2 December 31, 2031, the comptroller, upon the request for payment
3 by the rapid transportation authority, shall verify that the
4 authority's invoices for the capital costs of a locally
5 preferred alternative for a mass transit project comply with
6 section [~~46-16.8(e).~~] 46-16.8(f)."

7 2. By amending subsection (c) to read:

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
13 section 46-16.8, the comptroller shall submit a certification
14 statement, including any appropriate supporting documents, to
15 the department of budget and finance for the allocation of
16 funds, if available, pursuant to sections 248-2.7 and
17 248-2.6(d). The certification statement shall include, at a
18 minimum, the total amount contained in the invoices for capital
19 costs that are verified as an appropriate use of funds pursuant
20 to section [~~46-16.8(e).~~] 46-16.8(f)."



1 SECTION 7. Section 248-2.7, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:
3 "(c) Upon receiving a certification statement from the
4 comptroller pursuant to section 40-81.5, the director of finance
5 shall allocate and disburse moneys in the mass transit special
6 fund to the director of finance of a county with a population
7 greater than five hundred thousand; provided that the director
8 of finance shall only disburse those amounts that are certified
9 in the certification statement for that county for the purposes
10 specified in section 46-16.8; provided further that revenues
11 allocated from the special fund shall not be used for:
12 (1) Operating or maintenance costs of the mass transit
13 project or any purpose not consistent with
14 section [~~46-16.8(e);~~] 46-16.8(f); or
15 (2) Administrative, operating, marketing, or maintenance
16 costs, including personnel costs, of a rapid
17 transportation authority charged with the
18 responsibility for constructing, operating, or
19 maintaining the mass transit project;
20 provided further that the total amount of funds that are
21 available, allocated, and disbursed by the director of finance



1 pursuant to this section shall not be in excess of the total
2 amount indicated on the certification statement. The director
3 of finance may allocate and disburse moneys pursuant to this
4 section on a monthly basis.

5 Any amounts allocated and disbursed pursuant to this
6 section shall be subject to the availability of funds deposited
7 and on balance in the special fund. The director of finance
8 shall not allocate or disburse any amounts from the special fund
9 that are in excess of any amounts deposited and on balance in
10 the special fund."

11 PART IV

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

14 SECTION 9. This Act shall take effect on June 30, 3000.

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H.B. NO. 1363 H.D. 1

Report Title:

Surcharge on State Tax; Extension; Amendment; Housing
Infrastructure

Description:

Extends the period within which a county may adopt a surcharge on state tax, under certain conditions, from 3/31/2019 to 12/31/2023. Authorizes the use of county surcharge revenues for housing infrastructure in counties having a population of five hundred thousand or less. Temporarily authorizes counties that have previously adopted a surcharge on state tax to amend the uses of the surcharge. Effective 6/30/3000. (HD1)

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