

JAN 25 2023

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

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

15 The legislature further finds that because developers are
16 focused on their specific housing developments, there are few
17 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 in 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 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, [~~or~~] 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 subsections (a)
5 or (c) may amend the surcharge ordinance to change the county's
6 surcharge rate, within the rates enumerated in sections 237-8.6
7 and 238-2.6, or the authorized uses of surcharge revenues,
8 pursuant to subsection (g); provided that:

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

12 (2) The ordinance shall be amended prior to December 31,
13 2023.

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

20 [~~e~~] (f) Each county with a population greater than five
21 hundred thousand that adopts or extends a county surcharge on



1 state tax ordinance pursuant to subsection (a) or (b) shall use
2 the surcharge revenues received from the State for capital costs
3 of a locally preferred alternative for a mass transit project;
4 provided that revenues derived from the county surcharge on
5 state tax shall not be used:

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

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

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

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



1 [~~f~~] (g) Each county [~~with~~] having a population equal to
2 or less than five hundred thousand that adopts a county
3 surcharge on state tax ordinance pursuant to this section prior
4 to January 1, 2023, shall use the surcharges received from the
5 State for:

6 (1) Operating or capital costs of public transportation
7 within each county for public transportation systems,
8 including public roadways or highways, public buses,
9 trains, ferries, pedestrian paths or sidewalks, or
10 bicycle paths; [~~and~~]

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

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

18 provided that each county having a population equal to or less
19 than five hundred thousand that adopts a county surcharge on
20 state tax ordinance pursuant to this section after December 31,



1 2022, shall use the surcharges received from the State only for
2 the purposes described in paragraph (3).

3 [~~g~~] (h) As used in this section~~[7]~~:

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

15 "Housing infrastructure" includes water, drainage, sewer,
16 waste disposal, and waste treatment systems that connect to the
17 infrastructure of the county. "Infrastructure" also includes
18 pedestrian paths or sidewalks on a county road near or around a
19 public school."

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



S.B. NO. 1508

1 " (b) Each county surcharge on state tax that may be
2 adopted or extended pursuant to section 46-16.8 shall be levied
3 beginning in a taxable year after the adoption of the relevant
4 county ordinance; provided that no surcharge on state tax may be
5 levied:

6 (1) Prior to:

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

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

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

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



1 (2) After December 31, 2030."

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

4 "(b) Each county surcharge on state tax that may be
5 adopted or extended shall be levied beginning in a taxable year
6 after the adoption of the relevant county ordinance; provided
7 that no surcharge on state tax may be levied:

8 (1) Prior to:

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

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

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

20 (D) January 1, 2025, if the county surcharge on state
21 tax was established by the adoption of an



1 ordinance on or after March 31, 2019, but prior
2 to December 31, 2023; and

3 (2) After December 31, 2030."

4 PART III

5 SECTION 5. Section 23-14, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

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

18 (1) Expenditures by the authority comply with the criteria
19 established pursuant to section [~~46-16.8(e);~~]
20 46-16.8(f); and



1 (2) The authority follows accounting best practices for
2 substantiating its expenditures."

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

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

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

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

13 "(c) After submission of invoices by the rapid
14 transportation authority for capital costs of a locally
15 preferred alternative for a mass transit project are verified by
16 the comptroller as an acceptable use of funds received pursuant
17 to a surcharge on state tax authorized pursuant to
18 section 46-16.8, the comptroller shall submit a certification
19 statement, including any appropriate supporting documents, to
20 the department of budget and finance for the allocation of
21 funds, if available, pursuant to sections 248-2.7 and



1 248-2.6(d). The certification statement shall include, at a
2 minimum, the total amount contained in the invoices for capital
3 costs that are verified as an appropriate use of funds pursuant
4 to section [~~46-16.8(e)~~] 46-16.8(f)."

5 SECTION 7. Section 248-2.7, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) Upon receiving a certification statement from the
8 comptroller pursuant to section 40-81.5, the director of finance
9 shall allocate and disburse moneys in the mass transit special
10 fund to the director of finance of a county with a population
11 greater than five hundred thousand; provided that the director
12 of finance shall only disburse those amounts that are certified
13 in the certification statement for that county for the purposes
14 specified in section 46-16.8; provided further that revenues
15 allocated from the special fund shall not be used for:

16 (1) Operating or maintenance costs of the mass transit
17 project or any purpose not consistent with
18 section [~~46-16.8(e)~~] 46-16.8(f); or

19 (2) Administrative, operating, marketing, or maintenance
20 costs, including personnel costs, of a rapid
21 transportation authority charged with the



S.B. NO. 1568

Report Title:

Surcharge on State Tax; Extension; Amendment; Housing
Infrastructure

Description:

Extends the period in 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. Temporarily authorizes counties that have previously adopted a surcharge on state tax to amend the rates and uses of the surcharge.

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

