#### HOUSE OF REPRESENTATIVES THIRTY-SECOND LEGISLATURE, 2023 STATE OF HAWAII

## A BILL FOR AN ACT

PART I

RELATING TO TAXATION.

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

1

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 has been the responsibility of the developers of housing 6 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 cited by developers as a major impediment. Furthermore, these 10 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 unattainable 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

## 2023-3343 HB1363 CD1 HMSO

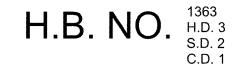
1

1363

H.D. 3

S.D. 2 C.D. 1

H.B. NO.



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

## 2023-3343 HB1363 CD1 HMSO

H.B. NO. <sup>1363</sup> H.D. 3 S.D. 2 C.D. 1

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

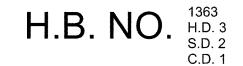
20 (2) Authorize, in certain instances, the use of county
 21 surcharge revenues for housing infrastructure; and

## 2023-3343 HB1363 CD1 HMSO

H.B. NO. <sup>1363</sup> H.D. 3 S.D. 2 C.D. 1

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 in sections 237-8.6 and 238-2.6. A county electing to establish 9 this surcharge shall do so by ordinance; provided that: 10 No ordinance shall be adopted until the county has 11 (1) 12 conducted a public hearing on the proposed ordinance; 13 (2) The ordinance shall be adopted [prior to] before 14 December 31, 2005; and 15 (3) No county surcharge on state tax that may be 16 authorized under this subsection shall be levied 17 [prior to] before January 1, 2007, or after 18 December 31, 2022, unless extended pursuant to 19 subsection (b). Notice of the public hearing required under paragraph (1) shall 20 21 be published in a newspaper of general circulation within the

## 2023-3343 HB1363 CD1 HMSO



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

A county electing to exercise the authority granted under this subsection shall notify the director of taxation within ten days after the county has adopted a surcharge on state tax ordinance and, beginning no earlier than January 1, 2007, the director of taxation shall levy, assess, collect, and otherwise administer the county surcharge on state tax.

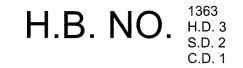
9 (b) Each county that has established a surcharge on state
10 tax [prior to] before July 1, 2015, under authority of
11 subsection (a) may extend the surcharge until December 31, 2030,
12 at the same rates. A county electing to extend this surcharge
13 shall do so by ordinance; provided that:

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] before
18 January 1, 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

## 2023-3343 HB1363 CD1 HMSO



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

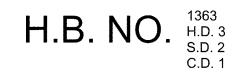
4 (c) Each county that has not established a surcharge
5 <u>pursuant to subsection (a)</u> on state tax [prior to] <u>before</u> July
6 1, 2015, may establish the surcharge at the rates enumerated in
7 sections 237-8.6 and 238-2.6. A county electing to establish
8 this surcharge shall do so by ordinance; 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;] before December 31, 2023; and 13 (3) No county surcharge on state tax that may be 14 authorized under this subsection shall be levied 15 [prior to] before January 1, 2019, or after December

**16** 31, 2030.

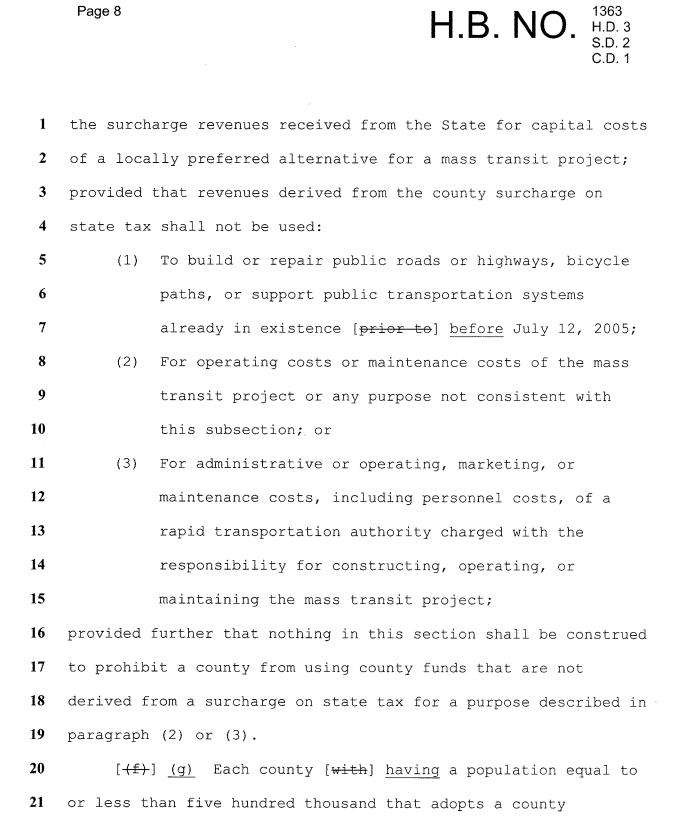
A county electing to exercise the authority granted under
this subsection shall notify the director of taxation within ten
days after the county has adopted a surcharge on state tax
ordinance. Beginning on January 1, 2019, [or] January 1, 2020,
January 1, 2024, or January 1, 2025, as applicable pursuant to

### 2023-3343 HB1363 CD1 HMSO

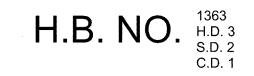


1	sections 237-8.6 and 238-2.6, the director of taxation shall
2	levy, assess, collect, and otherwise administer the county
3	surcharge on state tax.
4	(d) Each county that has established a surcharge on state
5	tax before March 31, 2019, under subsection (a) or (c) may amend
6	the surcharge ordinance to change the authorized uses of
7	surcharge revenues, pursuant to subsection (g); provided that:
8	(1) No ordinance shall be amended pursuant to this section
9	until the county has conducted a public hearing on the
10	proposed amendment; and
11	(2) The ordinance shall be amended before December 31,
12	2023.
13	[ <del>(d)</del> ] <u>(e)</u> Notice of the public hearing required under
14	subsection (b) [ <del>or</del> ], (c), or (d), before adoption or amendment
15	of an ordinance establishing or extending the surcharge on state
16	tax shall be published in a newspaper of general circulation
17	within the county at least twice within a period of thirty days
18	immediately preceding the date of the hearing.
19	[-(e)] (f) Each county with a population greater than five
20	hundred thousand that adopts or extends a county surcharge on
21	state tax ordinance pursuant to subsection (a) or (b) shall use

2023-3343 HB1363 CD1 HMSO



### 2023-3343 HB1363 CD1 HMSO



1	surcharge	on state tax ordinance pursuant to this section shall
2	use the s	urcharges received from the State for:
3	(1)	Operating or capital costs of public transportation
4		within each county for public transportation systems,
5		including [ <del>public</del> ] <u>:</u>
6		(A) Public roadways or highways[ <del>, public</del> ];
7		(B) Public buses[, trains, ferries, pedestrian];
8		(C) Trains;
9		(D) Ferries;
10		(E) Pedestrian paths or sidewalks[ $\tau$ ]; or [bicycle]
11		(F) Bicycle paths; [and]
12	(2)	Expenses in complying with the Americans with
13		Disabilities Act of 1990 with respect to paragraph
14		(1) [-]; and
15	(3)	Housing infrastructure; provided that a county that
16		uses surcharge revenues for housing infrastructure
17		shall not pass on those housing infrastructure costs
18		to the developer of a housing project; provided
19		further that this paragraph shall apply only if a
20	•	county amended its surcharge ordinance pursuant to

2023-3343 HB1363 CD1 HMSO

H.B.	NO	1363 H.D. 3
11.0.	110.	S.D. 2 C.D. 1

1	subsection (d) or adopts a county surcharge on state
2	tax ordinance after December 31, 2022;
3	provided that each county having a population equal to or less
4	than five hundred thousand that adopts a county surcharge on
5	state tax ordinance pursuant to this section after December 31,
6	2022, shall use the surcharge revenues received from the State
7	only for the purposes described in paragraph (3).
8	[ <del>(g)</del> ] <u>(h)</u> As used in this section[ <del>, "capital</del> ]:
9	"Capital costs" means nonrecurring costs required to
10	construct a transit facility or system, including debt service,
11	costs of land acquisition and development, acquiring of
12	rights-of-way, planning, design, and construction, and including
13	equipping and furnishing the facility or system. For a county
14	with a population greater than five hundred thousand, capital
15	costs also include non-recurring personal services and other
16	overhead costs that are not intended to continue after
17	completion of construction of the minimum operable segment of
18	the locally preferred alternative for a mass transit project.
19	"Housing infrastructure" includes pedestrian paths or
20	sidewalks on a county road near or around a public school, and
21	water, drainage, sewer, water reuse, waste disposal, and waste

# 2023-3343 HB1363 CD1 HMSO

1 treatment systems that connect to the infrastructure of the 2 county." 3 SECTION 3. Section 237-8.6, Hawaii Revised Statutes, is 4 amended by amending subsection (b) to read as follows: 5 "(b) Each county surcharge on state tax that may be 6 adopted [or], extended, or amended pursuant to section 46-16.8 7 shall be levied beginning in a taxable year after the adoption of the relevant county ordinance; provided that no surcharge on 8 9 state tax may be levied: 10 (1)[<del>Prior to:</del>] Before: 11 (A) January 1, 2007, if the county surcharge on state 12 tax was established by an ordinance adopted 13 [prior to] before December 31, 2005; 14 (B) January 1, 2019, if the county surcharge on state 15 tax was established by the adoption of an 16 ordinance after June 30, 2015, but [prior to] 17 before June 30, 2018; [or] 18 (C) January 1, 2020, if the county surcharge on state 19 tax was established by the adoption of an 20 ordinance on or after June 30, 2018, but [prior 21 to] before March 31, 2019; [and]

2023-3343 HB1363 CD1 HMS0

11

1363 H.D. 3

S.D. 2

H.B. NO.

.

### H.B. NO. <sup>1363</sup> H.D. 3 S.D. 2 C.D. 1

1	<u>(D)</u>	January 1, 2024, if the county surcharge on state
2		tax was established by the adoption of an
3		ordinance on or after March 31, 2019, but before
4		August 1, 2023; or
5	(E)	January 1, 2025, if the county surcharge on state
6		tax was established by the adoption of an
7		ordinance on or after August 1, 2023, but before
8		December 31, 2023; and
9	(2) Afte	r December 31, 2030."
10	SECTION 4	. Section 238-2.6, Hawaii Revised Statutes, is
11	amended by ame	nding subsection (b) to read as follows:
12	"(b) Eacl	h county surcharge on state tax that may be
13	adopted [ <del>or</del> ],	extended, or amended shall be levied beginning in
14	a taxable year	after the adoption of the relevant county
15	ordinance; pro-	vided that no surcharge on state tax may be
16	levied:	
17	(1) [ <del>Pri</del>	<del>or to:</del> ] <u>Before:</u>
18	(A)	January 1, 2007, if the county surcharge on state
19		tax was established by an ordinance adopted
20		[ <del>prior to</del> ] <u>before</u> December 31, 2005;

# 2023-3343 HB1363 CD1 HMSO

### H.B. NO. <sup>1363</sup> H.D. 3 S.D. 2 C.D. 1

1	(B)	January 1, 2019, if the county surcharge on state
2		tax was established by the adoption of an
3		ordinance after June 30, 2015, but [ <del>prior to</del> ]
4		before June 30, 2018; [ <del>or</del> ]
5	(C)	January 1, 2020, if the county surcharge on state
6		tax was established by the adoption of an
7		ordinance on or after June 30, 2018, but [ <del>prior</del>
8		to] <u>before</u> March 31, 2019; [and]
9	(D)	January 1, 2024, if the county surcharge on state
10		tax was established by the adoption of an
11		ordinance on or after March 31, 2019, but before
12		August 1, 2023; or
13	<u>(E)</u>	January 1, 2025, if the county surcharge on state
14		tax was established by the adoption of an
15		ordinance on or after August 1, 2023, but before
16		December 31, 2023; and
17	(2) After	r December 31, 2030."
18		PART III
19	SECTION 5	. Section 23-14, Hawaii Revised Statutes, is
20	amended by amer	nding subsection (a) to read as follows:

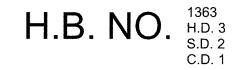
2023-3343 HB1363 CD1 HMSO

. }

H.B.	NO.	1363 H.D. 3 S.D. 2
		C.D. 1

1	"(a) Beginning on September 5, 2017, and ending on
2	December 31, 2031, the auditor, on an annual basis, shall
3	conduct a review of any rapid transportation authority in the
4	State charged with the responsibility of constructing,
5	operating, or maintaining a locally preferred alternative for a
6	mass transit project that receives moneys from a surcharge on
7	state tax established pursuant to section 46-16.8, transient
8	accommodations tax revenues pursuant to section 237D-2(e), or
9	both. The annual review shall include a review of documents,
10	including but not limited to invoices, contracts, progress
11	reports, and time schedules, to determine that:
12	(1) Expenditures by the authority comply with the criteria
13	established pursuant to section $[46-16.8(e);]$
14	<u>46-16.8(f);</u> and
15	(2) The authority follows accounting best practices for
16	substantiating its expenditures."
17	SECTION 6. Section 40-81.5, Hawaii Revised Statutes, is
18	amended as follows:
19	1. By amending subsection (a) to read:
20	"(a) Beginning on September 5, 2017, and ending on
21	December 31, 2031, the comptroller, upon the request for payment

2023-3343 HB1363 CD1 HMSO



1	by the rapid transportation authority, shall verify that the
2	authority's invoices for the capital costs of a locally
3	preferred alternative for a mass transit project comply with
4	section [46-16.8(c).] 46-16.8(f)."
5	2. By amending subsection (c) to read:
6	"(c) After submission of invoices by the rapid
7	transportation authority for capital costs of a locally
8	preferred alternative for a mass transit project are verified by
9	the comptroller as an acceptable use of funds received pursuant
10	to a surcharge on state tax authorized pursuant to
11	section 46-16.8, the comptroller shall submit a certification
12	statement, including any appropriate supporting documents, to
13	the department of budget and finance for the allocation of
14	funds, if available, pursuant to sections 248-2.7 and
15	248-2.6(d). The certification statement shall include, at a
16	minimum, the total amount contained in the invoices for capital
17	costs that are verified as an appropriate use of funds pursuant
18	to section [ <del>46-16.8(e).</del> ] <u>46-16.8(f).</u> "
19	SECTION 7. Section 248-2.7, Hawaii Revised Statutes, is

20  $% \left( {\left( {n + 1} \right)} \right)$  amended by amending subsection (c) to read as follows:

# 2023-3343 HB1363 CD1 HMSO

H.B. NO. <sup>1363</sup> H.D. 3 S.D. 2 C.D. 1

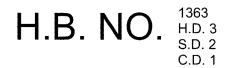
1	"(c) Upon receiving a certification statement from the
2	comptroller pursuant to section 40-81.5, the director of finance
3	shall allocate and disburse moneys in the mass transit special
4	fund to the director of finance of a county with a population
5	greater than five hundred thousand; provided that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

2023-3343 HB1363 CD1 HMSO

H.B. NO. <sup>1363</sup> H.D. 3 S.D. 2 C.D. 1

of finance may allocate and disburse moneys pursuant to this 1 2 section on a monthly basis. 3 Any amounts allocated and disbursed pursuant to this section shall be subject to the availability of funds deposited 4 5 and on balance in the special fund. The director of finance shall not allocate or disburse any amounts from the special fund 6 7 that are in excess of any amounts deposited and on balance in 8 the special fund." 9 PART IV 10 SECTION 8. Statutory material to be repealed is bracketed 11 and stricken. New statutory material is underscored. 12 SECTION 9. This Act shall take effect upon its approval.





#### 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, in certain instances, the use of county surcharge revenues for housing infrastructure in counties having a population of 500,000 or less. Temporarily authorizes counties that have previously adopted a surcharge on state tax to amend the uses of the surcharge. (CD1)

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

