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DEPARTMENT OF TAXATION

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**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 176, Relating to Taxation

BEFORE THE:

Senate Committee on Ways and Means

DATE: Monday, February 27, 2023

TIME: 10:35 a.m.

LOCATION: State Capitol, Room 211

Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 176 for your consideration.

S.B. 176 amends section 46-16.8, Hawaii Revised Statutes (HRS), to extend the period in which a county may adopt a surcharge on state tax. The measure also authorizes counties that have already adopted or extended a surcharge to amend the authorized use of surcharge revenue. S.B. 176 also amends sections 237-8.6 and 238-2.6, HRS, to remove the county surcharge's original sunset date of December 31, 2030, provided that any surcharge levied, assessed, or collected after December 31, 2030 shall not exceed 0.25 percent.

The measure has an effective date of July 1, 2023.

The Department notes that Maui County has not adopted a county surcharge, while Honolulu, Kauai, and Hawaii counties currently have county surcharges at the maximum 0.5 percent rate. Accordingly, this bill would allow Maui county to adopt a county surcharge at a rate of up to 0.5 percent and would further allow the counties to extend the county surcharge beyond December 31, 2030 at a rate of up to 0.25 percent.

The Department further notes that the bill does not provide any time limitations for when a newly-enacted county surcharge may be levied after adoption of an ordinance. Further, the bill does not provide a deadline for the counties to adopt an ordinance extending the county surcharge beyond December 31, 2030. The Department requests that the bill be amended to allow sufficient time for the Department to implement any newly enacted county surcharge and/or any extension of the county surcharge beyond December 31, 2030, as the Department will need time to revise forms, update its system, and provide notice to taxpayers. Additionally, to assist with implementation and minimize system and form impacts, the Department requests that any newly enacted county surcharge take effect on January 1 of a calendar year.

Based on the foregoing, the Department requests that sections 4 and 5 of the bill be amended as follows:

1. Amend section 237-8.6(b), HRS, on page 11, lines 17 through 20, to read:

Each county surcharge on state tax that may be adopted or extended prior to March 31, 2019 pursuant to section 46-16.8 shall be levied beginning in a taxable year after the adoption of the relevant county ordinance . . .

2. Add a new subsection (c) to section 237-8.6, HRS, to read:

(c) Each county surcharge on state tax that may be adopted on or after July 1, 2023 pursuant to section 46-16.8 shall be levied as follows:

- (1) If the ordinance is adopted prior to August 1 in a calendar year, the surcharge shall be levied beginning on January 1 of the calendar year following the date of adoption of the county ordinance; or
- (2) If the ordinance is adopted after August 1 in a calendar year, the surcharge shall be levied beginning on January 1 of the second calendar year following the date of the adoption of the county ordinance.

3. Add a new subsection (d) to section 237-8.6, HRS, to read:

(d) Each county surcharge on state tax that may be extended after December 31, 2030 pursuant to section 46-16.8 shall be extended by an ordinance adopted prior to August 2, 2029.

4. Amend section 238-2.6(b), HRS, in Section 5 on page 13, lines 17 through 19, to read:

Each county surcharge on state tax that may be adopted or extended prior to March 31, 2019 shall be levied beginning in a taxable year after the adoption of the relevant county ordinance

5. Add a new subsection (c) to section 238-2.6, HRS, to read:

(c) Each county surcharge on state tax that may be adopted on or after July 1, 2023 pursuant to section 46-16.8 shall be levied as follows:

(1) If the ordinance is adopted prior to August 1 in a calendar year, the surcharge shall be levied beginning on January 1 of the calendar year following the date of adoption of the county ordinance; or

(2) If the ordinance is adopted after August 1 in a calendar year, the surcharge shall be levied beginning on January 1 of the second calendar year following the date of the adoption of the county ordinance.

6. Add a new subsection (d) to section 238-2.6, HRS, to read:

(d) Each county surcharge on state tax that may be extended after December 31, 2030 pursuant to section 46-16.8 shall be extended by an ordinance adopted prior to August 2, 2029.

Finally, the Department estimates that this bill will have no material revenue impact on State general funds.

Thank you for the opportunity to provide comments on this measure.

TAX FOUNDATION OF HAWAII

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SUBJECT: GENERAL EXCISE, USE, Allow County Surcharge at Reduced Rate After 2031 and Allow Use for Operating Expenses

BILL NUMBER: SB 176

INTRODUCED BY: RHOADS

EXECUTIVE SUMMARY: Authorizes a county with a pre-existing surcharge to continue the surcharge after December 31, 2030 at a lower rate of one-fourth per cent. Authorizes counties that have not adopted a surcharge ordinance on state tax to adopt a surcharge ordinance at the current rate of one-half of one per cent through December 31, 2030 and at a rate of one-fourth of one per cent after December 31, 2030. Expands the authorized use of surcharge revenues to more than capital costs for counties with a population greater than five hundred thousand.

SYNOPSIS: Amends section 40-81.5, HRS, to remove the end date of December 31, 2031, and to delete language indicating that the surcharge may be used only for capital costs.

Amends section 46-16.8, to provide that a county that has not already established the surcharge may do so, and to provide that a large county (i.e., Honolulu) may use the surcharge for capital, operating, or maintenance costs of its rail project, and expenses in complying with the Americans with Disabilities Act.

Amends section 237-8.6, HRS, to provide that the maximum county surcharge rate is 0.5% prior to January 1, 2031, and 0.25% thereafter.

Makes similar amendments to section 238-2.6, HRS.

Makes technical and conforming amendments.

EFFECTIVE DATE: July 1, 2023.

STAFF COMMENTS: The county surcharge on the General Excise Tax is required to be used in the City & County of Honolulu to support its rail mass transit project. The law creating the county surcharge for the other counties allowed those counties to use the surcharge funds for transportation infrastructure. The surcharge is now set to disappear at the end of 2031.

This bill, if enacted, will virtually assure that the surcharge is permanent. It allows the moneys to be used for operations and maintenance, not just capital costs. It gets rid of the 2031 sunset date of the surcharge, providing that the tax may be imposed subsequent to then but at a lower rate (for now, anyway).

If enacted, we can add the county surcharge to the list of temporary taxes that have become permanent.

Digested: 2/23/2023

SB-176

Submitted on: 2/23/2023 6:03:42 PM

Testimony for WAM on 2/27/2023 10:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

End all Taxes!!!!