
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 are often cited
10 by developers as a major impediment to the development of
11 housing. Furthermore, these costs are ultimately passed on to
12 homebuyers, which drives up the prices of new homes.
13 Ultimately, the high cost of infrastructure is a factor that
14 makes homes expensive, to the point of being unobtainable for
15 many local families.

16 The legislature further finds that because developers are
17 focused on their specific housing development projects, there



1 are few incentives for the developers to design infrastructure
2 in a manner that takes into account state and county planning
3 objectives, long-range planning, or regional or island-wide
4 cohesion. As a result, infrastructure development is often done
5 in a haphazard, piecemeal manner that is problematic for county
6 residents and governments alike. For example, infrastructure
7 has been developed in inconvenient locations, isolated from
8 necessary societal services to which residents would require
9 access.

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

19 The legislature believes that the implementation of this
20 policy would result in more efficient community planning. In
21 particular, because counties typically take ownership of



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

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

17 Accordingly, the purpose of this Act is to:

18 (1) Extend the period in which a county may adopt a
19 surcharge on state tax, under certain conditions, from
20 March 31, 2019, to December 31, 2023;



- 1 (2) Authorize, in certain instances, the use of county
- 2 surcharge revenues for housing infrastructure; and
- 3 (3) Temporarily authorize counties that have previously
- 4 adopted a surcharge on state tax to amend the rates
- 5 and uses of the surcharge.

6 PART II

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

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

- 13 (1) No ordinance shall be adopted until the county has
- 14 conducted a public hearing on the proposed ordinance;
- 15 (2) The ordinance shall be adopted prior to December 31,
- 16 2005; and
- 17 (3) No county surcharge on state tax that may be
- 18 authorized under this subsection shall be levied prior
- 19 to January 1, 2007, or after December 31, 2022, unless
- 20 extended pursuant to subsection (b).



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

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

16 (1) No ordinance shall be adopted until the county has
17 conducted a public hearing on the proposed ordinance;
18 and

19 (2) The ordinance shall be adopted prior to January 1,
20 2018.



1 A county electing to exercise the authority granted under
2 this subsection shall notify the director of taxation within ten
3 days after the county has adopted an ordinance extending the
4 surcharge on state tax. The director of taxation shall levy,
5 assess, collect, and otherwise administer the extended surcharge
6 on state tax.

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

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

14 (2) The ordinance shall be adopted prior to [~~March 31,~~
15 ~~2019;~~] December 31, 2023; and

16 (3) No county surcharge on state tax that may be
17 authorized under this subsection shall be levied prior
18 to January 1, 2019, or after December 31, 2030.

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 a surcharge on state tax



1 ordinance. Beginning on January 1, 2019, [~~or~~] January 1, 2020,
2 or January 1, 2025, as applicable, pursuant to sections 237-8.6
3 and 238-2.6, the director of taxation shall levy, assess,
4 collect, and otherwise administer the county surcharge on state
5 tax.

6 (d) Each county that has established a surcharge on state
7 tax prior to March 31, 2019, under authority of subsections (a)
8 or (c) may amend the surcharge ordinance to change the county's
9 surcharge rate, within the rates enumerated in sections 237-8.6
10 and 238-2.6, or the authorized uses of surcharge revenues,
11 pursuant to subsection (g); provided that:

12 (1) No ordinance shall be amended pursuant to this section
13 until the county has conducted a public hearing on the
14 proposed amendment;

15 (2) The ordinance shall be amended prior to December 31,
16 2023; and

17 (3) Any change to a county's surcharge rate made pursuant
18 to this subsection shall take effect on January 1,
19 2025.

20 [~~d~~] (e) Notice of the public hearing required under
21 subsection (b) [~~or~~], (c), or (d), before adoption or amendment



1 of an ordinance establishing or extending the surcharge on state
2 tax shall be published in a newspaper of general circulation
3 within the county at least twice within a period of thirty days
4 immediately preceding the date of the hearing.

5 [~~(e)~~] (f) Each county with a population greater than five
6 hundred thousand that adopts or extends a county surcharge on
7 state tax ordinance pursuant to subsection (a) or (b) shall use
8 the surcharge revenues received from the State for capital costs
9 of a locally preferred alternative for a mass transit project;
10 provided that revenues derived from the county surcharge on
11 state tax shall not be used:

- 12 (1) To build or repair public roads or highways, bicycle
13 paths, or support public transportation systems
14 already in existence prior to July 12, 2005;
- 15 (2) For operating costs or maintenance costs of the mass
16 transit project or any purpose not consistent with
17 this subsection; or
- 18 (3) For administrative or operating, marketing, or
19 maintenance costs, including personnel costs, of a
20 rapid transportation authority charged with the



1 responsibility for constructing, operating, or
2 maintaining the mass transit project;
3 provided further that nothing in this section shall be construed
4 to prohibit a county from using county funds that are not
5 derived from a surcharge on state tax for a purpose described in
6 paragraph (2) or (3).

7 ~~(f)~~ (g) Each county ~~with~~ having a population equal to
8 or less than five hundred thousand that adopts a county
9 surcharge on state tax ordinance pursuant to this section prior
10 to January 1, 2023, shall use the surcharges received from the
11 State for:

- 12 (1) Operating or capital costs of public transportation
13 within each county for public transportation systems,
14 including public roadways or highways, public buses,
15 trains, ferries, pedestrian paths or sidewalks, or
16 bicycle paths; ~~and~~
- 17 (2) Expenses in complying with the Americans with
18 Disabilities Act of 1990 with respect to paragraph (1)
19 ~~);~~ and
- 20 (3) Housing infrastructure; provided that a county that
21 uses surcharge revenues for housing infrastructure



1 shall not pass on related infrastructure costs to the
 2 developer of a housing project;
 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 surcharges received from the State only for
 7 the purposes described in paragraph (3).

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

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

20 "Housing infrastructure" includes water, drainage, sewer,
 21 waste disposal, and waste treatment systems that connect to the



1 infrastructure of the county. "Infrastructure" also includes
2 pedestrian paths or sidewalks on a county road near or around a
3 public school."

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

6 "(b) Each county surcharge on state tax that may be
7 adopted or extended pursuant to section 46-16.8 shall be levied
8 beginning in a taxable year after the adoption of the relevant
9 county ordinance; provided that no surcharge on state tax may be
10 levied:

11 (1) Prior to:

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

15 (B) January 1, 2019, if the county surcharge on state
16 tax was established by the adoption of an
17 ordinance after June 30, 2015, but prior to
18 June 30, 2018; [~~0~~]

19 (C) January 1, 2020, if the county surcharge on state
20 tax was established by the adoption of an



1 ordinance on or after June 30, 2018, but prior to
 2 March 31, 2019; [~~and~~] or
 3 (D) January 1, 2025, if the county surcharge on state
 4 tax was established by the adoption of an
 5 ordinance on or after March 31, 2019, but prior
 6 to December 31, 2023; and

7 (2) After December 31, 2030."

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

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

14 (1) Prior to:

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

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



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

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

9 (2) After December 31, 2030."

10 PART III

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

13 "(a) Beginning on September 5, 2017, and ending on
14 December 31, 2031, the auditor, on an annual basis, shall
15 conduct a review of any rapid transportation authority in the
16 State charged with the responsibility of constructing,
17 operating, or maintaining a locally preferred alternative for a
18 mass transit project that receives moneys from a surcharge on
19 state tax established pursuant to section 46-16.8, transient
20 accommodations tax revenues pursuant to section 237D-2(e), or
21 both. The annual review shall include a review of documents,



1 including but not limited to invoices, contracts, progress
2 reports, and time schedules, to determine that:

- 3 (1) Expenditures by the authority comply with the criteria
4 established pursuant to section [~~46-16.8(e);~~
5 46-16.8(f)]; and
6 (2) The authority follows accounting best practices for
7 substantiating its expenditures."

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

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

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

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

18 "(c) After submission of invoices by the rapid
19 transportation authority for capital costs of a locally
20 preferred alternative for a mass transit project are verified by
21 the comptroller as an acceptable use of funds received pursuant



1 to a surcharge on state tax authorized pursuant to
2 section 46-16.8, the comptroller shall submit a certification
3 statement, including any appropriate supporting documents, to
4 the department of budget and finance for the allocation of
5 funds, if available, pursuant to sections 248-2.7 and
6 248-2.6(d). The certification statement shall include, at a
7 minimum, the total amount contained in the invoices for capital
8 costs that are verified as an appropriate use of funds pursuant
9 to section [~~46-16.8(e).~~] 46-16.8(f)."

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

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



1 (1) Operating or maintenance costs of the mass transit
2 project or any purpose not consistent with section
3 [~~46-16.8(e);~~] 46-16.8(f); or

4 (2) Administrative, operating, marketing, or maintenance
5 costs, including personnel costs, of a rapid
6 transportation authority charged with the
7 responsibility for constructing, operating, or
8 maintaining the mass transit project;

9 provided further that the total amount of funds that are
10 available, allocated, and disbursed by the director of finance
11 pursuant to this section shall not be in excess of the total
12 amount indicated on the certification statement. The director
13 of finance may allocate and disburse moneys pursuant to this
14 section on a monthly basis.

15 Any amounts allocated and disbursed pursuant to this
16 section shall be subject to the availability of funds deposited
17 and on balance in the special fund. The director of finance
18 shall not allocate or disburse any amounts from the special fund
19 that are in excess of any amounts deposited and on balance in
20 the special fund."



1 PART IV

2 SECTION 8. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 9. This Act shall take effect upon its approval.



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. (SD2)

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