

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION FINANCING.

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

1           SECTION 1. Section 23-14, Hawaii Revised Statutes, is  
2 amended by amending its title and subsection (a) to read as  
3 follows:

4           " ~~[§]23-14 [§]~~ **Rapid transportation authority; annual**  
5 **review.** (a) Beginning on September 5, 2017, and ending on  
6 December 31, ~~[2031,]~~ 2053, the auditor, on an annual basis,  
7 shall conduct a review of any rapid transportation authority in  
8 the State charged with the responsibility of constructing,  
9 operating, or maintaining a locally preferred alternative for a  
10 mass transit project that receives moneys from a surcharge on  
11 state tax established pursuant to section 46-16.8, transient  
12 accommodations tax revenues pursuant to section 237D-2(e), or  
13 both. The annual review shall include a review of documents,  
14 including but not limited to invoices, contracts, progress  
15 reports, and time schedules, to determine that:

16           (1) Expenditures by the authority comply with the criteria  
17           established pursuant to section 46-16.8(e); and



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

3           SECTION 2. Section 40-81.5, Hawaii Revised Statutes, is  
4           amended by amending its title and subsection (a) to read as  
5           follows:

6           "~~§~~40-81.5~~§~~ **Rapid transportation authority;**  
7           **certification statement.** (a) Beginning on September 5, 2017,  
8           and ending on December 31, ~~[2031-7]~~ 2053, the comptroller, upon  
9           the request for payment by the rapid transportation authority,  
10          shall verify that the authority's invoices for the capital costs  
11          of a locally preferred alternative for a mass transit project  
12          comply with section 46-16.8(e)."

13          SECTION 3. Section 46-16.8, Hawaii Revised Statutes, is  
14          amended by amending subsections (a) through (c) as follows:

15          "(a) Each county may establish a surcharge on state tax at  
16          the rates enumerated in sections 237-8.6 and 238-2.6. A county  
17          electing to establish this surcharge shall do so by ordinance;  
18          provided that:

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



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

3           (3) No county surcharge on state tax that may be  
4                   authorized under this subsection shall be levied prior  
5                   to January 1, 2007, or after December 31, [~~2022~~]  
6                   2030, unless extended pursuant to subsection (b).

7 Notice of the public hearing required under paragraph (1) shall  
8 be published in a newspaper of general circulation within the  
9 county at least twice within a period of thirty days immediately  
10 preceding the date of the hearing.

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

17           (b) Each county that has established a surcharge on state  
18 tax prior to July 1, 2015, under authority of subsection (a) may  
19 extend the surcharge until December 31, [~~2030~~] 2053, at the  
20 same rates. A county electing to extend this surcharge shall do  
21 so by ordinance; provided that:



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

4           (2) The ordinance shall be adopted prior to January 1,  
5                   ~~[2018-]~~ 2026.

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

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

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

19           (2) The ordinance shall be adopted prior to March 31,  
20                   2019; and



1           (3) No county surcharge on state tax that may be  
2                   authorized under this subsection shall be levied prior  
3                   to January 1, 2019, or after December 31, [~~2030~~]  
4                   2053.

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. Beginning on January 1, 2019, or January 1, 2020, as  
9 applicable pursuant to sections 237-8.6 and 238-2.6, the  
10 director of taxation shall levy, assess, collect, and otherwise  
11 administer the county surcharge on state tax."

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

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

19           (1) Prior to:



- 1 (A) January 1, 2007, if the county surcharge on state
- 2 tax was established by an ordinance adopted prior
- 3 to December 31, 2005;
- 4 (B) January 1, 2019, if the county surcharge on state
- 5 tax was established by the adoption of an
- 6 ordinance after June 30, 2015, but prior to June
- 7 30, 2018; or
- 8 (C) January 1, 2020, if the county surcharge on state
- 9 tax was established by the adoption of an
- 10 ordinance on or after June 30, 2018, but prior to
- 11 March 31, 2019; and

12 (2) After December 31, [~~2030~~] 2053."

13 SECTION 5. Section 237D-2, Hawaii Revised Statutes, is  
14 amended by amending subsection (e) to read as follows:

15 "(e) Notwithstanding the tax rates established in  
16 subsections (a) (5) and (c) (3), the tax rates levied, assessed,  
17 and collected pursuant to subsections (a) and (c) shall be 10.25  
18 per cent for the period beginning on January 1, 2018, to  
19 December 31, [~~2030~~] 2053; provided that:

- 20 (1) The tax revenues levied, assessed, and collected
- 21 pursuant to this subsection that are in excess of the



1 revenues realized from the levy, assessment, and  
2 collection of tax at the 9.25 per cent rate shall be  
3 deposited quarterly into the mass transit special fund  
4 established under section 248-2.7; and

- 5 (2) If a court of competent jurisdiction determines that  
6 the amount of county surcharge on state tax revenues  
7 deducted and withheld by the State, pursuant to  
8 section 248-2.6, violates statutory or constitutional  
9 law and, as a result, awards moneys to a county with a  
10 population greater than five hundred thousand, then an  
11 amount equal to the monetary award shall be deducted  
12 and withheld from the tax revenues deposited under  
13 paragraph (1) into the mass transit special fund, and  
14 those funds shall be a general fund realization of the  
15 State.

16 The remaining tax revenues levied, assessed, and collected  
17 at the 9.25 per cent tax rate pursuant to subsections (a) and  
18 (c) shall be deposited into the general fund in accordance with  
19 section 237D-6.5(b)."

20 SECTION 6. Section 238-2.6, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



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

5           (1) Prior to:

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

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

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

17           (2) After December 31, [~~2030-~~] 2053."

18           SECTION 7. Section 248-2.7, Hawaii Revised Statutes, is  
19 amended as follows:

20           1. By amending its title to read:





1           "[-]§248-2.7[+] Mass transit special fund; established;  
2 distribution of funds."

3           2. By amending subsection (b) to read:

4           "(b) For the period beginning on January 1, 2018, to  
5 December 31, [~~2030~~,] 2053, transient accommodations tax and  
6 surcharge on state tax revenues allocated to the mass transit  
7 special fund pursuant to sections 237D-2(e) and 248-2.6 shall be  
8 deposited into the special fund. All interest earned on the  
9 moneys in the special fund shall be credited to the general  
10 fund. The mass transit special fund shall be exempt from the  
11 central service expenses deduction under section 36-27 and  
12 departmental administrative expenses deduction under section 36-  
13 30."

14           SECTION 8. Act 247, Session Laws of Hawaii 2005, as  
15 amended by Act 240, Session Laws of Hawaii 2015, as amended by  
16 Act 1, First Special Session Laws of Hawaii 2017, is amended by  
17 amending section 9 to read as follows:

18           "SECTION 9. This Act shall take effect upon its approval;  
19 provided that:

20           (1) If none of the counties of the State adopt an  
21 ordinance to levy a county surcharge on state tax by



1 December 31, 2005, this Act shall be repealed and  
2 section 437D-8.4, Hawaii Revised Statutes, shall be  
3 reenacted in the form in which it read on the day  
4 prior to the effective date of this Act;

5 (2) If any county does not adopt an ordinance to levy a  
6 county surcharge on state tax by December 31, 2005, it  
7 shall be prohibited from adopting such an ordinance  
8 pursuant to this Act, unless otherwise authorized by  
9 the legislature through a separate legislative act;  
10 and

11 (3) If an ordinance to levy a county surcharge on state  
12 tax is adopted by December 31, 2005:

13 (A) The ordinance shall be repealed on December 31,  
14 [~~2022~~] 2053; provided that the repeal of the  
15 ordinance shall not affect the validity or effect  
16 of an ordinance to extend a surcharge on state  
17 tax adopted pursuant to an act of the  
18 legislature; and

19 (B) This Act shall be repealed on December 31,  
20 [~~2030~~] 2053, and section 437D-8.4, Hawaii  
21 Revised Statutes, shall be reenacted in the form



1           in which it read on the day prior to the  
2           effective date of this Act; provided that the  
3           amendments made to section 437D-8.4, Hawaii  
4           Revised Statutes, by Act 226, Session Laws of  
5           Hawaii 2008, as amended by Act 11, Session Laws  
6           of Hawaii 2009, and Act 110, Session Laws of  
7           Hawaii 2014, shall not be repealed."

8           SECTION 9. This Act shall not be construed to prohibit the  
9           use of funds generated by a county for purposes not prohibited  
10          by state law.

11          SECTION 10. This Act does not affect rights and duties  
12          that matured, penalties that were incurred, and proceedings that  
13          were begun before its effective date.

14          SECTION 11. If any provision of this Act, or the  
15          application thereof to any person or circumstance, is held  
16          invalid, the invalidity does not affect other provisions or  
17          applications of the Act that can be given effect without the  
18          invalid provision or application, and to this end the provisions  
19          of this Act are severable.

20          SECTION 12. Statutory material to be repealed is bracketed  
21          and stricken. New statutory material is underscored.



1 SECTION 13. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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# S.B. NO. 492

**Report Title:**

County Surcharge on State Tax; Extension; General Excise Tax;  
Transient Accommodations Tax

**Description:**

Authorizes a county that has adopted a surcharge to state tax to extend the surcharge to 12/31/2053. Extends the end date of the one percent Transient Accommodation Tax increase to 12/31/2053. Requires the State Auditor to conduct an audit and annual review of the Honolulu Authority for Rapid Transportation until 12/31/2053. Requires the Comptroller to certify the Honolulu Authority for Rapid Transportation's invoices for capital costs until 12/31/2053.

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

