

JAN 23 2025

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. With Act 48, Session Laws of Hawaii 2023, the
2 legislature enabled all counties to adopt county surcharges on
3 certain state taxes for the purpose of providing additional
4 funding for transit or other county-provided infrastructure.
5 The additional revenue source for counties was to correct
6 lagging public investment in major regional infrastructure
7 systems and to address the effect of high infrastructure costs
8 on housing and development.

9 The county surcharge provides the counties with a much-
10 needed revenue source that can serve as a relief valve for
11 upward pressure on real property taxes that directly impacts
12 Hawaii homeowners and renters.

13 The legislature finds that use of the county surcharges for
14 certain counties with populations equal to or less than five
15 hundred thousand people is limited to transit- and
16 transportation-related capital improvements and may not be used
17 for infrastructure to support housing in areas where the State
18 and counties plan public infrastructure investments.

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1 The legislature further finds that a longer period for the
2 collection of county surcharges is needed to provide more
3 certainty and reliability as to county revenues for long-term
4 capital improvement programs and for debt payment on bonds
5 issued for regional infrastructure. Housing projects in areas
6 where the counties are able to invest in upfront regional
7 infrastructure are expected to benefit from a reduction in both
8 infrastructure costs and delays associated with the lack of
9 planned infrastructure capacity.

10 Accordingly, the purpose of the Act is to:

- 11 (1) Uniformly extend the period within which a county with
12 a population of five hundred thousand or less people
13 may collect a surcharge on state tax to December 31,
14 2047;
- 15 (2) Uniformly authorize each county with a population of
16 five hundred thousand or less people to use county
17 surcharge revenues for both housing and transportation
18 infrastructure; and
- 19 (3) Authorizes cost-sharing with private or other public
20 developers for housing infrastructure projects funded
21 by surcharge revenues.

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1 SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (c) and (d) to read:

4 "(c) Each county that has not established a surcharge
5 pursuant to subsection (a) on state tax before July 1, 2015, may
6 establish the surcharge at the rates enumerated in sections 237-
7 8.6 and 238-2.6. A county electing to establish this surcharge
8 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 before December 31,
12 2023; and

13 (3) No county surcharge on state tax that may be
14 authorized under this subsection shall be levied
15 before January 1, 2019, or after December 31, [~~2030~~]
16 2047.

17 A county electing to exercise the authority granted under
18 this subsection shall notify the director of taxation within ten
19 days after the county has adopted a surcharge on state tax
20 ordinance. Beginning on January 1, 2019, January 1, 2020,
21 January 1, 2024, or January 1, 2025, as applicable pursuant to
22 sections 237-8.6 and 238-2.6, the director of taxation shall

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1 levy, assess, collect, and otherwise administer the county
2 surcharge on state tax.

3 (d) Each county that has [~~established~~] adopted an
4 ordinance to establish a surcharge on state tax [~~before March~~
5 ~~31, 2019,~~] under subsection [~~(a) or~~] (c) may amend the surcharge
6 ordinance to change the authorized uses of surcharge revenues,
7 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,~~] 2026."

13 2. By amending subsections (g) and (h) to read:

14 "(g) Each county having a population equal to or less than
15 five hundred thousand that adopts a county surcharge on state
16 tax ordinance pursuant to this section or amends its surcharge
17 ordinance pursuant to subsection (d) shall use the surcharges
18 received from the State for:

19 (1) Operating or capital costs of public transportation
20 within each county for public transportation systems,
21 including:

22 (A) Public roadways or highways;

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1 (B) Public buses;

2 (C) Trains;

3 (D) Ferries;

4 (E) Pedestrian paths or sidewalks; or

5 (F) Bicycle paths;

6 (2) Expenses in complying with the Americans with
7 Disabilities Act of 1990 with respect to paragraph
8 (1); and

9 (3) Housing infrastructure costs; provided that a county
10 that uses surcharge revenues for housing
11 infrastructure ~~[shall not pass on those housing~~
12 ~~infrastructure costs to the developer of a housing~~
13 ~~project; provided further that this paragraph shall~~
14 ~~apply only if a county amended its surcharge ordinance~~
15 ~~pursuant to subsection (d) or adopts a county~~
16 ~~surcharge on state tax ordinance after December 31,~~
17 ~~2022,~~

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,~~
21 ~~2022, shall use the surcharge revenues received from the State~~

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1 ~~only for the purposes described in paragraph (3) for county-~~
2 ~~appropriated housing infrastructure costs.]~~ may establish a
3 means to cost-share all or a portion of the
4 infrastructure costs through contributions from
5 projects that are served by the infrastructure or
6 other private or public funding sources.

7 (h) As used in this section:

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

18 "Housing infrastructure costs" [~~includes pedestrian~~] means
19 nonrecurring costs, inclusive of financing costs, including any
20 related debt service and financing agreement costs, required to
21 construct:

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- 1 (1) Pedestrian paths or sidewalks on a county road near or
2 around a public school [~~and water~~];
- 3 (2) Water, drainage, sewer, water reuse, waste disposal,
4 and waste treatment systems that connect to the
5 infrastructure of the county [~~and shall include~~
6 ~~financing costs, including any related debt service~~
7 ~~and financing agreement costs.~~]; and
- 8 (3) Electrical and communication system improvements
9 required for neighborhood redevelopment."

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

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

- 17 (1) Before:
 - 18 (A) January 1, 2007, if the county surcharge on state
19 tax was established by an ordinance adopted
20 before December 31, 2005;
 - 21 (B) January 1, 2019, if the county surcharge on state
22 tax was established by the adoption of an

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1 ordinance after June 30, 2015, but before June
2 30, 2018;

3 (C) January 1, 2020, if the county surcharge on state
4 tax was established by the adoption of an
5 ordinance on or after June 30, 2018, but before
6 March 31, 2019;

7 (D) January 1, 2024, if the county surcharge on state
8 tax was established by the adoption of an
9 ordinance on or after March 31, 2019, but before
10 August 1, 2023; or

11 (E) January 1, 2025, if the county surcharge on state
12 tax was established by the adoption of an
13 ordinance on or after August 1, 2023, but before
14 December 31, 2023; and

15 (2) After December 31, [~~2030-~~] 2047."

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

18 "(b) Each county surcharge on state tax that may be
19 adopted, extended, or amended shall be levied beginning in a
20 taxable year after the adoption of the relevant county
21 ordinance; provided that no surcharge on state tax may be
22 levied:

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- 1 (1) Before:
- 2 (A) January 1, 2007, if the county surcharge on state
- 3 tax was established by an ordinance adopted
- 4 before December 31, 2005;
- 5 (B) January 1, 2019, if the county surcharge on state
- 6 tax was established by the adoption of an
- 7 ordinance after June 30, 2015, but before June
- 8 30, 2018;
- 9 (C) January 1, 2020, if the county surcharge on state
- 10 tax was established by the adoption of an
- 11 ordinance on or after June 30, 2018, but before
- 12 March 31, 2019;
- 13 (D) January 1, 2024, if the county surcharge on state
- 14 tax was established by the adoption of an
- 15 ordinance on or after March 31, 2019, but before
- 16 August 1, 2023; or
- 17 (E) January 1, 2025, if the county surcharge on state
- 18 tax was established by the adoption of an
- 19 ordinance on or after August 1, 2023, but before
- 20 December 31, 2023; and
- 21 (2) After December 31, [~~2030-~~] 2047."

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1 SECTION 5. Act 247, Session Laws of Hawaii 2005, as
2 amended by section 7 of Act 240, Session Laws of Hawaii 2015, as
3 amended by section 6 of Act 1, First Special Session Laws of
4 Hawaii 2017, is amended by amending section 9 to read as
5 follows:

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

- 8 (1) If none of the counties of the State adopt an
9 ordinance to levy a county surcharge on state tax by
10 December 31, 2005, this Act shall be repealed and
11 section 437D-8.4, Hawaii Revised Statutes, shall be
12 reenacted in the form in which it read on the day
13 prior to the effective date of this Act;
- 14 (2) If any county does not adopt an ordinance to levy a
15 county surcharge on state tax by December 31, 2005, it
16 shall be prohibited from adopting such an ordinance
17 pursuant to this Act, unless otherwise authorized by
18 the legislature through a separate legislative act;
19 and
- 20 (3) If an ordinance to levy a county surcharge on state
21 tax is adopted by December 31, 2005:

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1 (A) The ordinance shall be repealed on December 31,
2 2022; provided that the repeal of the ordinance
3 shall not affect the validity or effect of an
4 ordinance to extend a surcharge on state tax
5 adopted pursuant to an act of the legislature;
6 and

7 (B) This Act shall be repealed on December 31,
8 ~~[2030-7]~~ 2047, and section 437D-8.4, Hawaii
9 Revised Statutes, shall be reenacted in the form
10 in which it read on the day prior to the
11 effective date of this Act; provided that the
12 amendments made to section 437D-8.4, Hawaii
13 Revised Statutes, by Act 226, Session Laws of
14 Hawaii 2008, as amended by Act 11, Session Laws
15 of Hawaii 2009, and Act 110, Session Laws of
16 Hawaii 2014, shall not be repealed."

17 SECTION 6. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: 

22

BY REQUEST

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Report Title:

County Surcharge on State Tax; Regional Infrastructure

Description:

Authorizes the use of county surcharge revenues for transportation and housing infrastructure in counties having a population of 500,000 or less. Authorizes counties that have previously adopted a surcharge on state tax ordinance after July 1, 2015, to amend the uses of the surcharge. Extends the period within which a county with a population of 500,000 or less may collect a surcharge on state tax, under certain conditions, to 12/31/2047. Authorizes cost-sharing with private or other public developers for housing infrastructure projects funded by surcharge revenues.

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

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JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO TAXATION.

PURPOSE: To authorize the use of county surcharge revenues for both transportation and housing infrastructure in counties having a population of 500,000 or less. To authorize counties that have previously adopted a surcharge on State tax ordinance after July 1, 2015, to amend the uses of the surcharge. To extend the period within which a county with a population of 500,000 or less may collect a surcharge on State tax, under certain conditions, to 12/31/2047. To allow sharing of the cost of infrastructure with private or public developers whose projects are served by infrastructure projects funded by surcharge revenues.

MEANS: Amend sections 46-16.8(c), (d), (g), and (h), 237-8.6(b), and 238-2.6(b), Hawaii Revised Statutes (HRS). Amend section 9 of Act 247, Session Laws of Hawaii 2005.

JUSTIFICATION: Act 48, Session Laws of Hawaii 2023 authorized Maui County to opt into using the county surcharge on state general excise tax for county-funded housing infrastructure. However, Hawaii and Kauai counties are only able to use surcharge revenues for transportation infrastructure, and not other infrastructure to support housing development. This bill would allow Hawaii and Kauai counties to use surcharge revenues to build both housing and transportation infrastructure.

The bill would extend the end date for county surcharge collection for twenty years so that the revenues can be used to support bond issuance for larger initial infrastructure investments that cannot be funded on a project-by-project basis. Allowing cost-sharing of publicly funded infrastructure between the counties and

public or private developers will leverage surcharge revenues and increase the beneficial impact of these revenue streams.

Impact on the public: The immediate direct impacts to the public would be a very slight increase in the cost of goods and services during the period the county surcharges would be in effect. However, infrastructure improvements could expedite the production of affordable housing and result in improved quality of life for communities. Extending the surcharge timeframe would allow bonds to be issued to fund larger near-term infrastructure investments needed for housing development.

Impact on the department and other agencies: No immediate direct impacts to the Department or other state agencies, but the additional funding available over a twenty-year term will help expedite state and county transit-oriented development (TOD) and affordable housing goals, including development of state lands and housing projects in the State Strategic Plan for Transit-Oriented Development. Agencies with development interests, such as the Hawaii Public Housing Authority and Hawaii Housing Finance and Development Corporation, and county housing and infrastructure agencies, would benefit from this additional revenue source that helps fund needed infrastructure.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BED-144.

OTHER AFFECTED AGENCIES: Department of Taxation, County of Kauai, County of Maui, and County of Hawaii.

EFFECTIVE DATE: Upon approval.