

ACT 45

H.B. NO. 1414

A Bill for an Act Making an Emergency Appropriation for Department of Taxation County Surcharge Implementation Costs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to make an emergency appropriation to the department of taxation to address unbudgeted expenses incurred by the department in implementing the administration of the county surcharge on state general excise tax provided for under section 46-16.8, Hawaii Revised Statutes.

SECTION 3. Act 247, Session Laws of Hawaii 2005, authorized the counties to adopt a county surcharge on state general excise tax, the revenue from which was to be deposited for the benefit of any adopting county. The purpose of the county surcharge was to provide the counties with a means of financing a preferred mass transit alternative. Act 247 placed the burden of administering and collecting the county surcharge on the department of taxation. The burdens of administering the county surcharge include assessment, collection, processing, accounting, and enforcement of the surcharge for the benefit of an enacting county.

Although Act 247 placed the administrative duties of county surcharge collection on the department of taxation, Act 247 contained no appropriation to offset the direct costs incident to administering the county surcharge.

The city and county of Honolulu was the only county to adopt a county surcharge on state general excise tax. Adopting this surcharge triggered the department of taxation's responsibilities regarding assessment and collection of the surcharge.

Assessment, collection, processing, accounting, and enforcement of the county surcharge imposed a substantial financial burden on the department of taxation that was not resolved by Act 247. Costs the department of taxation incurred include substantial computer upgrades, substantial personnel and professional time, public outreach, and additional personnel to assist with the department's other obligations.

In response to the department of taxation's unfunded mandate to assess and collect the county surcharge, the city and county of Honolulu agreed to guarantee the department of taxation's costs up to \$5,000,000. This guarantee is for costs that have been incurred up until the legislature can consider this emergency appropriation to pay the vendor and other costs. This request for an appropriation is on an emergency basis because the city and county of Honolulu has guaranteed the payments to the computer vendor and the department of taxation's out-of-pocket expenditures, up to \$5,000,000, if the legislature does not appropriate moneys to the department of taxation that is signed into law or otherwise takes effect by March 30, 2007, before the regular session of 2007 is adjourned sine die.

The legislature finds that this emergency appropriation is necessary and in the best interest of the public to assure that the city and county of Honolulu's county surcharge on state general excise tax is not adversely impacted. An adverse impact could ultimately affect the funding of the city and county of Honolulu's mass transit project, including the ability of the city and county of Honolulu to obtain federal funding for the mass transit project. Moreover, this emergency appropriation is necessary and in the best interest of the public because failure to provide this appropriation will result in the city and county of Honolulu surrendering its guarantee for these costs.

SECTION 4. In accordance with article VII, section 9, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$5,041,691 or an additional 0.094 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,041,691 or so much thereof as may be necessary for fiscal year 2006-2007 to reimburse the department of taxation for costs incurred in implementing and administering the county surcharge on state general excise tax, including the costs of the computer vendor.

The sum appropriated shall be expended by the department of taxation for the purposes of this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 27, 2007.)