

Honolulu, Hawaii

AUG 29 2017

RE: S.B. No. 4

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
First Special Session of 2017
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 4 entitled:

"A BILL FOR AN ACT RELATING TO GOVERNMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to provide funding mechanisms for certain county transportation projects.

More specifically, the measure:

- (1) Authorizes a county that has adopted a surcharge on state tax to extend the surcharge to December 31, 2030;
- (2) Authorizes a county that has not yet adopted a surcharge on state tax to adopt a surcharge before March 31, 2018, under certain conditions;
- (3) Decreases from ten per cent to one per cent the surcharge gross proceeds retained by the State for the costs of assessment, collection, and disposition of a county surcharge on state tax, and adds oversight duties as an allowable use of the moneys retained by the State;
- (4) Establishes the Mass Transit Special Fund;
- (5) Increases the transient accommodations tax from 9.25 per cent to 10.25 per cent from January 1, 2018, to December



31, 2030, and allocates revenues resulting from the increase to the Mass Transit Special Fund;

- (6) With regard to a county with a population greater than five hundred thousand:
- (A) Specifies that moneys shall be allocated from the Mass Transit Special Fund for capital costs of a mass transit project, under certain conditions;
 - (B) Establishes that if a court makes a monetary award to a county due to the State's violation of state law or constitutional provision relating to the State's deduction and withholding of county surcharge on state tax revenues, then an amount equal to the monetary award shall be withheld from the additional transient accommodations tax revenues paid over to the Mass Transit Special Fund and shall be credited to the general fund;
 - (C) Authorizes the Director of Finance to allocate and disburse moneys in the Mass Transit Special Fund to the county director of finance:
 - (i) Upon receipt of a certification statement from the Comptroller that verifies a rapid transportation authority's invoices for capital costs; and
 - (ii) On a monthly basis; and
 - (D) Clarifies that revenues from a county surcharge on state tax or moneys allocated from the Mass Transit Special Fund shall not be used for:
 - (i) Operation or maintenance costs of a mass transit project; or
 - (ii) Administrative, operating, marketing, or maintenance costs of a rapid transportation authority;



- (7) Makes permanent the annual allocation of \$103,000,000 of transient accommodations tax revenues to the counties;
- (8) Requires the State Auditor to:
 - (A) Conduct an audit of the Honolulu Authority for Rapid Transportation and report the findings no later than twenty days prior to the 2019 Regular Session; and
 - (B) Conduct an annual review of any rapid transportation authority in the State charged with the responsibility of constructing, operating, or maintaining a mass transit project that receives moneys from a surcharge on state tax or transient accommodations tax revenues, or both;
- (9) Requires the Comptroller to verify and certify invoices for capital costs submitted by a rapid transportation authority for the capital costs of a mass transit project;
- (10) Makes appropriations for the Department of Budget and Finance, the Department of Accounting and General Services, and the State Auditor to carry out their oversight responsibilities under this measure;
- (11) Appropriates moneys from the Mass Transit Special Fund to pay over to a county with a population over five hundred thousand, amounts certified by the Comptroller in invoices for capital costs of a qualifying mass transit project; and
- (12) Requires the Senate President and House Speaker to each appoint two non-voting, ex officio members to the board of directors of the county rapid transportation authority of a county with a population greater than five hundred thousand, to ensure the appropriate use of state-authorized funds to finance a mass transit project.



Your Committee received testimony in support of this measure from the senior United States Senator; United States Representative of the 1st Congressional District; the Department of Accounting and General Services; the Department of Budget and Finance; the Office of the Auditor; the Honolulu Authority for Rapid Transportation; the Ala Moana-Kakaako Neighborhood Board No. 11; the Building Industry Association of Hawaii; Chamber of Commerce Hawaii; the Chinatown Business and Community Association; Hawaii Laborers' Union Local 368; Hawaii State AFL-CIO; the International Brotherhood of Electrical Workers Local Union 1186; the International Longshore and Warehouse Union Local 142; the LGBT Caucus of the Democratic Party of Hawaii; the Kapolei Chamber of Commerce; Move Oahu Forward; PHOCUSED; the United Public Workers Local 646; and thirty-three individuals.

Your Committee received testimony in opposition to this measure from the Hawaii Tourism Authority; the Mayor of the County of Hawaii; the Mayor of the County of Kauai; the Hawaii Kai Neighborhood Board No. 1; Aqua-Aston Hospitality, LLC; Castle Resorts and Hotels; Embassy Suites by Hilton on Waikiki Beach; the Democratic Party of Hawaii Kupuna Caucus; the Financial Accountability for Rail Mass Transit Association; Outrigger Enterprises Group; The Outrigger Reef Waikiki Beach Resort and the Outrigger Waikiki Beach Resort; the Kohala Coast Resort Association; the Kona-Kohala Chamber of Commerce; the Waikiki Improvement Association; the Hyatt Centric Waikiki Beach; the Imperial Hawaii Resort; the Hawaii Lodging and Tourism Association; the Honolulu County Republican Party; the Maui Chamber of Commerce; the Maui Hotel and Lodging Association; Napili Kai Beach Resort; Waikiki Resort Hotel; the Waikiki Improvement Association; and sixty-seven individuals.

Your Committee received comments on this measure from the Department of Taxation; Department of Transportation; the Mayor of the City and County of Honolulu; the Chair and three Councilmembers of the Honolulu City Council; the General Contractors Association of Hawaii; Hawaii Advocates for Consumer Rights; the Hawaii Construction Alliance; the Ulupono Initiative; the Tax Foundation of Hawaii; and twenty-three individuals.

Your Committee finds that this measure changes the fundamental manner in which a county with a population greater than five hundred thousand receives revenues used to finance a



locally preferred alternative for a mass transit project. Currently, a qualifying county receives revenues generated by a surcharge on state tax and is allowed to expend those moneys on its mass transit project as it deems appropriate; provided that the expenditures are allowed by law. This measure requires the county to submit invoices for its mass transit capital costs to the State Comptroller, who will then certify that the capital costs qualify under the expenditure requirements of state law, and once these invoiced costs are certified, the State Director of Finance is authorized to release the funds to the county.

Your Committee notes that the City and County of Honolulu's rail transit project will serve a county with a population greater than five hundred thousand, and thus is a locally preferred alternative for a mass transit project that qualifies as a project which may be funded under this measure. Your Committee finds that the Honolulu rail transit project has exceeded its projected budget and that questions have been raised about the project's management and cost, including in reports by the Jacobs Engineering Group, Inc., the American Public Transportation Association, and the Office of the City Auditor. Nevertheless, your Committee believes that the rail transit project will benefit the residents of the State and further believes that the project must be completed in order to provide a viable public transportation alternative and facilitate transit-oriented development along the transit route. Your Committee finds that the City and County of Honolulu requires sufficient funds to cover construction and financing costs of the rail project and to ensure that the full twenty-mile guideway, along with all twenty-one rail stations, can be built.

However, your Committee believes that additional scrutiny and oversight are necessary to ensure that the Honolulu rail transit project is completed in a transparent and fiscally responsible manner. Accordingly, this measure requires the State Auditor to conduct a comprehensive initial audit and annual reviews of the project and also requires the Honolulu Authority for Rapid Transportation to provide the Comptroller with detailed financial and accounting information for verification prior to the allocation of funds for expenditure. The Honolulu Authority for Rapid Transportation and, on behalf of the City and County of Honolulu, the Mayor and Council Chair, have indicated that they do not object to state oversight.



Your Committee also believes that, by requiring a large portion of the additional funding for the rail project to be derived from a modest increase in transient accommodations tax revenue and by limiting the period in which the City and County of Honolulu may extend its surcharge on state tax to three years, this measure minimizes financing costs and the tax burden on residents of the State and the City and County of Honolulu. The project's high-cost construction years are expected to occur between 2018 and 2022, and the infusion of capital during those years will directly offset the need for long-term financing costs associated with the ten-year extension of the surcharge on state tax that was proposed by the Mayor of the City and County of Honolulu.

Regarding the adequacy of the financing to be generated by this measure, your Committee notes that the conservative three percent general excise tax revenue projection and the twenty-nine year historical eight percent transient accommodations tax revenue data show that there will be a windfall that exceeds the Mayor of the City and County of Honolulu's last-minute attempt to add \$548,000,000 to the \$8,165,000,000 rail transit project budget. Your Committee also notes that the financial "stress test" that the Federal Transit Administration will apply to the project will be based on the financial plan submitted by the Honolulu Authority for Rapid Transportation. If the Federal Transit Administration finds that the financial plan is not adequate, then the Honolulu Authority for Rapid Transportation will need to explain how it will address the possibilities that the project's cost may rise or that revenues may not materialize as projected. The Federal Transit Administration does not necessarily require that funding be in place to address those potential variances.


Your Committee notes that this measure specifically prohibits the use of revenues generated by the increase in transient accommodations tax or the surcharge on state tax for operating or maintenance costs of a mass transit project or administrative, operating, marketing, or maintenance costs of a rapid transportation authority charged with responsibility for constructing, operating, or maintaining the mass transit project.



Finally, your Committee finds that, if they so desire, the Counties of Hawaii, Kauai, and Maui should be afforded the opportunity to enact surcharges on state tax to fund operating or capital costs of public transportation within those counties.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 4 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

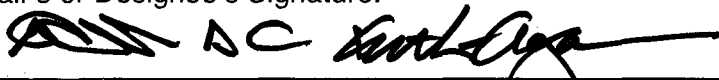
Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


DONOVAN M. DELA CRUZ, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

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|--|-----------------------------------|---------------------------|----------|----------|
| Bill / Resolution No.:* SB 4 | Committee Referral: WAM | Date: 8/29/2017 | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| DELA CRUZ, Donovan M. (C) | X | | | |
| KEITH-AGARAN, Gilbert S.C. (VC) | X | | | |
| ENGLISH, J. Kalani | | | X | |
| GALUTERIA, Brickwood | X | | | |
| HARIMOTO, Breene | | | X | |
| INOUYE, Lorraine R. | | | X | |
| KAHELE, Kaiali'i | | | X | |
| KIDANI, Michelle N. | X | | | |
| RIVIERE, Gil | | | X | |
| SHIMABUKURO, Maile S.L. | X | | | |
| WAKAI, Glenn | X | | | |
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| TOTAL | 6 | 0 | 5 | 0 |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature:  | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | |

*Only one measure per Record of Votes