

Resolution

No. 16-130

APPROVING FOR INCLUSION IN THE 2017 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL RELATING TO TRANSIENT ACCOMMODATIONS TAX

WHEREAS, since 1987, the State of Hawaii has a tax upon room revenues derived from transient accommodations, known as the Transient Accommodations Tax, or TAT; and

WHEREAS, the Legislature dramatically reallocated TAT revenue to the State to help balance the State budget from 2007 to 2015, with economic downturn as the stated justification; and

WHEREAS, during this period, the State's TAT revenue increased by \$196.6 million, or 2,363 percent, while the counties' TAT revenue increased by only \$2.2 million, or 2.2 percent; and

WHEREAS, the State-County Functions Working Group, created by Act 174 (2014) to study TAT-revenue distribution, issued its Final Report in December 2015; and

WHEREAS, the Working Group's Final Report recommended that: (1) about \$113 million of TAT revenue be allocated to four State special purposes (the Hawaii Convention Center, the Tourism Special Fund, the Turtle Bay conservation easement and the Special Land Development Fund); (2) of the remaining TAT revenue, 55 percent be allocated to the State and 45 percent shared by the counties, without the imposition of an artificial cap; and

WHEREAS, the Council intends to support State legislation to implement the recommendations of the Working Group's Final Report; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to implement the recommendations of the State-County Functions Working Group relating to the Transient Accommodations Tax, is approved for inclusion in the 2017 Maui County Legislative Package; and

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2. That certified copies of this resolution be transmitted to the Mayor, County of Maui; the Governor, State of Hawaii; the Senate President, State of Hawaii; and the Speaker of the House of Representatives, State of Hawaii.

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A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1 PART I

2 SECTION 1. (a) The legislature finds that:

3 (1) Pursuant to Act 174, Session Laws of Hawaii 2014, the
4 state-county functions working group was convened to evaluate
5 the division of duties and responsibilities between the State
6 and counties relating to the provision of public services and to
7 recommend an appropriate allocation of the transient
8 accommodations tax revenues between the State and counties that
9 properly reflects the division of duties and responsibilities
10 relating to the provision of public services;

11
12 (2) Though the transient accommodations tax has evolved to
13 meet the needs and purposes of the times, its structure and
14 frequent amendment, combined with the cyclical nature of the
15 visitor industry and the tax revenues it generates, has resulted
16 in ongoing discussions among the various stakeholders, including
17 the State, the counties, the visitor industry, the Hawaii
18 tourism authority, and other recipients or potential recipients
19 of transient accommodations tax revenues;

20
21 (3) The state-county functions working group, composed of
22 state, county, and visitor industry representatives and other
23 knowledgeable and concerned citizens, and which has been aided
24 by experts, considered the legislature's assignment for over a
25 year and delivered to the legislature its final unanimous
26 report, inclusive of analysis, findings, conclusions, and
27 recommendations;

28
29 (4) In particular, the state-county functions working
30 group found and concluded that:

31
32 (A) The application of the transient accommodations
33 tax and the allocation of its revenues should be simplified

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1 and stabilized so as to be clear, consistent, and
2 predictable over time, in view of the need to invest in
3 tourism as a premier industry;

4
5 (B) The tourism special fund should be provided a
6 priority distribution of the transient accommodations tax
7 revenues at an assured minimum level, adjusted for
8 inflation, and regardless of overall transient
9 accommodations tax collections;

10
11 (C) After the priority distribution of the transient
12 accommodations tax revenues to the tourism special fund,
13 existing allocations to the Turtle Bay conservation
14 easement special fund, convention center enterprise special
15 fund, and special land and development fund should be
16 maintained at their current levels, with any additional
17 state funding of these efforts made out of state general
18 funds by separate appropriation;

19
20 (D) Based on a review of state and county functions,
21 including tourism expenditures, an appropriate allocation
22 of the remaining transient accommodations tax revenues is
23 fifty-five percent to the state general fund and forty-five
24 percent to the counties; and

25
26 (E) There should be no fixed dollar amounts, caps,
27 floors, or similar restrictions on allocations to the State
28 and counties of the remaining revenues; instead, both the
29 State and the county allocations should increase or
30 decrease proportionately with increasing or decreasing
31 transient accommodations tax revenues; and

32
33 (5) The state-county functions working group
34 recommendations reflect a fair, balanced, and reasonable
35 compromise of competing needs for scarce resources and provide a
36 sound policy base for the further administration of the
37 transient accommodations tax and its revenues.

38
39 (b) The purpose of this Act is to:

40
41 (1) Provide a fair, consistent, and predictable priority
42 allocation of transient accommodations tax revenues, of an
43 assured minimum amount, to the tourism special fund;

44

1 (2) Maintain allocation of transient accommodations tax
2 revenues to existing obligations at present levels;

3
4 (3) Provide a fair, consistent, and predictable allocation
5 of the balance of the transient accommodations tax revenues
6 between the State and the counties; and

7
8 (4) Provide flexibility to the tourism special fund,
9 State, and counties in the utilization of their respective
10 allocations.

11
12 PART II

13
14 SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16
17 "(b) Revenues collected under this chapter shall be
18 distributed in the following priority, with the excess revenues
19 to be deposited into the general fund:

20
21 ~~[(1) —\$1,500,000 shall be allocated to the Turtle Bay~~
22 ~~conservation easement special fund beginning July 1, 2015, for~~
23 ~~the reimbursement to the state general fund of debt service on~~
24 ~~reimbursable general obligation bonds, including ongoing~~
25 ~~expenses related to the issuance of the bonds, the proceeds of~~
26 ~~which were used to acquire the conservation easement and other~~
27 ~~real property interests in Turtle Bay, Oahu, for the protection,~~
28 ~~preservation, and enhancement of natural resources important to~~
29 ~~the State, until the bonds are fully amortized,]~~

30
31 (1) \$82,000,000 shall be allocated to the tourism special
32 fund established under section 201B-11; provided that, beginning
33 July 1, 2017, and in each fiscal year thereafter, the dollar
34 amount of revenues allocated to the tourism special fund under
35 this paragraph shall be adjusted by an amount equal to the
36 dollar amount multiplied by the percentage, if any, by which the
37 Honolulu region consumer price index for all urban consumers
38 (CPI-U), or a successor index, as calculated by the United
39 States Department of Labor, for the preceding calendar year
40 exceeds the consumer price index for the calendar year 2016;
41 provided further that:

42
43 (A) Of the revenues allocated to the tourism special
44 fund:

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(i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and

(ii) 0.5 percent shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan; and

(B) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund;

(2) \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;

~~[(3) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:~~

~~(A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;~~

~~(B) Of the \$82,000,000 allocated:~~

~~(i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and~~

~~(ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; and~~

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1 ~~(C) Of the revenues remaining in the tourism special~~
2 ~~fund after revenues have been deposited as provided in this~~
3 ~~paragraph and except for any sum authorized by the legislature~~
4 ~~for expenditure from revenues subject to this paragraph,~~
5 ~~beginning July 1, 2007, funds shall be deposited into the~~
6 ~~tourism emergency special fund, established in section 201B-10,~~
7 ~~in a manner sufficient to maintain a fund balance of \$5,000,000~~
8 ~~in the tourism emergency special fund;]~~

9
10 (3) \$3,000,000 shall be allocated to the special land and
11 development fund established under section 171-19; provided that
12 the allocation shall be expended in accordance with the Hawaii
13 tourism authority strategic plan for:

14
15 (A) The protection, preservation, maintenance, and
16 enhancement of natural resources, including beaches,
17 important to the visitor industry;

18
19 (B) Planning, construction, and repair of facilities;
20 and

21
22 (C) Operation and maintenance costs of public lands,
23 including beaches, connected with enhancing the visitor
24 experience;

25
26 (4) \$1,500,000 shall be allocated to the Turtle Bay
27 conservation easement special fund beginning July 1, 2017, for
28 the reimbursement to the state general fund of debt service on
29 reimbursable general obligation bonds, including ongoing
30 expenses related to the issuance of the bonds, the proceeds of
31 which were used to acquire the conservation easement and other
32 real property interests in Turtle Bay, Oahu, for the protection,
33 preservation, and enhancement of natural resources important to
34 the State, until the bonds are fully amortized; and

35
36 [4] ~~(5) [- \$103,000,000 for fiscal year 2014-2015,~~
37 ~~\$103,000,000 for fiscal year 2015-2016, \$103,000,000 for fiscal~~
38 ~~year 2016, 2017, and \$93,000,000 for each fiscal year~~
39 ~~thereafter] Of the remaining revenues collected under this~~
40 chapter, forty-five percent shall be allocated to the counties
41 and shall be distributed as follows: Kauai county shall receive
42 14.5 per cent, Hawaii county shall receive 18.6 per cent, city
43 and county of Honolulu shall receive 44.1 per cent, and Maui
44 county shall receive 22.8 per cent; provided that commencing

1 with fiscal year 2018-2019, a sum that represents the difference
2 between a county public employer's annual required contribution
3 for the separate trust fund established under section 87A-42 and
4 the amount of the county public employer's contributions into
5 that trust fund shall be retained by the state director of
6 finance and deposited to the credit of the county public
7 employer's annual required contribution into that trust fund in
8 each fiscal year, as provided in section 87A-42, if the
9 respective county fails to remit the total amount of the
10 county's required annual contributions, as required under
11 section 87A-43[~~and~~

12
13 ~~[(5) \$3,000,000 shall be allocated to the special land and~~
14 ~~development fund established under section 171-19; provided that~~
15 ~~the allocation shall be expended in accordance with the Hawaii~~
16 ~~tourism authority strategic plan for:~~

17
18 ~~(A) The protection, preservation, maintenance, and~~
19 ~~enhancement of natural resources, including beaches, important~~
20 ~~to the visitor industry;~~

21
22 ~~(B) Planning, construction, and repair of facilities;~~
23 and

24
25 ~~(C) Operation and maintenance costs of public lands,~~
26 ~~including beaches, connected with enhancing the visitor~~
27 ~~experience.]~~

28
29 All transient accommodations taxes shall be paid into the
30 state treasury each month within ten days after collection and
31 shall be kept by the state director of finance in special
32 accounts for distribution as provided in this subsection.

33
34 As used in this subsection, "fiscal year" means the twelve-
35 month period beginning on July 1 of a calendar year and ending
36 on June 30 of the following calendar year."

37
38 PART III

39
40 SECTION 3. Section 87A-42, Hawaii Revised Statutes, is
41 amended by amending subsection (d) to read as follows:

42
43 "(d) In any fiscal year subsequent to the 2017-2018 fiscal
44 year in which a county public employer's contributions into the

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1 fund are less than the amount of the annual required
2 contribution, the amount that represents the excess of the
3 annual required contribution over the county public employer's
4 contributions shall be deposited into the fund from a portion of
5 all transient accommodations tax revenues collected by the
6 department of taxation under section [~~237D-6.5(b)(4)~~.] 237D-
7 6.5(b)(5). The director of finance shall deduct the amount
8 necessary to meet the county public employer's annual required
9 contribution from the revenues derived under section [~~237D-~~
10 ~~6.5(b)(4)~~] 237D-6.5(b)(5) and transfer the amount to the board
11 for deposit into the appropriate account of the separate trust
12 fund."

13

14 SECTION 4. Section 171-19, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16

17 "(a) There is created in the department a special fund to
18 be designated as the "special land and development fund".
19 Subject to the Hawaiian Homes Commission Act of 1920, as
20 amended, and section 5(f) of the Admission Act of 1959, all
21 proceeds of sale of public lands, including interest on deferred
22 payments; all moneys collected under section 171-58 for mineral
23 and water rights; all rents from leases, licenses, and permits
24 derived from public lands; all moneys collected from lessees of
25 public lands within industrial parks; all fees, fines, and other
26 administrative charges collected under this chapter and chapter
27 183C; a portion of the highway fuel tax collected under chapter
28 243; all moneys collected by the department for the commercial
29 use of public trails and trail accesses under the jurisdiction
30 of the department; transient accommodations tax revenues
31 collected pursuant to section [~~237D-6.5(b)(5)~~.] 237D-6.5(b)(3);
32 and private contributions for the management, maintenance, and
33 development of trails and accesses shall be set apart in the
34 fund and shall be used only as authorized by the legislature for
35 the following purposes:

36

37 (1) To reimburse the general fund of the State for
38 advances made that are required to be reimbursed from the
39 proceeds derived from sales, leases, licenses, or permits of
40 public lands;

41

42 (2) For the planning, development, management, operations,
43 or maintenance of all lands and improvements under the control
44 and management of the board pursuant to title 12, including but

1 not limited to permanent or temporary staff positions who may be
2 appointed without regard to chapter 76; provided that transient
3 accommodations tax revenues allocated to the fund shall be
4 expended as provided in section [~~237D-6.5(b)(5);~~] 237D-
5 6.5(b)(3);

6
7 (3) To repurchase any land, including improvements, in the
8 exercise by the board of any right of repurchase specifically
9 reserved in any patent, deed, lease, or other documents or as
10 provided by law;

11
12 (4) For the payment of all appraisal fees; provided that
13 all fees reimbursed to the board shall be deposited in the fund;

14
15 (5) For the payment of publication notices as required
16 under this chapter; provided that all or a portion of the
17 expenditures may be charged to the purchaser or lessee of public
18 lands or any interest therein under rules adopted by the board;

19
20 (6) For the management, maintenance, and development of
21 trails and trail accesses under the jurisdiction of the
22 department;

23
24 (7) For the payment to private land developers who have
25 contracted with the board for development of public lands under
26 section 171-60;

27
28 (8) For the payment of debt service on revenue bonds
29 issued by the department, and the establishment of debt service
30 and other reserves deemed necessary by the board;

31
32 (9) To reimburse the general fund for debt service on
33 general obligation bonds issued to finance departmental
34 projects, where the bonds are designated to be reimbursed from
35 the special land and development fund;

36
37 (10) For the protection, planning, management, and
38 regulation of water resources under chapter 174C; and

39
40 (11) For other purposes of this chapter."
41

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PART IV

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2017.

INTRODUCED BY: _____

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 16-130** was adopted by the Council of the County of Maui, State of Hawaii, on the 7th day of October, 2016, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK