

SUMMARY OF PROPOSED FLOOR DRAFT

BILL 23 (2015), CD2

RELATING TO THE TRANSPORTATION SURCHARGE

The proposed FD1 amends Bill 23 (2015), CD2 as follows:

- A. Changes the existing subsection 6-60.2(a) to require that the surcharge moneys will be a general fund realization. The current language states that the surcharge moneys shall be deposited in the general fund.
- B. Requires that the expenditure of surcharge moneys levied from January 1, 2007 to December 31, 2022 (SECTIONS 2 and 3 of the bill) and from January 1, 2007 to December 31, 2027 (SECTION 4 of the bill) be limited to a maximum amount of \$4.815 billion and may be expended only on the minimum operable segment and associated debt financing costs. Notwithstanding these restrictions, any surcharge moneys collected in excess of the \$4.815 billion may be expended in the following order of priority:
 - (1) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;
 - (2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;
 - (3) Planning and design costs for route expansion; and
 - (4) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law,

provided that these additional surcharge expenditures may be expended only after the Honolulu Authority for Rapid Transportation provides for council review an update on the expenditures to date on the mass transit project and the anticipated use and amount of the additional surcharge expenditures above the \$4.815 billion limit.

- C. Requires that the Honolulu Authority for Rapid Transportation submit to Council, no later than January 1, 2017, any and all costs associated with: 1) contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement; 2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project; 3) planning and design costs for route expansion; and 4) infrastructure

improvements to rail station areas to support affordable housing, as permitted by State and Federal law.

- D. Requires that no surcharge moneys may be expended for any purpose if the expenditure of such moneys will result in the project ending cash balance falling below the amount set forth in the Updated Final Financial Plan for the Full Funding Grant Agreement.
- E. Requires that prior to and as a prerequisite for any transfer of moneys received from the surcharge, the Honolulu Authority for Rapid Transportation shall submit to the council a quarterly updated cash balance summary that contains all revenues and expenditures, including both capital expenditures and operating and maintenance expenditures.
- F. In SECTION 2 and SECTION 3 of the Bill, adds a new subsection (j) to clarify that "capital costs" means the same as defined in HRS Section 46-16.8, as it may be amended, for a county with a population greater than 500,000.
- G. In SECTION 4 of the Bill, revises the definition of "capital costs" to track the language of, rather than refer to, HRS Section 46-16.8, because that section of the HRS is scheduled to be repealed in 2027.
- H. Makes miscellaneous technical and non-substantive changes.



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RELATING TO THE TRANSPORTATION SURCHARGE.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Council Findings and Purpose. The purpose of this ordinance is to amend the ordinances pertaining to the county surcharge on general excise and use taxes.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as HRS Section 46-16.8, Ordinance 05-27 established a one-half percent general excise and use tax surcharge to be used to fund the operating and capital costs of the locally preferred alternative for the City's mass transit project and related improvements to comply with the Americans with Disabilities Act (ADA), which was to take effect on January 1, 2007 and be repealed on December 31, 2022.

Among other things, Section 3 of Act 240, Session Laws of Hawaii, Regular Session of 2015, amended HRS Section 46-16.8 to provide for a five year extension of the general excise and use tax surcharge beyond December 31, 2022 to December 31, 2027, for any county that had established a tax surcharge prior to the Act's effective date and that enacts an ordinance to implement the extension; provided that the ordinance is enacted after holding a public hearing that satisfies certain notice requirements and is enacted after July 1, 2015, but prior to July 1, 2016. For the City, which prior to December 31, 2005 had enacted an ordinance to levy the general excise and use tax surcharge for the period between January 1, 2007 and December 31, 2022, Section 7 of Act 240 requires that that ordinance be repealed on December 31, 2022.

This Ordinance is intended to: (1) amend Ordinance 05-27, and (2) effectuate the extension of the general excise and use tax surcharge for Honolulu permitted under Section 3 of Act 240, while complying with the mandate that Ordinance 05-27 be repealed on December 31, 2022.

SECTION 2. Chapter 6, Article 60, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 60. Transportation Surcharge—Use of Funds

Sec. 6-60.1 Establishment of surcharge—Conditions.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby established a one-half percent general excise and use tax surcharge to be used for



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purposes of funding the operating and capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge [shall] will be levied beginning January 1, 2007. [Prior to the tax surcharge monies being expended as the local match for federal funds, the following shall occur:

- (1) The council has approved by ordinance a locally preferred alternative following an Alternatives Analysis; and
- (2) The council has received from the director of transportation services an operational, financial, development and route plan for the locally preferred alternative; and
- (3) There is a commitment of federal funds, whether for planning, land acquisition or construction, to further the locally preferred alternative.]

Sec. 6-60.2 Use of funds.

- (a) [All] As required by HRS Section 248-2.6(d), moneys received from the state derived from the imposition of the surcharge established under this article [shall] will be [deposited into the] a general fund [and] realization. Beginning July 1, 2015, moneys received from the surcharge may be expended for the following purposes authorized by state law:
 - (1) [Operating or capital] Capital costs of a locally preferred alternative for a mass transit project; and
 - (2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to [paragraph] subdivision (1).
- (b) No surcharge moneys may be expended on portions of the locally preferred alternative for mass transit project beyond the minimum operable segment established under resolution 08-261, and a maximum amount of \$4.815 billion of surcharge moneys levied from January 1, 2007 to December 31, 2022 may be expended on the minimum operable segment and associated debt financing costs.
- (c) Notwithstanding the restrictions detailed in subsection (b) above, any surcharge moneys collected in excess of the \$4.815 billion may be expended in the following order of priority:



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- (1) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;
- (2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;
- (3) Planning and design costs for route expansion; and
- (4) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law,

provided that these additional surcharge expenditures may be expended only after the Honolulu Authority for Rapid Transportation provides for council review an update on the expenditures to date on the mass transit project and the anticipated use and amount of the additional surcharge expenditures above the \$4.815 billion limit.

- (d) No surcharge moneys may be expended for any purpose if the expenditure of such moneys will result in the project ending cash balance falling below the amount set forth in the Updated Final Financial Plan for the Full Funding Grant Agreement.
- (e) The Honolulu Authority for Rapid Transportation shall submit to the council no later than January 1, 2017, any and all costs associated with: 1) contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement; 2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project; 3) planning and design costs for route expansion; and 4) infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law.
- (f) No moneys received from the surcharge [shall] may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.
- (g) Prior to and as a prerequisite for any transfer of moneys received from the surcharge, the Honolulu Authority for Rapid Transportation shall submit to the council a quarterly updated cash balance summary that contains all revenues and expenditures, including both capital expenditures and operating and maintenance expenditures.



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- (h) At the close of each quarter, the Honolulu Authority for Rapid Transportation shall submit to the council:
- (1) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program.
 - (2) A statement of cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period.
- (i) Within 30 days following the end of each fiscal year, the Honolulu Authority for Rapid Transportation shall submit to the council a report detailing all amounts invoiced by and paid to general contractors for the fiscal year just ended. The report must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:
- (1) The names of general contractors and their respective subcontractors;
 - (2) The type of services provided by each general contractor and subcontractor;
 - (3) A detailed description and justification for the work done by each general contractor and subcontractor; and
 - (4) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.
- (j) For purposes of this article, "capital costs" means the same as defined in HRS Section 46-16.8, as it may be amended, for a county with a population greater than 500,000.

Sec. 6-60.3 Repeal of surcharge.

Pursuant to Section 9 of Act 247, Session Laws of Hawaii, Regular Session of 2005, Section 6-60.1 [shall] will be repealed on December 31, 2022."

SECTION 3. Chapter 6, Article 60, Revised Ordinances of Honolulu 1990, is repealed.



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[Article 60. Transportation Surcharge—Use of Funds

Sec. 6-60.1 Establishment of surcharge—Conditions.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby established a one-half percent general excise and use tax surcharge to be used for purposes of funding the operating and capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge will be levied beginning January 1, 2007.

Sec. 6-60.2 Use of funds.

- (a) As required by HRS Section 248-2.6(d), moneys received from the state derived from the imposition of the surcharge established under this article will be a general fund realization. Beginning July 1, 2015, moneys received from the surcharge may be expended for the following purposes authorized by state law:
 - (1) Capital costs of a locally preferred alternative for a mass transit project; and
 - (2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to subdivision (1).
- (b) No surcharge moneys may be expended on portions of the locally preferred alternative for mass transit project beyond the minimum operable segment established under resolution 08-261, and a maximum amount of \$4.815 billion of surcharge moneys levied from January 1, 2007 to December 31, 2022 may be expended on the minimum operable segment and associated debt financing costs.
- (c) Notwithstanding the restrictions detailed in subsection (b) above, any surcharge moneys collected in excess of the \$4.815 billion may be expended in the following order of priority:
 - (1) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;
 - (2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;



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- (3) Planning and design costs for route expansion; and
- (4) Infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law,

provided that these additional surcharge expenditures may be expended only after the Honolulu Authority for Rapid Transportation provides for council review an update on the expenditures to date on the mass transit project and the anticipated use and amount of the additional surcharge expenditures above the \$4.815 billion limit.

- (d) No surcharge moneys may be expended for any purpose if the expenditure of such moneys will result in the project ending cash balance falling below the amount set forth in the Updated Final Financial Plan for the Full Funding Grant Agreement.
- (e) The Honolulu Authority for Rapid Transportation shall submit to the council for no later than January 1, 2017, any and all costs associated with: 1) contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement; 2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project; 3) planning and design costs for route expansion; and 4) infrastructure improvements to rail station areas to support affordable housing, as permitted by State and Federal law.
- (f) No moneys received from the surcharge may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.
- (g) Prior to and as a prerequisite for any transfer of moneys received from the surcharge, the Honolulu Authority for Rapid Transportation shall submit to the council a quarterly updated cash balance summary that contains all revenues and expenditures, including both capital expenditures and operating and maintenance expenditures.
- (h) At the close of each quarter, the Honolulu Authority for Rapid Transportation shall submit to the council:
 - (1) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program.



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- (2) A statement of cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period.

- (i) Within 30 days following the end of each fiscal year, the Honolulu Authority for Rapid Transportation shall submit to the council a report detailing all amounts invoiced by and paid to general contractors for the fiscal year just ended. The report must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:
 - (1) The names of general contractors and their respective subcontractors;
 - (2) The type of services provided by each general contractor and subcontractor;
 - (3) A detailed description and justification for the work done by each general contractor and subcontractor; and
 - (4) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.

- (j) For purposes of this article, "capital costs" means the same as defined in HRS Section 46-16.8, as it may be amended, for a county with a population greater than 500,000.

Sec. 6-60.3 Repeal of surcharge.

Pursuant to Section 9 of Act 247, Session Laws of Hawaii, Regular Session of 2005, Section 6-60.1 will be repealed on December 31, 2022."]

SECTION 4. Chapter 6, Revised Ordinances of Honolulu 1990 ("Revolving Special Funds, Housing Mortgage Loans and Fees"), is amended by adding a new Article 60, to read as follows:

"Article 60. Transportation Surcharge—Use of Funds

Sec. 6-60.1 Establishment of surcharge—Conditions.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby



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established a one-half percent general excise and use tax surcharge to be used for purposes of funding the operating and capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge will be levied beginning January 1, 2007.

Sec. 6-60.2 Use of funds.

- (a) As required by HRS Section 248-2.6(d), moneys received from the state derived from the imposition of the surcharge established under this article will be a general fund realization. Beginning July 1, 2015, moneys received from the surcharge may be expended for the following purposes authorized by state law:
- (1) Capital costs of a locally preferred alternative for a mass transit project; and
 - (2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to subdivision (1).
- (b) No surcharge moneys may be expended on portions of the locally preferred alternative for mass transit project beyond the minimum operable segment established under resolution 08-261, and a maximum amount of \$4.815 billion of surcharge moneys levied from January 1, 2007 to December 31, 2027 may be expended on the minimum operable segment and associated debt financing costs.
- (c) Notwithstanding the restrictions detailed in subsection (b) above, any surcharge moneys collected in excess of the \$4.815 billion may be expended in the following order of priority:
- (1) Contingency and other reserves as recommended by the Federal Transit Administration and as detailed in the Updated Final Financial Plan for the Full Funding Grant Agreement;
 - (2) ADA accessibility improvements to the minimum operable segment of the locally preferred alternative for the mass transit project;
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provided that these additional surcharge expenditures may be expended only after the Honolulu Authority for Rapid Transportation provides for council review an update on the expenditures to date on the mass transit project and the anticipated use and amount of the additional surcharge expenditures above the \$4.815 billion limit.

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- (f) No moneys received from the surcharge may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.
- (g) Prior to and as a prerequisite for any transfer of moneys received from the surcharge, the Honolulu Authority for Rapid Transportation shall submit to the council a quarterly updated cash balance summary that contains all revenues and expenditures, including both capital expenditures and operating and maintenance expenditures.
- (h) At the close of each quarter, the Honolulu Authority for Rapid Transportation shall submit to the council:
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 - (2) A statement of cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period.



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- (i) Within 30 days following the end of each fiscal year, the Honolulu Authority for Rapid Transportation shall submit to the council a report detailing all amounts invoiced by and paid to general contractors for the fiscal year just ended. The report must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:
- (1) The names of general contractors and their respective subcontractors;
 - (2) The type of services provided by each general contractor and subcontractor;
 - (3) A detailed description and justification for the work done by each general contractor and subcontractor; and
 - (4) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.
- (j) For purposes of this article, "capital costs" means nonrecurring costs required to construct a transit facility or system, including debt service, costs of land acquisition and development, acquiring of rights-of-way, planning, design, and construction, including equipping and furnishing the facility or system. "Capital costs" also include nonrecurring personal services and other overhead costs that are not intended to continue after completion of construction of the minimum operable segment of the locally preferred alternative for a mass transit project.

Sec. 6-60.3 Repeal of surcharge.

Pursuant to Section 7 of Act 240, Session Laws of Hawaii, Regular Session of 2015, Section 6-60.1 will be repealed on December 31, 2027."

SECTION 5. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the reviser of ordinances need not include the brackets, the bracketed material or the underscoring.



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SECTION 6. The repeal in SECTION 3 of this Ordinance takes effect on December 31, 2022. The enactment in SECTION 4 of this Ordinance takes effect on January 1, 2023. The other Sections of this Ordinance take effect upon approval.

INTRODUCED BY:

Ernest Martin

DATE OF INTRODUCTION:

March 12, 2015
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20__.

KIRK CALDWELL, Mayor
City and County of Honolulu