

COUNCIL OF THE COUNTY OF MAUI
BUDGET, FINANCE, AND ECONOMIC
DEVELOPMENT COMMITTEE

July 7, 2023

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Budget, Finance, and Economic Development Committee, having met on June 9, 2023, June 20, 2023, June 26, 2023, and June 27, 2023 (reconvened), makes reference to the following:

1. County Communication 20-115, from Council Chair Alice L. Lee, transmitting a proposed bill relating to instituting a general excise tax surcharge.
2. Bill 49 (2023), entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 3.100, MAUI COUNTY CODE, INSTITUTING A GENERAL EXCISE TAX SURCHARGE."

Bill 49's purpose is to add a new chapter to Title 3, Maui County Code, instituting a general excise tax surcharge, and establishing a general excise tax fund to serve as the exclusive depository of all funds received from the State Director of Taxation. The funds must be appropriated for housing infrastructure, including water, drainage, sewer, waste disposal, and waste treatment systems that connect to the County infrastructure.

Your Committee notes the County was previously authorized to establish a general excise tax surcharge under Act 11, Session Laws of Hawaii (SLH) 2018. The County did not establish a surcharge before the authorization expired on June 30, 2018.

In 2020, the Council expressed an interest in pursuing a surcharge by adopting Resolution 20-133 that allowed Maui County to include a

COUNCIL OF THE COUNTY OF MAUI
BUDGET, FINANCE, AND ECONOMIC
DEVELOPMENT COMMITTEE

Page 2

Committee
Report No. _____

State bill to establish a general excise tax surcharge in the 2021 Maui County Council Legislative Package. The State Legislature did not pass legislation to authorize a surcharge at that time.

Your Committee notes the County is currently authorized to adopt a general excise and use tax surcharge under Act 48, SLH 2023. If a surcharge is adopted by ordinance before August 1, 2023, the surcharge may be levied beginning January 1, 2024. However, if a surcharge is adopted by ordinance on or after August 1, 2023, but before December 31, 2023, the surcharge will be levied beginning January 1, 2025. In any case, the surcharge may only be levied until December 31, 2030.

Your Committee further notes that according to Act 48, the State Legislature intends to effectuate a policy shift where “the counties, rather than private developers, should be responsible for the location, planning, and development of infrastructure to support housing” and “use revenues from the county surcharge on state tax for housing infrastructure would provide the funding necessary to effect this change in policy.”

Allowable uses for the fund under Act 48 include pedestrian paths or sidewalks on a county road near or around a public school, and water, drainage, sewer, water reuse, waste disposal, and waste treatment systems that connect to the County infrastructure.

Act 48 further states that “the implementation of this policy would result in more efficient community planning” because the County will “be able to direct the development of housing in locations that make the most sense.” This policy shift is also intended to reduce housing costs because “under this policy, housing developers would no longer need to finance the costs of installing infrastructure up front, and homebuyers would no longer see these high costs passed on to them.”

The Managing Director said the Mayor supports the creation of the general excise and use tax surcharge.

COUNCIL OF THE COUNTY OF MAUI
BUDGET, FINANCE, AND ECONOMIC
DEVELOPMENT COMMITTEE

Page 3

Committee
Report No. _____

Based on the proposed surcharge amount of one-half percent, the Director of Finance estimates the County would receive, dispersed on a quarterly basis, approximately \$80 million per year.

The Director of Finance explained that according to the State Department of Taxation, the surcharge will increase the amount of general excise tax paid per capita by approximately \$370. The Director clarified that this estimate may be high because about 30 percent of all general excise taxes are paid by non-residents.

Section 248-2.6, Hawaii Revised Statutes (“HRS”), notes the State Director of Taxation “will deduct one percent of the gross proceeds of a respective county’s surcharge on state tax to reimburse the State for the costs of assessment, collection, disposition, and oversight of the county surcharge on state tax incurred by the State.”

A representative from the Office of the Mayor said the Mayor plans to use the surcharge revenue for projects that benefit the broader community, such as the planned Central Maui Wastewater Reclamation Facility.

The Deputy Managing Director said the Administration would likely consult its six-year Capital Improvement Program (“CIP”) plan as a starting point to identify potential projects to be funded by the general excise and use tax surcharge. He said the first round of funding will need to be used for shovel-ready projects but, in the future, this funding may assist the County with expediting CIP projects.

The Deputy Managing Director also noted, in addition to the Administration’s intent to account for the Council’s priorities when proposing fund appropriations, the Council has the opportunity to approve or disapprove proposals submitted by the Mayor through budget amendments and the annual fiscal year budget process.

COUNCIL OF THE COUNTY OF MAUI
BUDGET, FINANCE, AND ECONOMIC
DEVELOPMENT COMMITTEE

Page 4

Committee
Report No. _____

Your Committee amended Bill 49 to revise the title of the bill and the new Chapter 3.100, reference the appropriate sections of the HRS, update the allowable uses of the fund to include pedestrian paths or sidewalks on a County road near or around a public school, water reuse, and incorporate other nonsubstantive revisions.

Your Committee further amended Bill 49, Section 3.100.040, to require that 20 percent of the revenue generated through the surcharge is used for homestead development under the Department of Hawaiian Homelands. In addition, your Committee amended Section 3.100.030 to require the Director of Finance establish a separate account to record revenues and expenditures from the fund, and to require the Managing Director to administer the fund.

Your Committee noted allowable uses such as water and wastewater infrastructure that serve Department of Hawaiian Homelands' properties would qualify toward the 20 percent requirement.

Your Committee notes that while Act 48 currently only authorizes the surcharge revenue to be used for housing infrastructure, your Committee expressed interest in working with State legislators to potentially expand the fund's allowable use in future years.

Your Committee further notes it is critical for Maui County to increase its capacity for affordable and workforce housing. Your Committee acknowledges opposition from numerous individuals who testified that a surcharge is regressive and would disproportionately affect working families and individuals in the County.

Your Committee finds that House Bill 954, HD2, SD2, CD1 (2023) has been transmitted to Governor Green for signature that would provide essential tax relief to working families and individuals based on income and tax filing status. If enacted into law, the bill would help offset the hardships of the surcharge.

COUNCIL OF THE COUNTY OF MAUI
BUDGET, FINANCE, AND ECONOMIC
DEVELOPMENT COMMITTEE

Page 5

Committee
Report No. _____

Section 46-16.8, HRS, requires the County conduct a public hearing on the proposed ordinance prior to its approval. Accordingly, the Council scheduled a public hearing on July 6, 2023. Your Committee also held an evening meeting to accept public testimony from members of the community who were unable to attend meetings during the day before making its recommendation to the Council.

Act 48 requires the County to notify the State Director of Taxation within ten days after the County has adopted a surcharge on state tax ordinance.

Your Committee voted 9-0 to recommend passage of Bill 49 (2023) on first reading and filing of the communication. Committee Chair Sugimura, Vice-Chair Kama, and members Cook, Johnson, Lee, Paltin, Rawlins-Fernandez, Sinenci, and U'u-Hodgins voted "aye."

Your Committee is in receipt of Bill 49, CD1 (2023), entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 3.100, MAUI COUNTY CODE, INSTITUTING A GENERAL EXCISE AND USE TAX SURCHARGE," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Budget, Finance, and Economic Development Committee **RECOMMENDS** the following:

1. That Bill 49, CD1 (2023), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 3.100, MAUI COUNTY CODE, INSTITUTING A GENERAL EXCISE AND USE TAX SURCHARGE," be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**; and
2. That County Communication 20-115 be **FILED**.

COUNCIL OF THE COUNTY OF MAUI
**BUDGET, FINANCE, AND ECONOMIC
DEVELOPMENT COMMITTEE**

Page 6

**Committee
Report No.** _____

This report is submitted in accordance with Rule 8 of the Rules of the Council.



YUKI LEI K. SUGIMURA Chair

bfed:cr:23074aa:kmatt

ORDINANCE NO. _____

BILL NO. 49, CD1 (2023)

A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 3.100,
MAUI COUNTY CODE, INSTITUTING A GENERAL EXCISE AND USE TAX
SURCHARGE

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Title 3, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

“Chapter 3.100

GENERAL EXCISE AND USE TAX SURCHARGE

Sections:

3.100.010 Establishment of surcharge.

3.100.020 General excise tax fund.

3.100.030 Administration.

3.100.040 Use of funds.

3.100.050 Termination of surcharge.

3.100.010 Establishment of surcharge. In accordance with section 46-16.8, Hawaii Revised Statutes, as amended, a one-half percent general excise and use tax surcharge on state tax is established. The general excise and use tax surcharge will be levied beginning January 1, 2024.

3.100.020 General excise tax fund. There is established and created a fund to be known as the “general excise tax fund” to serve as the exclusive depository of all funds received from the state director of taxation that derive from the imposition of the surcharge under this chapter. All money from this fund must be designated and used as described in section 3.100.040.

3.100.030 Administration. A. The state director of taxation must levy, assess, collect, and otherwise administer the general

excise and use tax surcharge in accordance with Sections 237-8.6 and 238-2.6, Hawaii Revised Statutes.

B. The director of finance must establish a separate account to record revenues and expenditures made from the fund.

C. The managing director must administer the fund.

3.100.040 Use of funds. A. The council, in adopting each fiscal year's budget and capital program, must appropriate any surcharge received from the state in accordance with Section 46-16.8, Hawaii Revised Statutes. Allowable uses of the fund include housing infrastructure; provided that the surcharge revenues used for housing infrastructure costs must not be passed on to the developer of a housing project.

B. For the purpose of this chapter, "housing infrastructure" includes pedestrian paths or sidewalks on a county road near or around a public school, water, drainage, sewer, water reuse, waste disposal, and waste treatment systems that connect to the infrastructure of the county.

C. Twenty percent of all revenue generated by this surcharge must be for projects that directly support the Department of Hawaiian Homelands homestead development.

D. Any balance remaining in the general excise tax fund at the end of each fiscal year will not lapse but must remain in the fund, accumulating from year to year. The money in this fund must not be used for any purpose except those listed in this section.

3.100.050 Termination of surcharge. The general excise and use tax surcharge may not extend beyond December 31, 2030, unless authorized by state law."

SECTION 2. This ordinance takes effect upon approval.

bfed:misc:074abill02:kmat