Agenda item IV. a.

TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

.B. NO.

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

PART I

SECTION 1. (a) The legislature finds that:

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

(2) Though the transient accommodations tax has evolved to meet the needs and purposes of the times, its structure and frequent amendment, combined with the cyclical nature of the visitor industry and the tax revenues it generates, has resulted in ongoing

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discussions among the various stakeholders, including the State, the counties, the visitor industry, the Hawaii tourism authority, and other recipients or potential recipients of transient accommodations tax revenues;

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

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

(A) The application of the transient accommodations tax and the allocation of its revenues should be simplified and stabilized so as to be clear, consistent, and predictable over time, in view of the need to invest in tourism as a premier industry;

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

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

(D) Based on a review of state and county functions, including tourism expenditures, an appropriate allocation of the remaining transient accommodations tax revenues is fifty-five per cent to the state general fund and forty-five per cent to the counties; and

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

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

(b) The purpose of this Act is to:

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

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

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

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

PART II

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

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

(1) $1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural

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resources important to the State, until the bonds are fully amortized;

(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[~~:~~], beginning July 1, 2017, and in each fiscal year thereafter, the dollar amount of revenues allocated to the tourism special fund under this paragraph shall be adjusted by an amount equal to the dollar amount multiplied by the percentage, if any, by which the Honolulu region consumer price index for all urban consumers (CPI-U), or a successor index, as calculated by the United States Department of Labor, for the preceding calendar year exceeds the consumer price index for the calendar year 2016; and provided further 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

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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~~] revenues allocated[~~:~~] to the tourism special fund:

(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

(C) 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

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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;

(4) $3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:

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

(B) Planning, construction, and repair of facilities; and

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

[~~(4)~~] (5) [~~$103,000,000 for fiscal year 2014-2015, $103,000,000 for fiscal year 2015-2016, and $93,000,000 for each fiscal year thereafter~~] Of the remaining revenues collected under this chapter,

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forty-five per cent shall be allocated as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-43[~~; and~~

~~(5)~~ ~~$3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in~~

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~~accordance with the Hawaii tourism authority strategic plan for:~~

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

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

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

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

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

PART III

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

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"(d) In any fiscal year subsequent to the 2017-2018 fiscal year in which a county public employer's contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the county public employer's contributions shall be deposited into the fund from a portion of all transient accommodations tax revenues collected by the department of taxation under section [~~237D-6.5(b)(4).~~] 237D-6.5(b)(5). The director of finance shall deduct the amount necessary to meet the county public employer's annual required contribution from the revenues derived under section [~~237D-6.5(b)(4)~~] 237D-6.5(b)(5) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund."

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

"(a) There is created in the department a special fund to be designated as the "special land and development fund". Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred

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payments; all moneys collected under section 171-58 for mineral and water rights; all rents from leases, licenses, and permits derived from public lands; all moneys collected from lessees of public lands within industrial parks; all fees, fines, and other administrative charges collected under this chapter and chapter 183C; a portion of the highway fuel tax collected under chapter 243; all moneys collected by the department for the commercial use of public trails and trail accesses under the jurisdiction of the department; transient accommodations tax revenues collected pursuant to section [~~237D-6.5(b)(5);~~] 237D-6.5(b)(4); and private contributions for the management, maintenance, and development of trails and accesses shall be set apart in the fund and shall be used only as authorized by the legislature for the following purposes:

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

(2) For the planning, development, management, operations, or maintenance of all lands and improvements under the control and management of the board pursuant to title

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

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

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

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

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

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

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

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

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

(11) For other purposes of this chapter."

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, 2016; provided that the amendments made to section 171-19(a), Hawaii Revised Statutes, by this Act shall not be repealed if that

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section is reenacted on January 1, 2016, pursuant to section 17(1) of Act 121, Session Laws of Hawaii 2015.

INTRODUCED BY: _______________________________

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.B. NO.

Report Title:
State-County Functions Working Group; Transient Accommodations Tax; Allocation; Tourism Special Fund; Counties

Description:
Adjusts allocation of transient accommodations tax revenues to the tourism special fund for inflation. Adjusts allocation to the counties to equal 45% of the amount of revenues remaining after all other allocations are made.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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Testimony of Simeon R. Acoba, Jr., Associate Justice (ret.)
Chair of State-County Functions Working Group

submitted to : date:

Mr. Chair, Ms. Chair, Senators and Representatives,

The State-County Functions Working Group was established by Act 174, Session Laws of Hawai‘i 2014, to consider the distribution of duties and responsibilities for public services between the State and the counties, and to recommend to the Legislature a model for allocation of transient accommodation tax (TAT) revenues in future years that properly reflects the division of those duties and responsibilities. (Those revenues include both TAT and transient occupancy tax collections for time share properties.)

A 13-person Working Group was established, with members chosen by the President of the Senate, the Speaker of the House of Representatives, the four county mayors and the governor, and with a Chair selected by the Chief Justice of the Hawai‘i Supreme Court. The Working Group's initial meeting was on October 22, 2014. The Working Group met regularly in the following year, and reached a unanimous decision to recommend an allocation model at its meeting of October 21, 2015. The group subsequently reviewed and refined its report.

The Working Group examined the cost of public services provided by the State and counties. It considered expenditures grouped in the broad functional categories used in comprehensive annual financial reports and more fine-grained analyses of county expenditures, to learn both the relative size of total public service expenditures and the ratio of tourism-related expenditures by the State and counties. While no one analysis provided the definitive answer to the Legislature's question, the Working Group found that the key responsibilities of the State and the counties for tourism-related public services were distributed in a ratio of 55 percent (for the State) and 45 percent (for the counties).

The Working Group identified key principles for allocation of TAT revenues, including fairness, predictability, simplicity and flexibility or resilience in changing circumstances. The Working Group saw the TAT revenue stream as important to the work of the Hawai‘i Tourism Authority, the counties and the State, and sought an approach that reflects both the provision of public services and the need for these agencies to budget and plan work supported by TAT allocations.

Recommendation

The Working Group considered several models for the allocation of TAT revenues on an ongoing basis. The Working Group recommends:

A. The Tourism Special Fund will receive $82 million in fiscal years 2015 and 2016, as per Act 174, and would receive this amount, adjusted in line with the Consumer Price Index for Urban Consumers (Honolulu), in subsequent years;

B. Existing appropriations for the Convention Center, Turtle Bay, and the Special Land Development Fund, totaling $31 million, would continue at the same level in future years; and

C. The remainder of the TAT revenues would be allocated to the State and counties, with the State receiving 55 percent of the remainder, and the counties receiving 45 percent.

The recommendation followed on study of models under both a growth forecast scenario and a "what if" recessionary scenario. The Working Group sought an allocation strategy that would be equitable in both good times and bad. Allocation models were assessed in light of projected distributions under both growth and recessionary conditions.

The Working Group brought together stakeholders from the counties, the visitor industry, and the State administration. They had distinct interests and perspectives, but agreed on our recommendation as fair, simple, predictable and resilient over time. We see this allocation as realizing the TAT's potential as a continuing investment of benefit to Hawai'i's visitor industry and resident communities alike.

I would be glad to answer questions or ask our consultant team to provide more detailed information. Thank you for your consideration.

Agenda item IV. b.

State-County Functions Working Group

Report on Allocation of Transient Accommodation Tax Revenues

DRAFT -- December 2015

State-County Functions Working Group

- Charge from Legislature, Act 174 (SLH 2014)
- Composition of Working Group, Meetings
- Process
  - History of TAT
  - Analysis of Expenditures
  - Allocation Models
  - Forecasts and Scenarios
  - Agreement on Approach and Model
- Recommendation

Charge to the Working Group

1. Examine the distribution of duties and responsibilities for public services between the State and the counties
2. Recommend a model for allocation of transient accommodation tax (TAT) revenues that properly reflects those duties and responsibilities

Act 174 (SLH 2014)

Working Group Composition

Appointed by	
Governor	4
Senate	2
House	2
Mayors	4
Chief Justice	Chair
TOTAL	**13**

Members understand concerns of:

- State administration
- County administration
- Visitor industry

- Staff: Office of the Auditor
- Consultant hired, August 2015

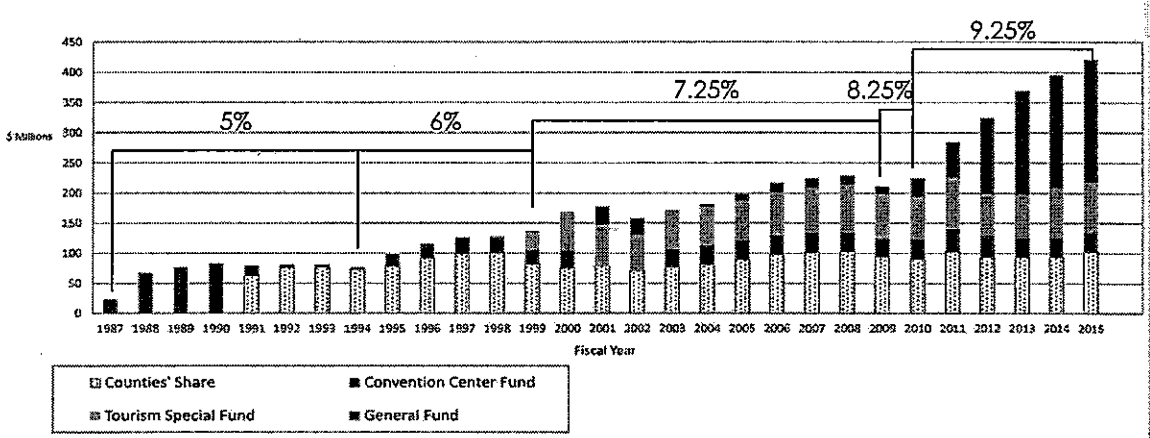
Meetings and Reports

- Began October 2014
- Monthly or twice monthly meetings
- Interim Report, December 2014
- Final Report, December 2015

Minutes and handouts for meetings are available at
http://auditor.hawaii.gov/task-forceworking-group/

History of TAT

Rates, amounts and distribution have changed significantly:



Current Distribution

Allocations for FY2015 and FY 2016

• Counties:	$103 million
• Tourism Special Fund (TSF):	$ 82 million
• Convention Center:	$ 26.5 million
• Turtle Bay:	$ 1.5 million
• State General Fund:	Remainder*
to DLNR Special Fund	$3 million

* Remainder, in FY2015 = $208 million

Sources: Acts 117 and 121, SLH 2015

Expenditures on Public Services

Comprehensive Annual Financial Reports (CAFR) show:

- Totals and by functional category
- For each category, gross and net expenditures
- Primary Government Activities (incl. public safety, highways, education, welfare, conservation of natural resources, interest payments)
- Business-type Activities (incl. State harbors and airports, various county activities)
- Component units (semi-autonomous: UH, Hawai'i Health Systems Corp, county water departments, HART)

State's and counties' share of expenditures

Relation of State's Expenditures to Counties' Expenditures	State's Share	Counties' Share
1. Total expenditures, FY2014	77%	23%
2. Direct expenditures on tourism, FY2014 (State IG)	52%	48%
3. Weighted direct and indirect expenditures on tourism, FY2014 (based on County IG)	57%	43%
4. Average of total expenditures, FYs 2002–2012	78%	22%
5. Net Expenditures, all government functions, FY2014	83%	17%
6. Net Expenditures, direct expenditures related to tourism, FY2014	46%	54%
7. Gross Expenditures, "Primary Government Activities" only, FY2014	54%	46%
8. Net Expenditures, "Primary Government Activities" only, FY2014	81%	19%
9. Net Expenditures, "Primary Government Activities" only, direct expenditures related to tourism, FY2014	52%	48%

What Expenditures are "Tourism-related"?

Three investigative groups formed – three approaches:

- State investigative group analyzed expenditures by broad functional categories (public safety, etc.)
- County investigative group looked at specific funding line items for each county
- Visitor industry group: Priorities for sustaining the industry
  1: Transportation, Parks and Recreation
  2: Public Safety and Housing (homeless issue)
  3: Culture, Education (of workforce), Sanitation, Regulation of illegal units

Development of Recommended Model

Working Group took into account:

- Net and gross expenditures
- Primary government activities
- Tourism-related expenditures

Members converged on 55/45 distribution as equitable, reflecting duties and responsibilities for public services

Agreement on Approach

- Tourism Special Fund a priority, to be supported in varying economic circumstances as an investment in Hawai'i
- Both State and counties should share in risks and rewards of TAT revenues
- Principles: TAT allocation strategy should be:
  - Fair
  - Predictable
  - Simple
  - Resilient in changing circumstances

Recommended Model

- TSF: $82 million, indexed to CPI-U (inflation)
- Existing allocations per Legislature ($31 million):
  - Convention Center $26.5 million
  - Turtle Bay $1.5 million
  - Special Land Development Fund $3 million
- Remainder to State and counties' general funds –
  - 55% to State
  - 45% to counties

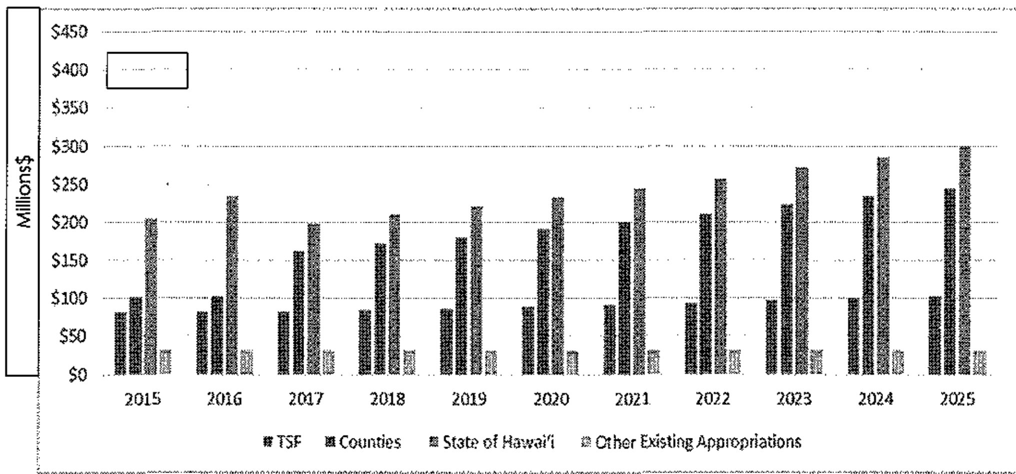
CPI-U = Consumer Price Index for Urban Consumers, Honolulu

Recommended Model: Forecast

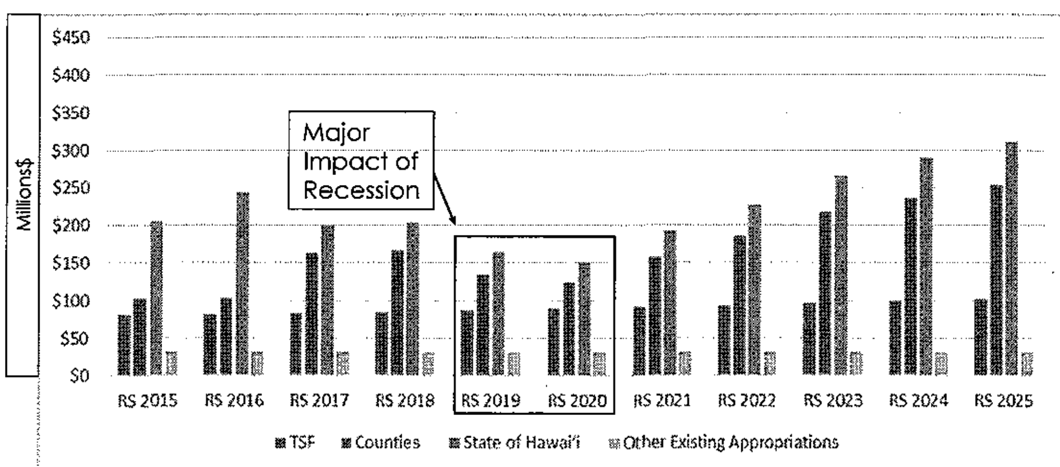
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-2025
Total (million)	$421	$450	$474	$497	$520	$543	$568	$592	$623	$649	$678	$5,594
TSF (+ CPI)	$82	$82	$83	$85	$87	$89	$92	$94	$97	$99	$102	$909
Other Existing Appropriations												
Turtle Bay	$1.5	$1.5	$1.5	$1.5	$1.5	$1.5	$1.5	$1.5	$1.5	$1.5	$1.5	$15
Convention Center	$26.5	$26.5	$26.5	$26.5	$26.5	$26.5	$26.5	$26.5	$26.5	$26.5	$26.5	$265
Special Land Fund	$3.0	$3.0	$3.0	$3.0	$3.0	$3.0	$3.0	$3.0	$3.0	$3.0	$3.0	$30
Remainder	$308	$337	$360	$381	$402	$423	$445	$467	$495	$519	$545	
Counties (45% of Remainder)	$103	$103	$162	$172	$181	$190	$200	$210	$223	$234	$245	$1,920
State (55% of Remainder)	$205	$234	$198	$210	$221	$233	$245	$257	$272	$286	$300	$2,455

Annual TAT revenues based on Hospitality Advisors forecast.

Recommended Model: Forecast



Recommended Model: *What-if Recession Scenario*



Additional Considerations

- Trends in visitors' lodging preferences – will Airbnb and the like affect the forecast?

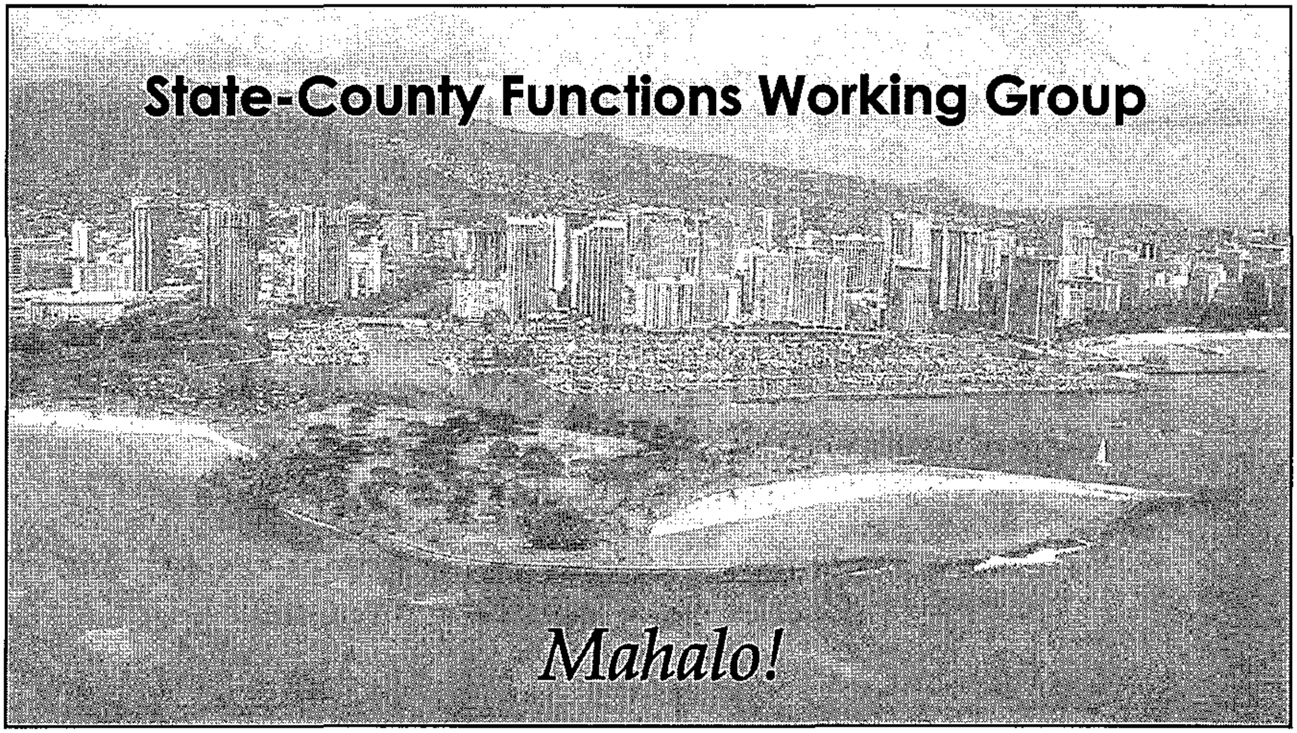
  TAT revenues could increase faster (with higher tax compliance) or slower (with more competition).

- TAT moneys could be held back for counties' annual minimum obligations to EUTF as of 2019.

  True, but counties are already taking steps to comply, and this provision does not affect allocation model.

Highlights

- Recommended model works for key stakeholders in both good times and bad times
- TAT allocation is 55% to State, 45% to Counties
- Payment of existing obligations continues
- State still has largest share of TAT revenue
- TSF is protected when marketing needed
- Local communities and visitor industry share benefits (police, life guards, park upkeep)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Mahalo!