HAWAIʻI

VISITOR GREEN FEE

Report to the Hawaiʻi Tax Commission // September 2021

OVERVIEW

Hawaiʻi's ecosystems and natural and cultural resources provide over $6 billion in value to our economy each year, supporting our communities and our visitor industry. These vital resources and ecosystems underpin our culture, our livelihoods, and our tourism sector but we underinvest in this "green infrastructure," committing only 1% of our state budget each year and creating an annual financing deficient of $360 million/year. With escalating visitor impacts, climate change, and intensifying local threats to our ecosystems, there is an immediate need for innovative conservation financing solutions in Hawaiʻi to ensure the security of our population and the resilience of our natural systems and the economic engine that depends on them.

Visitor green fees are used all around the world to generate revenue to protect natural and cultural resources, create green jobs, and enhance the visitor experience. Visitor green fees are payments made by tourists, primarily to regulatory entities, with the explicit purpose of funding natural resource management. This policy approach, now implemented in dozens of geographies worldwide, offers a solution to offset visitor impacts to ecosystems, and provides a means to protect nature that communities and tourists alike depend on.

This brief provides an overview of existing policy options, management frameworks, potential revenue generation estimates, and impacts associated with establishing a visitor green fee program in Hawaiʻi. This report is based on a comprehensive review of green fee systems established in other geographies and their applicability to Hawaiʻi,[1] a legal analysis of state and federal laws and policies,[2] a green job creation and economic diversification proposal prepared for the pandemic recovery task force (Recovery Navigator),[3] and other relevant data sources and inputs as noted. The above referenced material provides more detail on the policy options, management models, and other elements of visitor green fees which policy makers may consider to develop and implement a system uniquely tailored to Hawaiʻi.

POLICY OPTIONS FOR A VISITOR GREEN FEE

There are several policy options to establish a visitor green fee system, including some existing mechanisms, as well as other approaches that are commonly used in other geographies. An overview of these policy options is presented below, noting that more details are available in published reports and supporting documents as noted.

Policy Option 1: Transient Accommodation Tax (TAT)

The TAT was established in 1986 and has been continually amended since,[4] with recent changes from the 2021 passage of HB 862 CD1, which diverts the revenue from the TAT into the state's general fund and gives the counties the option to levy their own TAT of up to 3%.[5] There are two options to develop a green fee under the existing TAT policy and program. This can be achieved by either designating a portion of the existing state or county TAT (a "carve out" option), or by adding to the existing TAT (a "top-up" option) to create a green fee from the existing TAT mechanism. Both approaches would have to be enacted by law in order to establish a green fee, and both have been previously proposed in draft legislation. The policy process, revenue, and management model would differ, depending on the level at which this is applied (state versus county level):

- **State level:** The state TAT is currently 10.25%. For either a "carve out" or "top-up" option, management of green fees would occur at the state level, probably via diverting these funds into a green fee special fund. Revenue estimates are presented below at a 1% TAT rate.
- **County-level:** As of the submission of this report, only one county (Kauai) has established a county-level TAT (via their county council), [6] but others are expected to follow. Management of green fees would be at the county level; revenue estimates are not currently available.

Policy Option 2: Environmental Fee or Visitor Environmental "Permit"

Many destinations, such as the Republic of Palau and the Galápagos Islands, administer a green fee in the form of an entry fee to visitors. An analysis of existing visitor green fees shows that these entry fee approaches are prevalent. Systems in other geographies range from a daily fee to a one-time entry fee. However, due to multiple legal restrictions (discussed in further detail below), an 'entry fee' per se would not be possible. Alternatively, several mechanisms have been explored, including a one-time payment (per trip, per year), or, a payment for each night of a visitors stay.[7] Another related mechanism which is rarely used for visitor green fees (but is used for other natural resources, such as hunting), exists in the form of a "permit" or "license" that conditions a person's use of an area's natural resources upon payment. Both of these mechanisms (an entry or per-night green fee versus an environmental permit or license) is fundamentally different than the TAT mechanism in that it is a true "fee" which is collected for a specific purpose (i.e., use of natural resources) and therefore revenues must be restricted to that purpose. This differs from a tax which can be used more broadly for a wide array of purposes.

In Hawaiʻi, it is in theory legally permissible to charge visitors for use of natural resources, and existing jurisprudence and litigation has upheld this as the site level, for well-known sites such as Hanauma Bay.[8]

However, in practice the legality of implementing this approach at the state level is somewhat difficult and would have to thread a narrow implementation pathway in order to not run afoul of constitutional issues that protect the free movement of citizens, interstate commerce, and equal protections.[9] The key implementation challenge, from a legal perspective, is the point of capture. This would have to be administered at the state level (e.g., via a mandatory system such as the Safe Travels system, or via a voluntary system), and would need to be implemented in such a way that does not restrict US citizen's rights to travel or other fundamental issues such as opportunities for employment. A collection method that is residence-neutral (i.e., does not discriminate between residents versus non-residents) is in theory more valid, but this would create a burden on local residents. A differentiated fee schedule (i.e., visitors pay more than residents) may be viable, as numerous states, including Hawai'i, already charge different rates for visitors versus residents for a variety of services and programs (e.g., tuition at the University of Hawai'i). Additionally, it is illegal to add a "tax, fee, head charge, or other charge" on air commerce (i.e., plane tickets) due to the federal Anti-Head Tax Act. An airport authority tax could be levied on tickets but those funds must be restricted to supporting the operating costs of the airport and cannot be used for natural resources more broadly. Below, we present revenue estimates for a $50 per person green fee.

Alternative Option: Site-Based Green Fees

Another mechanism exists in site-based green fees that are already being collected at specific federal, state, and city & county parks and other sites around Hawaii. The State is signaling intentions to continue expanding this model over time to most, if not all, State parks based on the three sites currently established (Hāʻena, Waiʻānapanapa, Diamond Head). Examples exist at multiple levels from the city and county (e.g., Hanauma Bay; Diamond Head), the state level (State Parks) and at the federal level (e.g., Volcanoes National Park). In theory, it may be possible to enact legislation that would require all sites to add a surcharge (e.g., $1 for every entry), which could then be aggregated into a single green fee fund. It is likely that this model would require the funds to be invested specifically into these sites, but there may be a policy pathway to use the revenue stream to support natural resources and environmental management more broadly (e.g., by island or county), providing this distribution rests on a strong rationale for providing site-level benefits. Revenue estimates are not available for this option but could be generated via a thorough accounting of numbers of sites, existing entry fee rates (or potential for entry fees to be established), and visitor numbers per site.

MANAGING GREEN FEE REVENUES

Visitor green fee systems require financial management and governance systems that oversee the revenue stream and direct funding toward appropriate conservation and sustainability initiatives. A review of existing green fee systems implemented in other locations indicates that public-private management models are the most effective at driving impact, generating support from private sector actors (particularly the visitor industry) and creating mechanisms to ensure transparency and accountability. In

Hawaiʻi, several examples of public-private partnership models exist, including the Waikīkī Beach Improvement District. A public-private management model typically includes the following elements, which could be established via legislation:

- **Special Fund**: Green fee revenues are deposited into a special fund (i.e., a green fee fund) that is established for the explicit purpose of directing green fee revenues toward natural resources and ecosystem management. The special fund could also receive, or match, other funding sources from public and private sources.

- **Public-Private Management Board**: A board consisting of key public officials (e.g., heads of relevant departments) and private sector representation (from the visitor sector, and from conservation and sustainability non-profit and for-profit organizations) oversees the special fund and has decision-making authority over project selection and fund distribution. This ensures that funding is directed toward shared priorities among government and private sector thought leaders.

- **Accountability and Transparency Mechanisms**: The board and fund typically issue annual reports to the public and to key decision-makers containing key information about the fund administration and performance (e.g., what funds are used for, when, by whom, and performance metrics on impact).

REVENUE AND COST ESTIMATES

Below, we provide revenue estimates, for two scenarios presented above, for a 1% TAT (either "carve-out" or "top-up") scenario collected at the state level, and for a $50 per person, per year, environmental fee. These estimates are based on key assumptions (including visitor arrivals). We note that the creation of a visitor green fee would also carry costs, in the form of administrative and operational costs. Estimates for these costs could vary widely based on the policy and management model.

		FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Proposal 1: 1% TAT								
Annual Revenue ($Millions)		42.8	50.6	55.2	58.7	61.7	64.5	67.5
Proposal 2: $50 Green Fee								
Annual Revenue ($Millions)		372.6	419.6	436.1	448.3	455.4	459.1	460.4

Table 1: Annual revenue estimates for two visitor green fee policy options. Developed by the HI Tax Research & Planning Office.

IMPACT POTENTIAL OF VISITOR GREEN FEES

A visitor green fee has potential to generate significant revenue that can help the achieve key goals, targets and aspirations related to sustainability, job creation and economic diversification in Hawai'i.

- **Achieving Sustainability Targets**: The state's executive, legislative, indigenous and private sector leadership have endorsed the Aloha+ Challenge,[10] a statewide commitment to achieve Hawai'i's social, economic, and environmental goals by 2030. Announced at the 2016 World Conservation Congress in Honolulu, the natural resource management target is to protect 30% of priority watershed forests by 2030, and to effectively manage 30% of Hawaii's nearshore waters by 2030. Green fee revenue can provide the financing required to achieve these ambitious "30 by 30" goals, and projects could be prioritized that help achieve these sustainability targets (i.e., projects that focus on restoration and management of critical ecosystems) while also ensuring benefits to both local communities and the visitor sector. The "30 by 30" target is aligned with global conservation targets to maintain the key life-support systems of nature in the face of climate change and other human impacts to ecosystems.

- **Green Job Creation and Economic Diversification:** Hawai'i still has one of the highest unemployment rates in the country. The green jobs sector is an innovation sector in the state's economy,[11] and demand for—and growth in—the green jobs sector is high.[12] Investment in green jobs has been noted as a strategy in DBEDT's State Economic Recovery plan.[13] A pandemic recovery pilot program in Kupu's 'Āina Corps[14] demonstrated the high interest, economic impact, and capacity development advantages associated with green job development, particularly for young people. A visitor green fee could support thousands of green jobs in perpetuity in our communities, creating a valuable source of livelihood, educational and stewardship opportunities. Many other tourism-dependent geographies, such as New Zealand and Iceland, have invested in this model as a pandemic recovery solution.[15,16]

- **Responsible Tourism:** Tourism management faces new challenges in Hawai'i from growing resident dissatisfaction. As the tourism sector recovers, new models will be needed to ensure the sector is poised to deliver benefits to the economy, while also respecting the unique culture and resources of our islands. This may require new regulatory and policy approaches to the sector, and recent shifts in the policy landscape indicate an openness to new approaches. For example, the Destination Management Plan for O'ahu published by the Hawai'i Tourism Authority, highlights as a potential action the establishment of a "Regenerative Tourism Fee" to directly support "Hawai'i's resources… and address unfunded conservation liabilities."[17] It also is resulting in investment by the private sector such that companies are re-positioning themselves as good corporate actors and seeking new ways to engage visitors to raise awareness and decrease the prevalence of harmful behaviors (e.g., Hawaiian Airlines' new "Travel Pono" visitor arrival video).[18]

In conclusion, as visitor numbers continue to rise, resident satisfaction with visitors continues to decline. Underpinning this trend is the broad neglect of reinvestment into Hawaiʻi's natural capital infrastructure, upon which Hawaiʻi's social, cultural and economic capital is derived. This precarious condition leaves Hawaiʻi exposed to growing risk in light of an increasingly uncertain climate. A visitor green fee offers a means to find greater balance between environmental investment and return; the promise of providing residents with sustainable, well-managed spaces as well as diversified employment, and; the potential to create solvency for future generations to address future issues both anticipated and unforeseen.

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