
A BILL FOR AN ACT

RELATING TO ROADS.

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

1 SECTION 1. The legislature finds that it is in the public
2 interest to improve and maintain private roadways that serve the
3 public, in limited circumstances.

4 Accordingly, the purpose of this Act is to allow for a
5 percentage of general excise and fuel taxes generated by the
6 counties to be used for maintenance of private roadways that are
7 open to the public.

8 SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§46-16.8 County surcharge on state tax.** (a) Each county
11 may establish a surcharge on state tax at the rates enumerated
12 in sections 237-8.6 and 238-2.6. A county electing to establish
13 this surcharge shall do so by ordinance; provided that:

14 (1) No ordinance shall be adopted until the county has
15 conducted a public hearing on the proposed ordinance;

16 (2) The ordinance shall be adopted before December 31,
17 2005; and



1 (3) No county surcharge on state tax that may be
2 authorized under this subsection shall be levied
3 before January 1, 2007, or after December 31, 2022,
4 unless extended pursuant to subsection (b).

5 Notice of the public hearing required under paragraph (1) shall
6 be published in a newspaper of general circulation within the
7 county at least twice within a period of thirty days immediately
8 preceding the date of the hearing.

9 A county electing to exercise the authority granted under
10 this subsection shall notify the director of taxation within ten
11 days after the county has adopted a surcharge on state tax
12 ordinance and, beginning no earlier than January 1, 2007, the
13 director of taxation shall levy, assess, collect, and otherwise
14 administer the county surcharge on state tax.

15 (b) Each county that has established a surcharge on state
16 tax before July 1, 2015, under authority of subsection (a) may
17 extend the surcharge until December 31, 2030, at the same rates.
18 A county electing to extend this surcharge shall do so by
19 ordinance; provided that:



1 (1) No ordinance shall be adopted until the county has
2 conducted a public hearing on the proposed ordinance;
3 and

4 (2) The ordinance shall be adopted before January 1, 2018.

5 A county electing to exercise the authority granted under
6 this subsection shall notify the director of taxation within ten
7 days after the county has adopted an ordinance extending the
8 surcharge on state tax. The director of taxation shall levy,
9 assess, collect, and otherwise administer the extended surcharge
10 on state tax.

11 (c) Each county that has not established a surcharge
12 pursuant to subsection (a) on state tax before July 1, 2015, may
13 establish the surcharge at the rates enumerated in sections 237-
14 8.6 and 238-2.6. A county electing to establish this surcharge
15 shall do so by ordinance; provided that:

16 (1) No ordinance shall be adopted until the county has
17 conducted a public hearing on the proposed ordinance;

18 (2) The ordinance shall be adopted before December 31,
19 2023; and



1 (3) No county surcharge on state tax that may be
2 authorized under this subsection shall be levied
3 before January 1, 2019, or after December 31, 2030.

4 A county electing to exercise the authority granted under
5 this subsection shall notify the director of taxation within ten
6 days after the county has adopted a surcharge on state tax
7 ordinance. Beginning on January 1, 2019, January 1, 2020,
8 January 1, 2024, or January 1, 2025, as applicable pursuant to
9 sections 237-8.6 and 238-2.6, the director of taxation shall
10 levy, assess, collect, and otherwise administer the county
11 surcharge on state tax.

12 (d) Each county that has established a surcharge on state
13 tax before March 31, 2019, under subsection (a) or (c) may amend
14 the surcharge ordinance to change the authorized uses of
15 surcharge revenues, pursuant to subsection (g); provided that:

16 (1) No ordinance shall be amended pursuant to this section
17 until the county has conducted a public hearing on the
18 proposed amendment; and

19 (2) The ordinance shall be amended before December 31,
20 2023.



1 (e) Notice of the public hearing required under subsection
2 (b), (c), or (d), before adoption or amendment of an ordinance
3 establishing or extending the surcharge on state tax shall be
4 published in a newspaper of general circulation within the
5 county at least twice within a period of thirty days immediately
6 preceding the date of the hearing.

7 (f) Each county with a population greater than five
8 hundred thousand that adopts or extends a county surcharge on
9 state tax ordinance pursuant to subsection (a) or (b) shall use
10 the surcharge revenues received from the State for capital costs
11 of a locally preferred alternative for a mass transit project;
12 provided that revenues derived from the county surcharge on
13 state tax shall not be used:

14 (1) To build or repair public roads or highways, bicycle
15 paths, or support public transportation systems
16 already in existence before July 12, 2005;

17 (2) For operating costs or maintenance costs of the mass
18 transit project or any purpose not consistent with
19 this subsection; or

20 (3) For administrative or operating, marketing, or
21 maintenance costs, including personnel costs, of a



1 rapid transportation authority charged with the
2 responsibility for constructing, operating, or
3 maintaining the mass transit project;
4 provided further that nothing in this section shall be construed
5 to prohibit a county from using county funds that are not
6 derived from a surcharge on state tax for a purpose described in
7 paragraph (2) or (3).

8 (g) Each county having a population equal to or less than
9 five hundred thousand that adopts a county surcharge on state
10 tax ordinance pursuant to this section shall use the surcharges
11 received from the State for:

12 (1) Operating or capital costs of public transportation
13 within each county for public transportation systems,
14 including:

- 15 (A) Public roadways or highways;
- 16 (B) Public buses;
- 17 (C) Trains;
- 18 (D) Ferries;
- 19 (E) Pedestrian paths or sidewalks; or
- 20 (F) Bicycle paths;



- 1 (2) Expenses in complying with the Americans with
2 Disabilities Act of 1990 with respect to paragraph
3 (1); and
- 4 (3) Housing infrastructure; provided that a county that
5 uses surcharge revenues for housing infrastructure
6 shall not pass on those housing infrastructure costs
7 to the developer of a housing project; provided
8 further that this paragraph shall apply only if a
9 county amended its surcharge ordinance pursuant to
10 subsection (d) or adopts a county surcharge on state
11 tax ordinance after December 31, 2022;
- 12 provided that each county having a population equal to or less
13 than five hundred thousand that adopts a county surcharge on
14 state tax ordinance pursuant to this section after December 31,
15 2022, shall use the surcharge revenues received from the State
16 only for the purposes described in paragraph (3).
- 17 (h) Each county that adopts a county surcharge on state
18 tax ordinance pursuant to this section may use the surcharges
19 received from the State for the maintenance of privately-owned
20 roadways that are open to the public.
- 21 [~~h~~] (i) As used in this section:



1 "Capital costs" means nonrecurring costs required to
2 construct a transit facility or system, including debt service,
3 costs of land acquisition and development, acquiring of rights-
4 of-way, planning, design, and construction, and including
5 equipping and furnishing the facility or system. For a county
6 with a population greater than five hundred thousand, capital
7 costs also include non-recurring personal services and other
8 overhead costs that are not intended to continue after
9 completion of construction of the minimum operable segment of
10 the locally preferred alternative for a mass transit project.

11 "Housing infrastructure" includes pedestrian paths or
12 sidewalks on a county road near or around a public school, and
13 water, drainage, sewer, water reuse, waste disposal, and waste
14 treatment systems that connect to the infrastructure of the
15 county."

16 SECTION 3. Section 243-6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§243-6 Fuel taxes, dispositions.** The "city and county of
19 Honolulu fuel tax" shall be paid by the department of taxation
20 into the state treasury, and shall, by the state director of
21 finance, be paid over to the director of finance of the city and



1 county of Honolulu for deposit into the fund known as the
2 "highway fund" created by section 249-18.

3 The "county of Kauai fuel tax" shall be paid by the
4 department into the state treasury, and shall, by the state
5 director of finance, be paid over to the director of finance of
6 the county of Kauai for deposit into the fund known as the
7 "highway fund" created by section 249-18.

8 The "county of Hawaii fuel tax" shall be paid by the
9 department into the state treasury, and shall, by the state
10 director of finance, be paid over to the director of finance of
11 the county of Hawaii for deposit into the fund known as the
12 "highway fund" created by section 249-18.

13 The "county of Maui fuel tax" collected on account of
14 liquid fuel sold or used on the island of Lanai or sold
15 elsewhere for ultimate use on the island of Lanai, shall be paid
16 by the department into the state treasury, and shall, by the
17 state director of finance, be paid over to the director of
18 finance of the county of Maui for deposit into the fund known as
19 the "highway fund" created by section 249-18, for expenditure on
20 the island of Lanai. The "county of Maui fuel tax" collected on
21 account of liquid fuel sold or used on the island of Molokai or



1 sold elsewhere for ultimate use on the island of Molokai, shall
2 be paid by the department into the state treasury, and shall, by
3 the state director of finance, be paid over to the director of
4 finance of the county of Maui for deposit into the fund known as
5 the "highway fund" created by section 249-18, for expenditure on
6 the island of Molokai. The remainder of the "county of Maui
7 fuel tax" shall be paid by the department into the state
8 treasury, and shall, by the state director of finance, be paid
9 over to the director of finance of the county of Maui for
10 deposit into the fund known as the "highway fund" created by
11 section 249-18.

12 Each of the foregoing taxes shall be expended for the
13 following purposes, for the island for which the tax revenue is
14 specially indicated, or, if none, for the county for which the
15 tax revenue is indicated:

16 (1) For payment of interest on and redemption of any bonds
17 duly issued or sold on or after July 1, 1951, under
18 chapter 47 for the financing or aiding in financing
19 the construction of county highway tunnels, approach
20 roads thereto, and highways. [~~Such~~] The payments of
21 interest and principal on the bonds when due, shall be



1 first charges on [~~such~~] the moneys so deposited in the
2 fund[-];

3 (2) For acquisition, designing, construction,
4 reconstruction, improvement, repair, and maintenance
5 of county main and general thoroughfares, highways,
6 and other streets, street lights, storm drains, and
7 bridges, including costs of new land therefor, when
8 expenditures for the foregoing purposes cannot be
9 financed under state-federal aid projects[-];

10 (3) For reconstruction, improvement, repair, and
11 maintenance of privately-owned roadways that are open
12 to the public;

13 [+3+] (4) In the case of the city and county of Honolulu,
14 for payment of the city and county's share in an
15 improvement district initiated by the city and county
16 for an improvement listed in [+]paragraph[+] (2)
17 above, which is permitted to be constructed in the
18 city and county[-];

19 [+4+] (5) For the construction of county highway tunnels,
20 overpasses, underpasses, and bridges, where [~~such~~] the



1 improvement cannot be made under state-federal aid
2 projects~~[]~~;

3 ~~[5]~~ (6) For purposes and functions connected with county
4 traffic control and preservation of safety upon the
5 public highways and streets~~[]~~;

6 ~~[6]~~ (7) For purposes and functions in connection with
7 mass transit~~[]~~;

8 ~~[7]~~ (8) For acquisition, design, construction,
9 improvement, repair, and maintenance of bikeways~~[]~~;
10 and

11 ~~[8]~~ (9) No expenditure shall be made, out of the revenues
12 paid into any such fund, which will jeopardize federal
13 aid for highway construction."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on January 1, 2050.



Report Title:

Privately-Owned Roadways; Fuel Tax; State Tax

Description:

Allows for a percentage of general excise and fuel taxes generated by the counties to be used for the maintenance of private roadways that are open to the public. Takes effect 1/1/2050. (SD1)

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

