

JAN 18 2023

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# A BILL FOR AN ACT

RELATING TO ROADS.

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

1           SECTION 1. Section 46-16.8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§46-16.8 County surcharge on state tax.** (a) Each county  
4 may establish a surcharge on state tax at the rates enumerated  
5 in sections 237-8.6 and 238-2.6. A county electing to establish  
6 this surcharge shall do so by ordinance; provided that:

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

9           (2) The ordinance shall be adopted prior to December 31,  
10           2005; and

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

15 Notice of the public hearing required under paragraph (1) shall  
16 be published in a newspaper of general circulation within the



1 county at least twice within a period of thirty days immediately  
2 preceding the date of the hearing.

3 A county electing to exercise the authority granted under  
4 this subsection shall notify the director of taxation within ten  
5 days after the county has adopted a surcharge on state tax  
6 ordinance and, beginning no earlier than January 1, 2007, the  
7 director of taxation shall levy, assess, collect, and otherwise  
8 administer the county surcharge on state tax.

9 (b) Each county that has established a surcharge on state  
10 tax prior to July 1, 2015, under authority of subsection (a) may  
11 extend the surcharge until December 31, 2030, at the same rates.

12 A county electing to extend this surcharge shall do so by  
13 ordinance; provided that:

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

17 (2) The ordinance shall be adopted prior to January 1,  
18 2018.

19 A county electing to exercise the authority granted under  
20 this subsection shall notify the director of taxation within ten  
21 days after the county has adopted an ordinance extending the



1 surcharge on state tax. The director of taxation shall levy,  
2 assess, collect, and otherwise administer the extended surcharge  
3 on state tax.

4 (c) Each county that has not established a surcharge on  
5 state tax prior to July 1, 2015, may establish the surcharge at  
6 the rates enumerated in sections 237-8.6 and 238-2.6. A county  
7 electing to establish this surcharge shall do so by ordinance;  
8 provided that:

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

11 (2) The ordinance shall be adopted prior to March 31,  
12 2019; and

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

16 A county electing to exercise the authority granted under  
17 this subsection shall notify the director of taxation within ten  
18 days after the county has adopted a surcharge on state tax  
19 ordinance. Beginning on January 1, 2019, or January 1, 2020, as  
20 applicable pursuant to sections 237-8.6 and 238-2.6, the



1 director of taxation shall levy, assess, collect, and otherwise  
2 administer the county surcharge on state tax.

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

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

16 (1) To build or repair public roads or highways, bicycle  
17 paths, or support public transportation systems  
18 already in existence prior to July 12, 2005;

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



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

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

14           (1) Operating or capital costs of public transportation  
15           within each county for public transportation systems,  
16           including public roadways or highways, public buses,  
17           trains, ferries, pedestrian paths or sidewalks, or  
18           bicycle paths; and

19           (2) Expenses in complying with the Americans with  
20           Disabilities Act of 1990 with respect to paragraph  
21           (1).



1        (g) Each county that adopts a county surcharge on state  
 2 tax ordinance pursuant to this section may use the surcharges  
 3 received from the State for the maintenance of privately-owned  
 4 roadways that are open to the public.

5        [~~g~~] (h) As used in this section, "capital costs" means  
 6 nonrecurring costs required to construct a transit facility or  
 7 system, including debt service, costs of land acquisition and  
 8 development, acquiring of rights-of-way, planning, design, and  
 9 construction, and including equipping and furnishing the  
 10 facility or system. For a county with a population greater than  
 11 five hundred thousand, capital costs also include non-recurring  
 12 personal services and other overhead costs that are not intended  
 13 to continue after completion of construction of the minimum  
 14 operable segment of the locally preferred alternative for a mass  
 15 transit project."

16        SECTION 2. 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 payments of  
21 interest and principal on the bonds when due, shall be



1 first charges on such 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



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1 improvement cannot be made under state-federal aid  
2 projects ~~(-)~~ i

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

6 ~~(+6)~~ (7) For purposes and functions in connection with  
7 mass transit ~~(-)~~ i

8 ~~(+7)~~ (8) For acquisition, design, construction,  
9 improvement, repair, and maintenance of bikeways ~~(-)~~ i  
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 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

17

INTRODUCED BY: *Francis R. Jones*



# S.B. NO. 88

**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 maintenance of private roadways that are open to the public.

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

