
A BILL FOR AN ACT

RELATING TO TOLL ROADS.

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

1 SECTION 1. The legislature finds that other jurisdictions,
2 both domestic and foreign, have implemented toll roads with
3 success. It has been contended that the operation of toll roads
4 has contributed to controlling the amount of motor vehicle
5 traffic, thus reducing traffic congestion in various venues
6 worldwide. It has also been contended that toll roads offer a
7 dedicated source of revenue for the maintenance of heavily used
8 highways and roads, thus freeing up public revenues for other
9 uses.

10 The legislature also finds that motor vehicle
11 transportation has been and continues to be both a critical
12 necessity for, and the bane of, Hawaii's drivers. Under section
13 46-1.5(19)(D), Hawaii Revised Statutes, the counties are
14 authorized and have the power to charge toll on county highways;
15 provided that all revenues received from a toll charge are used
16 for the construction or maintenance of county highways.



1 However, the state department of transportation lacks similar
2 authority.

3 Accordingly, the purpose of this Act is to reduce traffic
4 congestion and raise revenue for road maintenance by statutorily
5 authorizing the department of transportation, where appropriate,
6 to open, close, construct, and maintain state toll roads and
7 impose toll charges for the use of existing state highways and
8 roads.

9 SECTION 2. Chapter 264, Hawaii Revised Statutes, is
10 amended by adding three new sections to part III to be
11 appropriately designated and to read as follows:

12 "§264-A Toll roads; designation of existing roads. The
13 director of transportation, subject to the requirements of
14 section 264-C, may designate any existing public highway or road
15 owned by the State as a toll road and impose toll charges for
16 the use of the toll road; provided that a toll-free alternative
17 route is available for public use.

18 §264-B Toll roads; agreement with private entities. (a)
19 The department of transportation may request competing proposals
20 from private entities by advertising and may enter into written



1 agreements with private entities relating to both of the
2 following:

3 (1) The construction of toll roads by private entities;
4 and

5 (2) The lease of toll roads constructed pursuant to this
6 section by the department to private entities.

7 (b) A private entity that submits a proposal pursuant to
8 subsection (a) shall include in the private entity's proposal a
9 description of any pending, threatened, or current lawsuit,
10 action, investigation, or administrative or other proceeding
11 involving the private entity or any firm, entity, or individual
12 of the private entity.

13 (c) To facilitate the development of toll roads, the
14 agreements with private entities prescribed in subsection (a)
15 may provide for any of the following:

16 (1) The lease of state highway rights-of-way;

17 (2) The lease of airspace over and under state highways;

18 (3) The granting of easements of necessity; and

19 (4) The issuance of permits or other authorization for the
20 private entities to construct toll roads supplemental
21 to existing state toll roads.



- 1 (d) An agreement with a private entity entered into
2 pursuant to this section shall provide for all of the following:
- 3 (1) State ownership of the toll road constructed by a
4 private entity;
- 5 (2) Lease of the toll road to the private entity for a
6 period mutually agreeable to the department of
7 transportation and the private entity;
- 8 (3) Reversion to the State of the toll road constructed by
9 the private entity, after the expiration of the lease,
10 at no expense to the State, as consideration for the
11 lease granted by the State;
- 12 (4) Reimbursement by the private entity to the department
13 of transportation or any other state agency for costs
14 incurred after the written agreement is finalized,
15 including the costs of planning, environmental impact
16 assessment, design, maintenance, law enforcement
17 services, and any other services rendered;
- 18 (5) Authorization for the private entity to impose and
19 collect tolls for the use of a toll road constructed
20 by the private entity;



- 1 (6) During the term of the lease, the private entity shall
2 apply toll revenues to:
- 3 (A) Capital outlay costs for the toll road plus
4 interest and principal repayment for any debt
5 incurred;
- 6 (B) Costs associated with operations, toll
7 collection, and administration of the toll road;
- 8 (C) Payment to the State for reimbursement of the
9 costs of maintenance, law enforcement, and other
10 services if these services are performed by the
11 State pursuant to the written agreement with the
12 private entity; and
- 13 (D) A reasonable return on investment to the private
14 entity; and
- 15 (7) No construction of a toll road where there is no
16 alternative toll-free route available for public use.
- 17 (e) The director of transportation shall not approve more
18 than two proposals under this section for each toll road.
- 19 (f) On negotiation of an agreement pursuant to this
20 section, the department of transportation shall hold a public
21 hearing at a location convenient to the private entity's



1 project. A copy of the agreement shall be available for public
2 inspection at a place convenient for the general public for at
3 least fifteen days before the public hearing. The notice of the
4 public hearing shall be published in any newspaper with a
5 general circulation of at least sixty thousand published in the
6 State. The notice of the public hearing shall announce the
7 availability of the agreement and where a copy of the agreement
8 may be obtained or reviewed and shall state that comments may be
9 submitted in writing to the department of transportation within
10 thirty days of the availability of the agreement. The
11 department of transportation may revise or renegotiate the
12 agreement based on the public comments it receives.

13 (g) After compliance with subsection (f) and section 264-
14 C, the director of transportation may grant final approval to
15 the project, project design, connections of the roadway, and the
16 agreement prescribed in this section and execute the agreement.

17 §264-C Prior determination of feasibility. Before
18 designating an existing public highway owned by the State under
19 section 264-A or granting final approval to a project under
20 section 264-B, the director of transportation shall determine
21 the feasibility of imposing toll charges on the use of any



1 existing public highway or road owned by the State or
2 constructing any new highway or road in the State for which use
3 toll charges are to be imposed. The director of transportation
4 shall include the following in the feasibility study:

5 (1) Data and experiences of other jurisdictions that have
6 converted or constructed similar toll roads that may
7 be applicable to Hawaii;

8 (2) The most appropriate areas for the placement of a toll
9 road in each county;

10 (3) Whether the placement of particular toll roads will
11 require the exercise of the power of eminent domain by
12 either the State or a county;

13 (4) Whether an elevated toll road would be appropriate for
14 the location in question;

15 (5) Whether the toll roads should be funded, acquired,
16 owned, designed, constructed, maintained, and
17 controlled, either in whole or in part, by the State,
18 the counties, or private entities;

19 (6) The approximate costs for each suggested toll road,
20 including costs for:



- 1 (A) The acquisition of any land necessary for the
- 2 construction of the toll road and any necessary
- 3 maintenance facilities;
- 4 (B) The construction of the toll road; and
- 5 (C) The operation of the toll road system; and
- 6 (7) A review of all applicable federal, state, and county
- 7 laws relating to the construction, operation, and
- 8 maintenance of toll roads."

9 SECTION 3. In codifying the new sections added by section
10 2 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 4. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

JAN 23 2017



H.B. NO. 994

Report Title:

Transportation; Toll Roads

Description:

Authorizes director of transportation to impose toll charges on existing highways and construct new toll roads. Provides for agreement with private entities to construct, operate, and maintain toll roads. Prohibits toll roads where there is no toll-free alternative route available for public use. Requires a prior feasibility study and specifies criteria, including consideration of an elevated toll road.

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