



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 279, H.D. 1, RELATING TO THE COUNTIES.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Tuesday, February 14, 2023 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Janine R. Udoi, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

This bill amends section 46-16.8, Hawaii Revised Statutes (HRS), to add a new subsection (g) to "in addition to the uses specified in subsections (e) and (f), [allow] each county that adopts a county surcharge on state tax ordinance . . . [to] use the surcharges received from the State for the maintenance of privately-owned roadways that are open to the public" (page 6, lines 15-19). Because section 46-16.8(e)(1), HRS, currently prohibits the use of county surcharge funds "[t]o build or repair public roads or highways," this bill as drafted may result in the unintended situation where tax funds are permitted to be used for the repair of private roadways but not for the repair of public roadways in counties with a population greater than five hundred thousand. One possible remedy is to delete the prohibition against the use of the county surcharge on state tax for the repair of "public roads or highways" on page 5, line 8, and amend the wording on page 6, lines 15 to 19, to read as follows:

(g) In addition to the uses specified in subsections (e) and (f), each county that adopts a county surcharge on state tax ordinance pursuant to this section may use the surcharges received from the State for the maintenance of public roadways or the maintenance of privately owned roadways that are open to the public.

Finally, on page 11, lines 3-4, of the bill, the words "public roadways" may have inadvertently been used instead of "private roadways." If the intent was to have the fuel taxes used in the section for private roadways, the Department recommends that the paragraph read as follows:

- (5) For purposes and functions connected with county traffic control and preservation of safety upon the public highways and streets[-],
including private roadways that are open to and used by the public;

Thank you for the opportunity to provide comments on this bill.

Council Chair
Alice L. Lee



Director of Council Services
Traci N. T. Fujita, Esq.

Councilmembers
Tom Cook
Gabe Johnson
Tasha Kama
Tamara Paltin
Keani N.W. Rawlins-Fernandez
Shane M. Sinenci
Yuki Lei K. Sugimura
Nohelani U'u-Hodgins

Deputy Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
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February 13, 2023

TO: The Honorable David A. Tarnas, Chair, and
Members of the House Committee on Judiciary & Hawaiian Affairs

FROM: Alice L. Lee
Council Chair

A handwritten signature in black ink, appearing to read "Alice L. Lee", is written over the printed name and title.

SUBJECT: **HEARING OF FEBRUARY 14, 2023; TESTIMONY IN SUPPORT OF
HB 279, HD1, RELATING TO THE COUNTIES**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this bill is to allow counties to use tax revenues from a General Excise Tax surcharge for the repair and maintenance of private roads that are open to and used by the public.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I **support** this measure for the following reasons:

1. Using tax revenues for privately owned roads that are open to and used by the public would benefit both residents and visitors.
2. Private roads are used by first responders in emergencies and by school buses for student transportation.
3. I am supporting separate legislation that would extend the County of Maui's time to enact an ordinance for a GET surcharge, which would allow the County to also benefit from this measure.

For the foregoing reasons, I **support** this measure.

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TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

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SUBJECT: GENERAL EXCISE, FUEL, Allow County revenues to repair private roadways used by the public

BILL NUMBER: HB 279 HD 1

INTRODUCED BY: House Committee on Transportation

EXECUTIVE SUMMARY: Allows certain counties to utilize tax revenues collected by the counties for the repair and maintenance of private roads that are open to and used by the public.

SYNOPSIS: Amends section 46-16.8, HRS, to allow each county to use county surcharge revenue to be used for private roadways that are open to and used by the public.

Amends section 243-6, HRS, to allow fuel taxes deposited in county highway funds to be used for private roadways that are open to and used by the public.

Makes additional technical and conforming amendments.

EFFECTIVE DATE: July 1, 3000.

STAFF COMMENTS: Section 243-6, HRS, provides generally that fuel taxes, both at the state and county levels, are deposited into the highway fund. The highway fund generally funds construction and improvements to our highways and byways.

The Highway Fund is needed under federal law to demonstrate the state's expenditures for transportation infrastructure, which is a requirement to get federal aid for highway construction.

The county surcharge on the General Excise Tax is used in the City & County of Honolulu to support its rail mass transit project. The law creating the county surcharge for the other counties allowed those counties to use the surcharge funds for transportation infrastructure.

It appears that the proposed additional use of highway funds and transportation-related county surcharge revenue is within the spirit of the law. The fuel tax disposition statute, HRS section 243-6, already contains language stating that no expenditures shall be made if they would jeopardize federal aid for highway construction.

Digested: 2/11/2023

HB-279-HD-1

Submitted on: 2/10/2023 3:47:53 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support