
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 support the maintenance and upkeep of private roads
3 that are open to the public.

4 Accordingly, the purpose of this Act is to:

5 (1) Permit the counties to use county surcharge revenues
6 for the maintenance of private roadways that are open
7 to the public; and

8 (2) Require the counties to use fuel tax revenues for the
9 repair, maintenance, and improvement of private
10 roadways that are open to the public.

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

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



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

3 (2) The ordinance shall be adopted before December 31,
4 2005; and

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

9 Notice of the public hearing required under paragraph (1) shall
10 be published in a newspaper of general circulation within the
11 county at least twice within a period of thirty days immediately
12 preceding the date of the hearing.

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

19 (b) Each county that has established a surcharge on state
20 tax before July 1, 2015, under authority of subsection (a) may
21 extend the surcharge until December 31, 2030, at the same rates.



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

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

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

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

13 (c) Each county that has not established a surcharge
14 pursuant to subsection (a) on state tax before July 1, 2015, may
15 establish the surcharge at the rates enumerated in sections 237-
16 8.6 and 238-2.6. A county electing to establish this surcharge
17 shall do so by ordinance; provided that:

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

20 (2) The ordinance shall be adopted before December 31,
21 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
11 [~~surcharges~~] surcharge revenues 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) In addition to the uses authorized by subsections (f)
18 and (g), each county that adopts a county surcharge on state tax
19 ordinance pursuant to this section may use the surcharges
20 received from the State for the maintenance, including flood



1 mitigation, of privately-owned roadways that are open to the
2 public.

3 [~~(h)~~] (i) As used in this section:

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

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

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



1 **"§243-6 Fuel taxes, dispositions.** The "city and county of
2 Honolulu fuel tax" shall be paid by the department of taxation
3 into the state treasury, and shall, by the state director of
4 finance, be paid over to the director of finance of the city and
5 county of Honolulu for deposit into the fund known as the
6 "highway fund" created by section 249-18.

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

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

17 The "county of Maui fuel tax" collected on account of
18 liquid fuel sold or used on the island of Lanai or sold
19 elsewhere for ultimate use on the island of Lanai, shall be paid
20 by the department into the state treasury, and shall, by the
21 state director of finance, be paid over to the director of



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

16 Each of the foregoing taxes shall be expended for the
17 following purposes, for the island for which the tax revenue is
18 specially indicated, or, if none, for the county for which the
19 tax revenue is indicated:

20 (1) For payment of interest on and redemption of any bonds
21 duly issued or sold on or after July 1, 1951, under



1 chapter 47 for the financing or aiding in financing
 2 the construction of county highway tunnels, approach
 3 roads thereto, and highways. [~~Such~~] The payments of
 4 interest and principal on the bonds when due, shall be
 5 first charges on [~~such~~] the moneys so deposited in the
 6 fund[~~-~~];

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

14 (3) For reconstruction, improvement, repair, and
 15 maintenance, including flood mitigation, of privately-
 16 owned roadways that are open to the public;

17 [~~(3)~~] (4) In the case of the city and county of Honolulu,
 18 for payment of the city and county's share in an
 19 improvement district initiated by the city and county
 20 for an improvement listed in [~~+~~]paragraph[~~+~~] (2)



1 above, which is permitted to be constructed in the
2 city and county[-];

3 ~~[(4)]~~ (5) For the construction of county highway tunnels,
4 overpasses, underpasses, and bridges, where ~~[such]~~ the
5 improvement cannot be made under state-federal aid
6 projects[-];

7 ~~[(5)]~~ (6) For purposes and functions connected with county
8 traffic control and preservation of safety upon the
9 public highways and streets[-];

10 ~~[(6)]~~ (7) For purposes and functions in connection with
11 mass transit[-];

12 ~~[(7)]~~ (8) For acquisition, design, construction,
13 improvement, repair, and maintenance of bikeways[-];
14 and

15 ~~[(8)]~~ (9) No expenditure shall be made, out of the revenues
16 paid into any such fund, which will jeopardize federal
17 aid for highway construction."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 3000.



H.B. NO. 2673 H.D. 1

Report Title:

Privately-Owned Roadways; State Tax; County Surcharge; Fuel Tax

Description:

Permits the counties to use county surcharge revenues for maintenance of private roadways that are open to the public. Requires the counties to use fuel taxes for reconstruction, improvement, repair, and maintenance of private roads that are open to the public. Effective 7/1/3000. (HD1)

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