
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 while private roads
2 are under the ownership of private persons, the use of the
3 private roads are not exclusive to those private persons. For
4 example, private roads are often heavily used by first
5 responders to respond to emergencies and by school buses for the
6 transportation of students to and from school. The legislature
7 further finds that supporting the maintenance and upkeep of
8 these private roads serve a public purpose.

9 Accordingly, the purpose of this Act is to:

- 10 (1) Allow counties with a population of less than five
11 hundred thousand to use county surcharge revenues for
12 the maintenance of public roadways;
- 13 (2) Allow the counties to use county surcharge revenues
14 for the maintenance of private roadways that are open
15 to the public;



1 (3) Require counties to use fuel tax revenues for the
2 reconstruction, improvement, repair, and maintenance
3 of private roadways that are open to the public; and

4 (4) Extend the sunset date of the working group
5 established pursuant to Act 200, Session Law of Hawaii
6 2022, to June 30, 2025.

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

9 **"§46-16.8 County surcharge on state tax.** (a) Each county
10 may establish a surcharge on state tax at the rates enumerated
11 in sections 237-8.6 and 238-2.6. A county electing to establish
12 this surcharge shall do so by ordinance; provided that:

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

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

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



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

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 a surcharge on state tax
8 ordinance and, beginning no earlier than January 1, 2007, the
9 director of taxation shall levy, assess, collect, and otherwise
10 administer the county surcharge on state tax.

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

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

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

20 A county electing to exercise the authority granted under
21 this subsection shall notify the director of taxation within ten



1 days after the county has adopted an ordinance extending the
2 surcharge on state tax. The director of taxation shall levy,
3 assess, collect, and otherwise administer the extended surcharge
4 on state tax.

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

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

12 (2) The ordinance shall be adopted before December 31,
13 2023; and

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

17 A county electing to exercise the authority granted under
18 this subsection shall notify the director of taxation within ten
19 days after the county has adopted a surcharge on state tax
20 ordinance. Beginning on January 1, 2019, January 1, 2020,
21 January 1, 2024, or January 1, 2025, as applicable pursuant to



1 sections 237-8.6 and 238-2.6, the director of taxation shall
2 levy, assess, collect, and otherwise administer the county
3 surcharge on state tax.

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

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

11 (2) The ordinance shall be amended before December 31,
12 2023.

13 (e) Notice of the public hearing required under subsection
14 (b), (c), or (d), before adoption or amendment of an ordinance
15 establishing or extending the surcharge on state tax shall be
16 published in a newspaper of general circulation within the
17 county at least twice within a period of thirty days immediately
18 preceding the date of the hearing.

19 (f) Each county with a population greater than five
20 hundred thousand that adopts or extends a county surcharge on
21 state tax ordinance pursuant to subsection (a) or (b) shall use



1 the surcharge revenues received from the State for capital costs
2 of a locally preferred alternative for a mass transit project;
3 provided that revenues derived from the county surcharge on
4 state tax shall not be used:

5 (1) To build or repair [~~public roads or highways,~~] bicycle
6 paths[~~]~~ or support public transportation systems
7 already in existence before July 12, 2005;

8 (2) For operating costs or maintenance costs of the mass
9 transit project or any purpose not consistent with
10 this subsection; or

11 (3) For administrative or operating, marketing, or
12 maintenance costs, including personnel costs, of a
13 rapid transportation authority charged with the
14 responsibility for constructing, operating, or
15 maintaining the mass transit project;

16 provided further that nothing in this section shall be construed
17 to prohibit a county from using county funds that are not
18 derived from a surcharge on state tax for a purpose described in
19 paragraph (2) or (3).

20 (g) Each county having a population equal to or less than
21 five hundred thousand that adopts a county surcharge on state



1 tax ordinance pursuant to this section shall use the
2 [~~surcharges~~] surcharge revenues received from the State for:

3 (1) Operating or capital costs of public transportation
4 within each county for public transportation systems,
5 including:

6 (A) Public roadways or highways;

7 (B) Public buses;

8 (C) Trains;

9 (D) Ferries;

10 (E) Pedestrian paths or sidewalks; or

11 (F) Bicycle paths;

12 (2) Expenses in complying with the Americans with
13 Disabilities Act of 1990 with respect to paragraph
14 (1); and

15 (3) Housing infrastructure; provided that a county that
16 uses surcharge revenues for housing infrastructure
17 shall not pass on those housing infrastructure costs
18 to the developer of a housing project; provided
19 further that this paragraph shall apply only if a
20 county amended its surcharge ordinance pursuant to



1 subsection (d) or adopts a county surcharge on state
 2 tax ordinance after December 31, 2022;
 3 provided that each county having a population equal to or less
 4 than five hundred thousand that adopts a county surcharge on
 5 state tax ordinance pursuant to this section after December 31,
 6 2022, shall use the surcharge revenues received from the State
 7 only for the purposes described in paragraph (3).

8 (h) In addition to the uses authorized by subsections (f)
 9 and (g), each county, with a population of less than five
 10 hundred thousand that adopts a county surcharge on state tax
 11 ordinance pursuant to this section may use the surcharge
 12 revenues received from the State for the maintenance of public
 13 roadways. Each county that adopts a county surcharge on state
 14 tax ordinance pursuant to this section may use the surcharge
 15 revenues received from the State for the maintenance, including
 16 flood mitigation, of privately-owned roadways that are open to
 17 the public.

18 [~~h~~] (i) As used in this section:
 19 "Capital costs" means nonrecurring costs required to
 20 construct a transit facility or system, including debt service,
 21 costs of land acquisition and development, acquiring of rights-



1 of-way, planning, design, and construction, and including
2 equipping and furnishing the facility or system. For a county
3 with a population greater than five hundred thousand, capital
4 costs also include non-recurring personal services and other
5 overhead costs that are not intended to continue after
6 completion of construction of the minimum operable segment of
7 the locally preferred alternative for a mass transit project.

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

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

15 "**§243-6 Fuel taxes, dispositions.** The "city and county of
16 Honolulu fuel tax" shall be paid by the department of taxation
17 into the state treasury, and shall, by the state director of
18 finance, be paid over to the director of finance of the city and
19 county of Honolulu for deposit into the fund known as the
20 "highway fund" created by section 249-18.



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

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

11 The "county of Maui fuel tax" collected on account of
12 liquid fuel sold or used on the island of Lanai or sold
13 elsewhere for ultimate use on the island of Lanai[7] shall be
14 paid by the department into the state treasury, and shall, by
15 the state director of finance, be paid over to the director of
16 finance of the county of Maui for deposit into the fund known as
17 the "highway fund" created by section 249-18, for expenditure on
18 the island of Lanai. The "county of Maui fuel tax" collected on
19 account of liquid fuel sold or used on the island of Molokai or
20 sold elsewhere for ultimate use on the island of Molokai[7]
21 shall be paid by the department into the state treasury, and



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

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

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



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

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

11 [+3+] (4) In the case of the city and county of Honolulu,
 12 for payment of the city and county's share in an
 13 improvement district initiated by the city and county
 14 for an improvement listed in [+]paragraph[+] (2)
 15 above, which is permitted to be constructed in the
 16 city and county[-];

17 [+4+] (5) For the construction of county highway tunnels,
 18 overpasses, underpasses, and bridges, where [~~such~~] the
 19 improvement cannot be made under state-federal aid
 20 projects[-];



1 ~~[(+5)]~~ (6) For purposes and functions connected with county
2 traffic control and preservation of safety upon the
3 public highways and streets~~[-]~~;

4 ~~[(+6)]~~ (7) For purposes and functions in connection with
5 mass transit~~[-]~~;

6 ~~[(+7)]~~ (8) For acquisition, design, construction,
7 improvement, repair, and maintenance of bikeways~~[-]~~;
8 and

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

12 SECTION 4. Act 200, Session Laws of Hawaii 2022, is
13 amended by amending section 2 to read as follows:

14 1. By amending subsection (d) to read:

15 "(d) The working group shall submit a report of its
16 findings and recommendations, including any proposed
17 legislation, to the legislature no later than twenty days prior
18 to the convening of the regular session of ~~[2024-]~~ 2025."

19 2. By amending subsection (f) to read:

20 "(f) The working group shall be dissolved on June 30,
21 ~~[2024-]~~ 2025."



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Privately-owned Roadways; State Tax; County Surcharge; Fuel Tax;
Working Group

Description:

Allows counties with a population of less than five hundred thousand to use county surcharge revenues for maintenance of public roadways. Allows the counties to use county surcharge revenues for maintenance of private roadways that are open to the public. Requires counties to use fuel taxes for reconstruction, improvement, repair, and maintenance of private roads that are open to the public. Extends the sunset date of the working group established pursuant to Act 200, SLH 2022, to 6/30/3025. Effective 7/1/3000. (SD1)

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