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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. The legislature finds that privately owned  
2 roads are often open to and used by the public. The legislature  
3 believes that it is in the public interest that private roads  
4 that are open to and used by the public are eligible for public  
5 funding for maintenance and related investment that benefit  
6 public users.

7           Accordingly the purpose of this Act is to allow taxes  
8 generated by the general excise and fuel taxes from the counties  
9 to be used for maintenance of private roadways used by the  
10 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  
16 sections 237-8.6 and 238-2.6. A county electing to establish  
17 this surcharge 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 surcharges  
 11 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) Private roadways that are open to and used by the  
 17 public;
- 18 (C) Public buses;
- 19 [~~(C)~~] (D) Trains;
- 20 [~~(D)~~] (E) Ferries;
- 21 [~~(E)~~] (F) Pedestrian paths or sidewalks; or



1        [~~F~~] (G) Bicycle paths;

2            (2) Expenses in complying with the Americans with

3            Disabilities Act of 1990 with respect to paragraph

4            (1); and

5            (3) Housing infrastructure costs; provided that a county

6            that uses surcharge revenues for housing

7            infrastructure shall not pass on those housing

8            infrastructure costs to the developer of a housing

9            project; provided further that this paragraph shall

10           apply only if a county amended its surcharge ordinance

11           pursuant to subsection (d) or adopts a county

12           surcharge on state tax ordinance after

13           December 31, 2022;

14 provided that each county having a population equal to or less

15 than five hundred thousand that adopts a county surcharge on

16 state tax ordinance pursuant to this section after December 31,

17 2022, shall use the surcharge revenues received from the State

18 only for the purposes described in paragraph (3) for

19 county-appropriated housing infrastructure costs.

20            (h) Each county that adopts a county surcharge on state

21 tax ordinance pursuant to this section may use the surcharges



1 received from the State for the maintenance of privately-owned  
2 roadways that are open to the 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  
7 rights-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 costs" 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 and shall include financing costs, including any related  
19 debt service and financing agreement costs."

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



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

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

16 (e) Each of the [~~foregoing~~] taxes under subsections (a)  
17 through (d) shall be expended for the following purposes, for  
18 the island for which the tax revenue is specially indicated, or,  
19 if none, for the county for which the 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 payments~~] Payments  
 4 of interest and principal on the bonds when due, shall  
 5 be first charges on such 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, including private roadways that are  
 11 open to and used by the public, street lights, storm  
 12 drains, and bridges, including costs of new land  
 13 therefor, when expenditures for [~~the foregoing~~] these  
 14 purposes cannot be financed under state-federal aid  
 15 projects[-];

16 (3) For reconstruction, improvement, repair, and  
 17 maintenance of privately-owned roadways that are open  
 18 to the public;

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



1 for an improvement listed in [+]paragraph[+] (2)  
2 [~~above which~~] that is permitted to be constructed in  
3 the city and county[-];

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

8 [+5+] (6) For purposes and functions connected with county  
9 traffic control and preservation of safety upon the  
10 public highways and streets[-], including private  
11 roadways that are open to and used by the public;

12 [+6+] (7) For purposes and functions in connection with  
13 mass transit[-]; and

14 [+7+] (8) For acquisition, design, construction,  
15 improvement, repair, and maintenance of bikeways.

16 [+8+] (f) No expenditure under subsection (e) shall be  
17 made[-] out of the revenues paid into any [~~such~~] fund[-, ~~which~~]  
18 that will jeopardize federal aid for highway construction."

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

21



**1** SECTION 5. This Act shall take effect on July 1, 2050.

**2**



**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. Effective 7/1/2050.  
(SD1)

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