

JAN 23 2025

---

---

# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1           SECTION 1. The legislature finds that the Honolulu  
2 authority for rapid transportation's project to construct a  
3 fixed guideway system from Kapolei to Honolulu has been beset by  
4 a multitude of problems over the last fifteen years. The full  
5 line from east Kapolei to Ala Moana Center was originally  
6 projected to be completed by 2019 at a cost of approximately  
7 \$5,000,000,000. However, due to delays and mismanagement since  
8 this projection was made, the project's length was cut by 1.25  
9 miles; the project's completion date was delayed by twelve  
10 years; and the project's cost has more than doubled to  
11 \$11,000,000,000. The delays have caused a multitude of  
12 lawsuits. Most recently, Hitachi Rail sued the city and county  
13 of Honolulu and the Honolulu authority for rapid transportation  
14 for \$324,000,000 in damages allegedly caused by the project's  
15 many delays.

16           The legislature finds that the entire structure of the  
17 Honolulu rail project should be revamped to ensure the project



1 is finished without additional delays and cost overruns. This  
2 revamping must include a complete overhaul of the project's  
3 structure and leadership. In particular, the legislature finds  
4 that making the state department of transportation responsible  
5 for construction of the project may allow the project to benefit  
6 from the department of transportation's expertise in  
7 transportation, infrastructure, construction, and procurement.

8 Accordingly, the purpose of this Act is to transfer to the  
9 department of transportation the authority to develop fixed  
10 guideway systems in counties having a population greater than  
11 five hundred thousand, including the Honolulu Skyline system  
12 that is currently being constructed by the Honolulu authority  
13 for rapid transportation.

14 SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended  
15 by adding a new section to be appropriately designated and to  
16 read as follows:

17 "§27- Development of a fixed guideway system. The  
18 development of a fixed guideway system in a county having a  
19 population greater than five hundred thousand shall be a  
20 function of the state government."



1 SECTION 3. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to title 15 to be appropriately designated  
3 and to read as follows:

4 "CHAPTER

5 **FIXED GUIDEWAY DEVELOPMENT**

6 **PART I. GENERAL PROVISIONS**

7 § -1 **Definitions.** As used in this chapter:

8 "Administrator" means the administrator of the project.

9 "Department" means the department of transportation.

10 "Develop" means to plan, design, develop, and construct.

11 "Director" means the director of transportation.

12 "Fixed guideway system" means a fixed guideway system  
13 developed in a county having a population greater than five  
14 hundred thousand.

15 "Multimodal municipal transportation system" means all  
16 public transportation systems of the county in which the fixed  
17 guideway system is developed, including bus, paratransit, and  
18 fixed guideway systems and associated parking and other  
19 services.



1 "Project" means the department of transportation's  
2 development of the fixed guideway system pursuant to this  
3 chapter.

4 § -2 **Fixed guideway development; authority of department**  
5 **of transportation.** (a) The department shall have the authority  
6 to develop a fixed guideway system in a county having a  
7 population greater than five hundred thousand, as provided in  
8 this chapter.

9 (b) To perform its duties and functions, the department  
10 shall have the following general powers:

11 (1) To make and execute contracts, project labor  
12 agreements, and other instruments requiring execution  
13 by the department, on terms as the department may deem  
14 necessary and convenient or desirable, with any person  
15 or entity in the execution and performance of the  
16 department's powers, duties and functions;

17 (2) To acquire by eminent domain, purchase, lease or  
18 otherwise, in the name of the department, all real  
19 property or any interest therein necessary for the  
20 development of the fixed guideway system; provided  
21 that prior to commencing an eminent domain action, the



1 department shall submit to the governor and  
2 legislature, in writing, a list of the parcels and  
3 areas to be acquired. The department may proceed with  
4 the condemnation action so long as the governor  
5 approves the condemnation;

6 (3) To recommend to the governor the sale, exchange or  
7 transfer of real property or any interest therein that  
8 is under the control of the department. The governor  
9 shall take no action to dispose of the property  
10 without the written approval of the department, and  
11 all proceeds from the disposition shall be deposited  
12 into the fixed guideway system special fund;

13 (4) To direct the development of the fixed guideway  
14 system;

15 (5) To maintain proper accounts in a manner as to show the  
16 true and complete financial status of the project and  
17 the activities and performance thereof;

18 (6) To prepare an annual operating budget for the project  
19 and an annual capital budget for the development of  
20 the fixed guideway system;



- 1           (7) To make and alter policies for its organization and  
2                   internal administration;
- 3           (8) To create or abolish positions for purposes of the  
4                   project, subject to legislative approval, and set  
5                   their compensation and duties;
- 6           (9) To make temporary transfers of positions associated  
7                   with the project;
- 8           (10) To adopt rules pursuant to chapter 91 to effectuate  
9                   its functions and duties;
- 10          (11) To enter into agreements with any public agency or  
11                   private entity as it deems proper;
- 12          (12) To have full and complete control of all real and  
13                   personal property used or useful in connection with  
14                   the development of the fixed guideway system,  
15                   including all materials, supplies, and equipment;
- 16          (13) To promote and assist transit-oriented development  
17                   projects near fixed guideway system stations that  
18                   promote transit ridership and are consistent with the  
19                   intent of the adopted community plans and zoning;
- 20          (14) To apply for and receive and accept grants of  
21                   property, money and services and other assistance



1 offered or made available to it by any person,  
2 government, or entity, which it may use to meet its  
3 capital or operating expenses and for any other use  
4 within the scope of its powers, and to negotiate for  
5 the same upon terms and conditions as the department  
6 may determine to be necessary, convenient or  
7 desirable;

8 (15) No later than twenty days prior to the convening of  
9 each regular session, submit an annual report to the  
10 legislature on its activities;

11 (16) Issue revenue bonds in a principal amount as may be  
12 authorized by the legislature for purposes approved by  
13 the legislature; and

14 (17) In addition to the general powers under this section,  
15 other general or specific powers may be conferred upon  
16 the department by law.

17 § -3 **Administrator; appointment; powers; duties.** (a)

18 The director shall appoint an administrator for fixed rail  
19 development. The administrator shall not be subject to chapter  
20 76 but shall be included in any benefit program generally  
21 applicable to the officers and employees of the State. The



1 director shall set the administrator's salary; provided that the  
2 salary shall be commensurate with salaries paid to deputy  
3 directors of the departments of the State.

4 (b) The administrator shall:

- 5 (1) Serve as the administrator for the project;
- 6 (2) Determine the policies for the development of the  
7 fixed guideway system;
- 8 (3) Administer all affairs of the project, including any  
9 rules adopted for the project;
- 10 (4) Sign, with the approval of the director, all necessary  
11 contracts for the project, unless otherwise provided  
12 by this chapter;
- 13 (5) Request and accept, with the approval of the director,  
14 appropriations from the legislature;
- 15 (6) Request and accept grants, loans, and gifts from other  
16 persons and entities;
- 17 (7) Determine, with the approval of the governor and the  
18 director of transportation, the policy for approval of  
19 arrangements and agreements with the federal  
20 government and with any public entity or utility  
21 owning or having jurisdiction over rights-of-way,



- 1 tracks, structures, subways, tunnels, stations,  
2 terminals, depots, maintenance facilities, air rights,  
3 utility lines, and transit electrical power  
4 facilities;
- 5 (8) Maintain proper accounts in a manner that shows the  
6 true and complete financial status of the project and  
7 the activities and performance thereof;
- 8 (9) Administer programs that promote developments near  
9 transit stations that would increase multimodal  
10 municipal transportation system ridership;
- 11 (10) Review development projects having significant impact  
12 on the development of the fixed guideway system;
- 13 (11) Plan, administer and coordinate programs and projects  
14 of the fixed guideway system that are proposed to be  
15 funded, wholly or partially, under federal or state  
16 law and required to be transmitted to the appropriate  
17 metropolitan planning organization; and
- 18 (12) In addition to the general powers under this chapter,  
19 other powers as may be provided by law.



1           §   -4 **Fixed guideway system special fund.** (a) There is  
2 established the fixed guideway system special fund, into which  
3 shall be deposited:

- 4           (1) All moneys disbursed by the director of finance from  
5               the mass transit special fund pursuant to  
6               section 248-2.7;
- 7           (2) All revenues generated by the project;
- 8           (3) Appropriations designated for the special fund by the  
9               legislature;
- 10          (4) All federal moneys received for the purpose of  
11             developing the fixed guideway system;
- 12          (5) Gifts, donations, and grants designated for deposit  
13             into the special fund; and
- 14          (6) Any interest on moneys in the special fund.

15          (b) Moneys in the special fund may be expended by the  
16 department for the purposes of this chapter, including:

- 17          (1) The operating costs of the project;
- 18          (2) The capital costs of the fixed guideway system; and
- 19          (3) Expenses in complying with the Americans with  
20             Disabilities Act of 1990, as amended.



1           §   -5 **Reserve funds.** Subject to legislative approval,  
2 the department may provide for the accumulation of funds for the  
3 purpose of financing major replacements, or extensions and  
4 additions to the fixed guideway system, the average estimated  
5 annual increment to which, for a period of ten years, shall not  
6 exceed fifteen per cent of the gross revenues of the fixed  
7 guideway system of the department in any fiscal year.

8           §   -6 **Bond sales.** At the request of the department and  
9 with the approval of the legislature, the director of finance  
10 may sell bonds for the acquisition and development of the fixed  
11 guideway system. The proceeds from the sales shall be kept by  
12 the director of finance in a separate fund to be used only for  
13 the purposes for which the bonds are sold.

14          §   -7 **Audits.** (a) The accounts and financial status of  
15 the project shall be examined annually by a certified public  
16 accountant whose services shall be contracted for by the  
17 director of transportation and whose fees shall be paid as an  
18 expense of the project. The result of the examination shall be  
19 reported to the director, the governor, and the legislature.

20           (b) The audits required by this section shall be in  
21 addition to any other audits required by law.



1           §   -8 **Legal counsel.** (a) The attorney general shall be  
2 the legal adviser of the project and shall institute and defend  
3 any and all actions involving matters under the jurisdiction of  
4 the department under this chapter. The attorney general may,  
5 with the prior approval of the director, compromise, settle or  
6 dismiss any claim or litigation, for or against the department.  
7 Before execution, all written contracts to which the department  
8 is a party under this chapter shall be approved by the attorney  
9 general as to form and legality.

10           (b) Compensation for the legal work pursuant to subsection  
11 (a) shall be as agreed upon by the department and the  
12 legislature and shall be paid from the revenues of the project.

13           (c) Notwithstanding any law to the contrary, the  
14 department may employ an attorney to act as its legal adviser  
15 and to represent the department in any litigation to which the  
16 department is a party.

17           §   -9 **Performance bonds.** The department may require an  
18 individual or blanket bond in an amount as it deems proper for  
19 any or all employees. The bond shall be duly conditioned for  
20 the faithful performance of duties. The department may provide



1 that the premium on the bond be paid out of the revenues of the  
2 project.

3       §   -10   **Fixed guideway alignments, extensions, and**  
4 **additions.** The department shall adhere to the fixed guideway  
5 system alignment of the locally preferred alternative approved  
6 before the effective date of this section by the legislative  
7 body of a county having a population greater than five hundred  
8 thousand. Any new alignment, extension or addition to the fixed  
9 guideway system alignment shall be subject to legislative  
10 approval; provided that any adjustment of the alignment  
11 necessitated by the impact mitigation shall not constitute a new  
12 alignment for purposes of this section.

13       §   -11   **Transfer of property for fixed guideway system**  
14 **operation and maintenance.** As and when any segment of the fixed  
15 guideway system has completed its final testing and has been  
16 approved to commence revenue service, all real property and  
17 interests therein that are under the jurisdiction and control of  
18 the department and that are necessary, used, or useful for the  
19 operation and maintenance of that segment, shall be transferred  
20 to the jurisdiction and control of the county in which the fixed  
21 guideway system is located. Upon the transfer, the legislative



1 body of the county shall designate an agency responsible for  
2 assuming responsibility for the fixed guideway system segment."

3 SECTION 4. Section 23-14, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~§23-14 [Rapid transportation authority,]~~ Mass transit  
6 project; department of transportation; annual review. (a)  
7 Beginning on September 5, 2017, and ending on December 31, 2031,  
8 the auditor, on an annual basis, shall conduct a review of [~~any~~  
9 ~~rapid transportation authority in the State charged with the~~  
10 ~~responsibility of constructing, operating, or maintaining]~~ the  
11 department of transportation's project to develop or construct a  
12 locally preferred alternative for a mass transit project [that  
13 ~~receives moneys from a surcharge on state tax established~~  
14 ~~pursuant to section 46-16.8, transient accommodations tax~~  
15 ~~revenues pursuant to section 237D-2(e), or both.]~~ in a county  
16 having a population greater than five hundred thousand. The  
17 annual review shall include a review of documents, including but  
18 not limited to invoices, contracts, progress reports, and time  
19 schedules, to determine that:



1 (1) Expenditures by the [~~authority~~] department of  
2 transportation comply with the criteria established  
3 pursuant to section 46-16.8(f); and

4 (2) The [~~authority~~] department of transportation follows  
5 accounting best practices for substantiating its  
6 expenditures.

7 (b) [~~A rapid transportation authority subject to this~~  
8 ~~section~~] The department of transportation and any private  
9 company or agency contracted to provide services for the locally  
10 preferred alternative for a mass transit project shall cooperate  
11 with and assist the auditor as needed in conducting the annual  
12 review, including promptly providing all records and other  
13 information requested by the auditor in the course of the annual  
14 review.

15 (c) The auditor shall submit the findings and  
16 recommendations of the auditor's review to the legislature and  
17 the [~~rapid transportation authority~~] department of  
18 transportation no later than twenty days prior to the convening  
19 of the immediately following regular session."

20 SECTION 5. Section 40-81.5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§40-81.5 [~~Rapid transportation authority,~~] Department of  
2 transportation; certification statement. (a) Beginning on  
3 September 5, 2017, and ending on December 31, 2031, the  
4 comptroller, upon the request for payment by the [~~rapid~~  
5 ~~transportation authority,~~] department of transportation, shall  
6 verify that the authority's invoices for the capital costs of a  
7 locally preferred alternative for a mass transit project comply  
8 with section 46-16.8(f).

9           (b) The [~~rapid transportation authority subject to this~~  
10 ~~section]~~ department of transportation shall provide the  
11 comptroller with:

- 12           (1) The [~~authority's~~] department's financial plan and  
13           related systems for accounting, including a budget for  
14           a locally preferred alternative for a mass transit  
15           project;
- 16           (2) Expenditures for capital costs for a locally preferred  
17           alternative for a mass transit project;
- 18           (3) Expenditures for personnel costs, lease rent, and any  
19           other costs associated with the [~~authority's~~]  
20           department's management and operations; and



1 (4) Any other information the comptroller may require to  
2 accomplish the purpose of this section.

3 (c) After submission of invoices by the [~~rapid~~  
4 ~~transportation authority~~] department of transportation for  
5 capital costs of a locally preferred alternative for a mass  
6 transit project are verified by the comptroller as an acceptable  
7 use of funds received pursuant to a surcharge on state tax  
8 authorized pursuant to section 46-16.8, the comptroller shall  
9 submit a certification statement, including any appropriate  
10 supporting documents, to the department of budget and finance  
11 for the allocation of funds, if available, pursuant to sections  
12 248-2.7 and 248-2.6(d). The certification statement shall  
13 include, at a minimum, the total amount contained in the  
14 invoices for capital costs that are verified as an appropriate  
15 use of funds pursuant to section 46-16.8(f).

16 (d) The comptroller may establish rules, exempt from  
17 chapter 91, for the purposes of this section.

18 [~~(c) For the purposes of this section, "rapid~~  
19 ~~transportation authority" means any entity established by a~~  
20 ~~county in the State for the purpose of constructing, operating,~~  
21 ~~or maintaining a locally preferred alternative for a mass~~



1 ~~transit project and that receives moneys from a surcharge on~~  
2 ~~state tax established pursuant to section 46-16.8, transient~~  
3 ~~accommodations tax revenues pursuant to section 237D-2(e), or~~  
4 ~~both.]"~~

5 SECTION 6. Section 46-16.8, Hawaii Revised Statutes, is  
6 amended by amending subsection (f) to read as follows:

7 "(f) ~~[Each]~~ The county surcharge on state tax in a county  
8 with a population greater than five hundred thousand that  
9 ~~[adopts or extends]~~ adopted or extended a county surcharge on  
10 state tax ordinance pursuant to subsection (a) or (b) before  
11 July 1, 2025, shall [use the surcharge revenues received from  
12 ~~the State]~~ continue to be collected as provided under this  
13 section and 237-8.6 and 238-2.6 and shall continue to be  
14 administered pursuant to statutes and ordinances as they existed  
15 on June 30, 2025. The tax proceeds shall be used by the  
16 department of transportation for capital costs of a locally  
17 preferred alternative for a mass transit project[+] pursuant to  
18 chapter \_\_\_\_\_; provided that [revenues]:

19 (1) Revenues derived from the county surcharge on state  
20 tax shall not be used:



# S.B. NO. 1644

1       ~~[(1)]~~ (A) To build or repair public roads or highways,  
2                   bicycle paths, or support public transportation  
3                   systems already in existence before July 12,  
4                   2005;

5       ~~[(2)]~~ (B) For operating costs or maintenance costs of the  
6                   mass transit project or any purpose not  
7                   consistent with this subsection; or

8       ~~[(3)]~~ (C) For administrative or operating, marketing, or  
9                   maintenance costs, including personnel costs, of  
10                  ~~[a rapid transportation authority charged with~~  
11                  ~~the responsibility for constructing, operating,~~  
12                  ~~or maintaining the mass transit project;]~~ the  
13                  department of transportation;

14                provided further that nothing in this section shall be  
15                construed to prohibit ~~[a county from using county]~~ the  
16                use of funds that are not derived from a surcharge on  
17                state tax for a purpose described in ~~[paragraph (2) or~~  
18                ~~(3).]~~ subparagraph (B) or (C); and

19       (2) The legislature may make changes to the collection and  
20       administration of the county surcharge on state tax  
21       through the enactment of legislation."



1 SECTION 7. Section 237-8.6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§237-8.6 County surcharge on state tax; administration.**

4 (a) The county surcharge on state tax, upon the adoption of  
5 county ordinances and in accordance with the requirements of  
6 section 46-16.8, shall be levied, assessed, and collected as  
7 provided in this section on all gross proceeds and gross income  
8 taxable under this chapter. No county shall set the surcharge  
9 on state tax at a rate greater than one-half per cent of all  
10 gross proceeds and gross income taxable under this chapter. All  
11 provisions of this chapter shall apply to the county surcharge  
12 on state tax. With respect to the surcharge, the director of  
13 taxation shall have all the rights and powers provided under  
14 this chapter. In addition, the director of taxation shall have  
15 the exclusive rights and power to determine the county or  
16 counties in which a person is engaged in business and, in the  
17 case of a person engaged in business in more than one county,  
18 the director shall determine, through apportionment or other  
19 means, that portion of the surcharge on state tax attributable  
20 to business conducted in each county.



1 (b) Each county surcharge on state tax that may be  
2 adopted, extended, or amended pursuant to section 46-16.8 shall  
3 be levied beginning in a taxable year after the adoption of the  
4 relevant county ordinance; provided that no surcharge on state  
5 tax may be levied:

6 (1) Before:

7 (A) January 1, 2007, if the county surcharge on state  
8 tax was established by an ordinance adopted  
9 before December 31, 2005;

10 (B) January 1, 2019, if the county surcharge on state  
11 tax was established by the adoption of an  
12 ordinance after June 30, 2015, but before June  
13 30, 2018;

14 (C) January 1, 2020, if the county surcharge on state  
15 tax was established by the adoption of an  
16 ordinance on or after June 30, 2018, but before  
17 March 31, 2019;

18 (D) January 1, 2024, if the county surcharge on state  
19 tax was established by the adoption of an  
20 ordinance on or after March 31, 2019, but before  
21 August 1, 2023; or



1           (E) January 1, 2025, if the county surcharge on state  
2           tax was established by the adoption of an  
3           ordinance on or after August 1, 2023, but before  
4           December 31, 2023; and

5           (2) After December 31, 2030.

6           (c) The county surcharge on state tax, if adopted, shall  
7           be imposed on the gross proceeds or gross income of all written  
8           contracts that require the passing on of the taxes imposed under  
9           this chapter; provided that if the gross proceeds or gross  
10          income are received as payments beginning in the taxable year in  
11          which the taxes become effective, on contracts entered into  
12          before June 30 of the year prior to the taxable year in which  
13          the taxes become effective, and the written contracts do not  
14          provide for the passing on of increased rates of taxes, the  
15          county surcharge on state tax shall not be imposed on the gross  
16          proceeds or gross income covered under the written contracts.  
17          The county surcharge on state tax shall be imposed on the gross  
18          proceeds or gross income from all contracts entered into on or  
19          after June 30 of the year prior to the taxable year in which the  
20          taxes become effective, regardless of whether the contract  
21          allows for the passing on of any tax or any tax increases.



1 (d) No county surcharge on state tax shall be established  
2 on any:

3 (1) Gross income or gross proceeds taxable under this  
4 chapter at the one-half per cent tax rate;

5 (2) Gross income or gross proceeds taxable under this  
6 chapter at the 0.15 per cent tax rate; or

7 (3) Transactions, amounts, persons, gross income, or gross  
8 proceeds exempt from tax under this chapter.

9 (e) The director of taxation shall revise the general  
10 excise tax forms to provide for the clear and separate  
11 designation of the imposition and payment of the county  
12 surcharge on state tax.

13 (f) The taxpayer shall designate the taxation district to  
14 which the county surcharge on state tax is assigned in  
15 accordance with rules adopted by the director of taxation under  
16 chapter 91. The taxpayer shall file a schedule with the  
17 taxpayer's periodic and annual general excise tax returns  
18 summarizing the amount of taxes assigned to each taxation  
19 district.

20 (g) The penalties provided by section 231-39 for failure  
21 to file a tax return shall be imposed on the amount of surcharge



1 due on the return being filed for the failure to file the  
2 schedule required to accompany the return. In addition, there  
3 shall be added to the tax an amount equal to ten per cent of the  
4 amount of the surcharge and tax due on the return being filed  
5 for the failure to file the schedule or the failure to correctly  
6 report the assignment of the general excise tax by taxation  
7 district on the schedule required under this subsection.

8 (h) All taxpayers who file on a fiscal year basis whose  
9 fiscal year ends after December 31 of the year prior to the  
10 taxable year in which the taxes become effective, shall file a  
11 short period annual return for the period preceding January 1 of  
12 the taxable year in which the taxes become effective. Each  
13 fiscal year taxpayer shall also file a short period annual  
14 return for the period starting on January 1 of the taxable year  
15 in which the taxes become effective, and ending before January 1  
16 of the following year.

17 (i) Notwithstanding any other law to the contrary, the  
18 county surcharge on state tax in a county with a population  
19 greater than five hundred thousand that adopted or extended a  
20 county surcharge on state tax ordinance before July 1, 2026,  
21 shall continue to be collected and administered pursuant to this



1 section and other statutes and ordinances as they existed on  
2 June 30, 2025; provided that the legislature may make changes to  
3 the collection and administration of the county surcharge on  
4 state tax through the enactment of legislation."

5 SECTION 8. Section 238-2.6, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§238-2.6 County surcharge on state tax; administration.**

8 (a) The county surcharge on state tax, upon the adoption of a  
9 county ordinance and in accordance with the requirements of  
10 section 46-16.8, shall be levied, assessed, and collected as  
11 provided in this section on the value of property and services  
12 taxable under this chapter. No county shall set the surcharge  
13 on state tax at a rate greater than one-half per cent of the  
14 value of property taxable under this chapter. All provisions of  
15 this chapter shall apply to the county surcharge on state tax.  
16 With respect to the surcharge, the director shall have all the  
17 rights and powers provided under this chapter. In addition, the  
18 director of taxation shall have the exclusive rights and power  
19 to determine the county or counties in which a person imports or  
20 purchases property and, in the case of a person importing or  
21 purchasing property in more than one county, the director shall



1 determine, through apportionment or other means, that portion of  
2 the surcharge on state tax attributable to the importation or  
3 purchase in each county.

4 (b) Each county surcharge on state tax that may be  
5 adopted, extended, or amended shall be levied beginning in a  
6 taxable year after the adoption of the relevant county  
7 ordinance; provided that no surcharge on state tax may be  
8 levied:

9 (1) Before:

10 (A) January 1, 2007, if the county surcharge on state  
11 tax was established by an ordinance adopted  
12 before December 31, 2005;

13 (B) January 1, 2019, if the county surcharge on state  
14 tax was established by the adoption of an  
15 ordinance after June 30, 2015, but before June  
16 30, 2018;

17 (C) January 1, 2020, if the county surcharge on state  
18 tax was established by the adoption of an  
19 ordinance on or after June 30, 2018, but before  
20 March 31, 2019;



1 (D) January 1, 2024, if the county surcharge on state  
2 tax was established by the adoption of an  
3 ordinance on or after March 31, 2019, but before  
4 August 1, 2023; or

5 (E) January 1, 2025, if the county surcharge on state  
6 tax was established by the adoption of an  
7 ordinance on or after August 1, 2023, but before  
8 December 31, 2023; and

9 (2) After December 31, 2030.

10 (c) No county surcharge on state tax shall be established  
11 upon any use taxable under this chapter at the one-half per cent  
12 tax rate or upon any use that is not subject to taxation or that  
13 is exempt from taxation under this chapter.

14 (d) The director of taxation shall revise the use tax  
15 forms to provide for the clear and separate designation of the  
16 imposition and payment of the county surcharge on state tax.

17 (e) The taxpayer shall designate the taxation district to  
18 which the county surcharge on state tax is assigned in  
19 accordance with rules adopted by the director of taxation under  
20 chapter 91. The taxpayer shall file a schedule with the



1 taxpayer's periodic and annual use tax returns summarizing the  
2 amount of taxes assigned to each taxation district.

3 (f) The penalties provided by section 231-39 for failure  
4 to file a tax return shall be imposed on the amount of surcharge  
5 due on the return being filed for the failure to file the  
6 schedule required to accompany the return. In addition, there  
7 shall be added to the tax an amount equal to ten per cent of the  
8 amount of the surcharge and tax due on the return being filed  
9 for the failure to file the schedule or the failure to correctly  
10 report the assignment of the use tax by taxation district on the  
11 schedule required under this subsection.

12 (g) All taxpayers who file on a fiscal year basis whose  
13 fiscal year ends after December 31 of the year prior to the  
14 taxable year in which the taxes become effective, shall file a  
15 short period annual return for the period preceding January 1 of  
16 the taxable year in which the taxes become effective. Each  
17 fiscal year taxpayer shall also file a short period annual  
18 return for the period starting on January 1 of the taxable year  
19 in which the taxes become effective, and ending before January 1  
20 of the following year.



1        (h) Notwithstanding any other law to the contrary, the  
2 county surcharge on state tax in a county with a population  
3 greater than five hundred thousand that adopted or extended a  
4 county surcharge on state tax ordinance before July 1, 2026, .  
5 shall continue to be collected and administered pursuant to this  
6 section and other statutes and ordinances as they existed on  
7 June 30, 2025; provided that the legislature may make changes to  
8 the collection and administration of the county surcharge on  
9 state tax through the enactment of legislation."

10        SECTION 9. Section 248-2.6, Hawaii Revised Statutes, is  
11 amended as follows:

12        1. By amending subsection (b) to read:

13        "(b) The amounts deducted for costs of assessment,  
14 collection, disposition, and oversight of county surcharges on  
15 state tax shall be withheld from payment to the counties or  
16 withheld from deposit into the mass transit special fund by the  
17 State out of the county surcharges on state tax collected for  
18 the current calendar year."

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

20        "(d) For a county with a population equal to or less than  
21 five hundred thousand that adopts a county surcharge on state



1 tax, after the deduction and withholding of the costs under  
2 subsections (a) and (b), the director of finance shall pay the  
3 remaining balance on a quarterly basis to the director of  
4 finance of each county that has adopted a county surcharge on  
5 state tax under section 46-16.8.

6 For a county with a population greater than five hundred  
7 thousand that adopts or extends a county surcharge on state tax  
8 ordinance, after the deduction and withholding of the costs  
9 under subsections (a) and (b), the director of finance shall  
10 administer the remaining surcharge revenues in accordance with  
11 section 248-2.7.

12 The payments shall be made after the county surcharges on  
13 state tax have been paid into the state treasury special  
14 accounts or the mass transit special fund or after the  
15 disposition of any tax appeal, as the case may be. [~~All~~] Except  
16 for county surcharge on state tax revenues paid into the mass  
17 transit special fund under this paragraph, county surcharges on  
18 state tax collected shall be distributed by the director of  
19 finance to the county in which the county surcharge on state tax  
20 is generated and shall be a general fund realization of the



1 county, to be used for the purposes specified in section 46-16.8  
2 by each of the counties."

3 SECTION 10. Section 248-2.7, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) Upon receiving a certification statement from the  
6 comptroller pursuant to section 40-81.5, the director of finance  
7 shall allocate and disburse moneys in the mass transit special  
8 fund to the [~~director of finance of a county with a population~~  
9 ~~greater than five hundred thousand;~~] fixed guideway system  
10 special fund pursuant to section -4; provided that the  
11 director of finance shall only disburse those amounts that are  
12 certified in the certification statement for that county for the  
13 purposes specified in section 46-16.8; provided further that  
14 revenues allocated from the special fund shall not be used for:

15 (1) Operating or maintenance costs of the mass transit  
16 project or any purpose not consistent with section  
17 46-16.8(f); or

18 (2) Administrative, operating, marketing, or maintenance  
19 costs, including personnel costs, of [~~a rapid~~  
20 ~~transportation authority~~] an agency charged with the



1            responsibility for constructing, operating, or  
2            maintaining the mass transit project;  
3 provided further that the total amount of funds that are  
4 available, allocated, and disbursed by the director of finance  
5 pursuant to this section shall not be in excess of the total  
6 amount indicated on the certification statement. The director  
7 of finance may allocate and disburse moneys pursuant to this  
8 section on a monthly basis.

9            Any amounts allocated and disbursed pursuant to this  
10 section shall be subject to the availability of funds deposited  
11 and on balance in the special fund. The director of finance  
12 shall not allocate or disburse any amounts from the special fund  
13 that are in excess of any amounts deposited and on balance in  
14 the special fund."

15            SECTION 11. Act 1, Special Session Laws of Hawaii 2017, is  
16 amended by amending section 18 to read as follows:

17            "~~SECTION 18. [Notwithstanding any law, charter provision,~~  
18 ~~or ordinance to the contrary, in any county with a population~~  
19 ~~greater than five hundred thousand, in order to ensure the~~  
20 ~~appropriate use of state authorized funds to finance a locally~~  
21 ~~preferred alternative for a mass transit project, the president~~



1 ~~of the senate and speaker of the house of representatives shall~~  
2 ~~each appoint two non-voting, ex officio members to the board of~~  
3 ~~directors of the county's rapid transportation authority. The~~  
4 ~~terms for each member appointed pursuant to this section shall~~  
5 ~~be determined by the presiding officer who appointed them.~~

6 ~~For the purposes of this section, "county rapid~~  
7 ~~transportation authority" means any entity established by a~~  
8 ~~county in the State with a population greater than five hundred~~  
9 ~~thousand for the purpose of constructing, operating, or~~  
10 ~~maintaining a locally preferred alternative for a mass transit~~  
11 ~~project and that receives moneys from a surcharge on state tax~~  
12 ~~established pursuant to section 46-16.8, Hawaii Revised~~  
13 ~~Statutes, transient accommodations tax revenues pursuant to~~  
14 ~~section 237D-2(c), Hawaii Revised Statutes, or both.] Repealed."~~

15 SECTION 12. (a) All rights, powers, functions, and duties  
16 of the Honolulu authority for rapid transportation are  
17 transferred to the department of transportation.

18 (b) Subject to legislative approval, the department of  
19 transportation may create positions pursuant to  
20 section -2(b)(8), Hawaii Revised Statutes, to perform its  
21 required duties and functions, including the functions



1 transferred to the department of transportation from the  
2 Honolulu authority for rapid transportation under this Act;  
3 provided that the director of transportation, at the director's  
4 sole discretion, may hire an officer or employee who is  
5 currently employed by the Honolulu authority for rapid  
6 transportation.

7 (c) Except for officers or employees hired by the  
8 department of transportation under subsection (b), no officer or  
9 employee of the Honolulu authority for rapid transportation  
10 shall be transferred to the department of transportation under  
11 this Act. Officers and employees who are approved for hiring by  
12 the director of transportation pursuant to subsection (b) shall  
13 be transferred with their functions and shall continue to  
14 perform their regular duties upon their transfer, subject to the  
15 state personnel laws and this Act.

16 (d) No officer or employee of the city and county of  
17 Honolulu having tenure who is transferred under this Act shall  
18 suffer any loss of salary, seniority, prior service credit,  
19 vacation, sick leave, or other employee benefit or privilege as  
20 a consequence of this Act, and the officer or employee may be  
21 transferred or appointed to a civil service position without the



1 necessity of examination; provided that the officer or employee  
2 possesses the minimum qualifications for the position to which  
3 transferred or appointed; provided further that subsequent  
4 changes in status may be made pursuant to applicable civil  
5 service and compensation laws.

6 (e) An officer or employee of the city and county of  
7 Honolulu who does not have tenure and who may be transferred or  
8 appointed to a civil service position as a consequence of this  
9 Act shall become a civil service employee without the loss of  
10 salary, seniority, prior service credit, vacation, sick leave,  
11 or other employee benefits or privileges and without the  
12 necessity of examination; provided that such officer or employee  
13 possesses the minimum qualifications for the position to which  
14 transferred or appointed.

15 (f) If an office or position held by an officer or  
16 employee having tenure is abolished, the officer or employee  
17 shall not thereby be separated from public employment, but shall  
18 remain in the employment of the city and county of Honolulu with  
19 the same pay and classification and shall be transferred to some  
20 other office or position for which the officer or employee is  
21 eligible under the personnel laws of the city and county of



1 Honolulu as determined by the head of the department or the  
2 mayor.

3 SECTION 13. All appropriations, records, equipment,  
4 machines, files, supplies, contracts, books, papers, documents,  
5 maps, and other personal property heretofore made, used,  
6 acquired, or held by the Honolulu authority for rapid  
7 transportation relating to the functions transferred to the  
8 department of transportation shall be transferred with the  
9 functions to which they relate.

10 SECTION 14. All rules, policies, procedures, guidelines,  
11 and other material adopted or developed by the Honolulu  
12 authority for rapid transportation or city and county of  
13 Honolulu to implement provisions of the revised charter of the  
14 city and county of Honolulu or revised ordinances of Honolulu  
15 that are reenacted or made applicable to the department of  
16 transportation by this Act shall remain in full force and effect  
17 until amended or repealed by the fixed guideway development  
18 agency, pursuant to chapter 91, Hawaii Revised Statutes.

19 In the interim, every reference to the Honolulu authority  
20 for rapid transportation, its board of directors, or its  
21 executive director in those rules, policies, procedures,



1 guidelines, and other material is amended to refer to the  
2 department of transportation or its director, as appropriate.

3 SECTION 15. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 16. This Act shall take effect on July 1, 2025.

6

INTRODUCED BY:

*Kurt Feilke*



# S.B. NO. 1644

**Report Title:**

Transportation; DOT; HART; Fixed Guideway Systems; Counties

**Description:**

Establishes that development of a fixed guideway system in a county having a population greater than 500,000 is a function of state government. Authorizes the Department of Transportation to develop a fixed guideway system in a county having a population greater than 500,000. Requires the Department of Transportation to transfer the fixed guideway system to the respective county upon completion. Transfers functions of the Honolulu Authority for Rapid Transportation to the Department of Transportation.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

