THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 1659

JAN 2 3 2025

A BILL FOR AN ACT

RELATING TO THE LAHAINA BYPASS.

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

PART I

SECTION 1. The legislature finds that the Lahaina bypass north is a critical infrastructure project for the State, specifically serving the communities of West Maui. The bypass is vital for improving traffic flow, supporting emergency response, and providing alternative access routes, especially in the wake of recent wildfires that have highlighted the vulnerabilities of the region's transportation network.

The legislature further finds that media reports and government analyses underscore the growing population in the Lahaina region, driven by new housing developments and increased tourism. These developments include projects under the department of Hawaiian home lands and the Hawaii housing finance and development corporation, which are expected to significantly increase the population and transportation demands in West Maui.

The legislature also finds that the bypass is a necessary improvement to accommodate the projected growth, ensure the

safety and welfare of residents, and maintain the region's economic vitality. It will also support the tourism industry, which is a cornerstone of the State's economy, by providing essential access for visitors and alleviating traffic congestion in key areas.

The purpose of this Act is to fund the Lahaina bypass north by:

(1) Imposing a special assessment as part of the rental motor vehicle and tour vehicle surcharge tax and using the proceeds of the special assessment to fund revenue bonds;

(2) Redirecting transient accommodations tax revenues collected from transient accommodations in West Maui to the special highway fund, explicitly earmarked for the Lahaina bypass north;

(3) Establishing a framework for a public-private partnership model to facilitate the efficient and timely completion of the bypass; and

(4) Authorizing the issuance of revenue bonds and general obligation bonds.

This Act represents a comprehensive approach to addressing the transportation needs of West Maui while fostering sustainable economic development and ensuring equity in infrastructure funding.

PART II

SECTION 2. Section 251-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

(a) There is levied and shall be assessed and collected each month a rental motor vehicle surcharge tax of $5 a day, or any portion of a day that a rental motor vehicle is rented or leased. For a rental motor vehicle that is rented in a county with a population of more than one hundred thousand but less than two hundred thousand, there is levied and shall be assessed and collected each month as part of and in addition to the rental motor vehicle surcharge tax a special assessment of $3 a day, or any portion of a day that a rental motor vehicle is rented or leased. The special assessment shall be allocated to the state highway fund for expenditure on the Lahaina bypass north. Beginning January 1, 2022, and each subsequent year on January 1 until December 31, 2027, the rental motor vehicle surcharge tax shall increase by $0.50. The rental motor vehicle

surcharge tax shall be levied upon the lessor; provided that the tax shall not be levied on the lessor if:

(1) The lessor is renting the vehicle to replace a vehicle of the lessee that:

(A) Is being repaired; or

(B) Has been stolen and is unrecovered or will not be repaired due to a total loss of the vehicle; and

(2) A record of the repair order, the stolen vehicle record, or total loss vehicle claim for the vehicle is retained either by the lessor for two years for verification purposes or by a motor vehicle repair dealer for two years as provided in section 437B-16.

In addition to the requirements imposed by section 251-4, a lessor shall disclose, to the department, the portion of the remittance attributed to the county in which the motor vehicle was operated under rental or lease. A peer-to-peer car-sharing program, as defined in chapter 279L, shall be subject to the tax imposed by this subsection and be subject to the other requirements of this chapter."

PART III

SECTION 3. The legislature finds that the previous waiver of funding obligations for the Lahaina bypass north, particularly concerning transient accommodations taxes collected from West Maui resorts was both legally and practically unjustifiable, given the significant reliance of these resorts on the bypass to support their operations and clientele. The legislature finds that reinstating these funding contributions is not only equitable but also essential for fulfilling the long-term infrastructure needs of the region.

SECTION 4. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Except for the revenues collected pursuant to section 237D-2(e), revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

(1) $1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related

to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;

(2) $11,000,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;

(3) An allocation shall be deposited into the tourism emergency special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of $5,000,000 in the tourism emergency special fund; [~~and~~]

(4) $3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:

(A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;

(B) Planning, construction, and repair of facilities; and

(C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience[~~.~~]; and

(5) Fifty per cent of all transient accommodations tax revenues collected from operators of transient accommodations located in West Maui shall be deposited in the state highway fund established under section 248-9 and shall be expended by the department of transportation for the Lahaina bypass north.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection."

PART IV

SECTION 5. Section 248-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Moneys in the state highway fund may be expended for the following purposes:

(1) To pay the costs of operation, maintenance, and repair of the state highway system, including without limitation, the cost of equipment and general administrative overhead; provided that revenues from the transient accommodations tax allocation deposited under section 237D-6.5(b)(5) shall be expended for the Lahaina bypass north;

(2) To pay the costs of acquisition, including real property and interests therein; planning; designing; construction; and reconstruction of the state highway system and bikeways, including without limitation, the cost of equipment and general administrative overhead;

(3) To reimburse the general fund for interest on and principal of general obligation bonds issued to finance highway projects where the bonds are designated to be reimbursable out of the state highway fund;

(4) To pay the costs of construction, maintenance, and repair of county roads; provided that none of the

funds expended on a county road or program shall be federal funds when expenditure would cause a violation of federal law or a federal grant agreement; [~~and~~]

(5) To pay the costs of establishing and maintaining a drug and alcohol toxicology testing laboratory that is intended to support the prosecution of offenses relating to operation of a motor vehicle while under the influence of an intoxicant[~~.~~]; and

(6) To pay interest on and principal of revenue bonds issued to pay the costs of construction, maintenance, and repair of the Lahaina bypass north.

For purposes of this subsection, "Lahaina bypass north" means the northern extension of the Lahaina bypass from Keawe street to its planned terminus at Honokowai."

PART V

SECTION 6. The legislature finds that alternate financing mechanisms, such as public-private partnerships, have proven successful in other states for funding large-scale infrastructure projects. These models enable a state to leverage private sector resources and expertise while reducing the upfront financial burden on public funds. Provisions such

as ghost tolling and lease-backed financing ensure cost recovery without imposing direct tolls on the public, making public-private partnerships particularly suitable for Hawaii's transportation needs.

SECTION 7. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§264- **Public-private partnership for Lahaina bypass north.** (a) The department of transportation is authorized to enter into public-private partnerships to finance, design, construct, operate, and maintain the Lahaina bypass north.

(b) The department shall issue requests for proposals to solicit competitive bids from private entities for the financing, design, construction, operation, and maintenance of the Lahaina bypass north.

(c) Any public-private partnership agreement entered into under this section:

(1) May include a ghost tolling mechanism whereby private partners are compensated based on projected or actual vehicle usage of the bypass without imposing direct tolls on the users;

(2) Shall include compensation rates and payment schedules that are based on agreed-upon traffic models;

(3) Shall provide for the periodic review of compensation rates and payment schedules to ensure accuracy and fairness;

(4) Shall prioritize local hiring, small business participation, and alignment with state sustainability goals;

(5) Shall include robust oversight mechanisms, including regular audits, reporting requirements, and performance evaluations conducted by an independent oversight entity appointed by the legislature; and

(6) Shall not delegate the department's authority to enforce state traffic laws, regulate transportation safety, or ensure equitable access to transportation infrastructure.

(d) The department may lease the bypass infrastructure from private partners upon project completion and fund lease payments from the state highway fund or other authorized sources. Lease terms shall include performance benchmarks,

operational standards, and provisions for the transfer of the bypass infrastructure to the State.

(e) Public access to the Lahaina bypass north shall remain unrestricted and free of direct user fees or tolls.

(f) The department shall prioritize public transparency throughout the public-private partnership process, including public consultation during the proposal evaluation phase and disclosure of all major contract terms following the award of the partnership agreement."

SECTION 8. The department of transportation is encouraged to draw upon best practices from other states that have successfully implemented public-private partnerships for highway infrastructure projects, including the use of ghost tolling and lease-backed financing.

SECTION 9. The department of transportation shall provide the legislature with a report detailing lessons learned and specific recommendations for the Lahaina bypass north within ninety days of initiating the request-for-proposals process.

PART VI

SECTION 10. The director of finance is authorized to issue general obligation bonds in the sum of $35,000,000 or so much

thereof as may be necessary and the same sum or so much thereof as may be necessary is appropriated for fiscal year 2025-2026 for the purpose of the construction, maintenance, and repair of the Lahaina bypass north.

SECTION 11. The director of finance is authorized to issue revenue bonds in the sum of $35,000,000 or so much thereof as may be necessary and the same sum or so much thereof as may be necessary is appropriated for fiscal year 2025-2026 for the purpose of the construction, maintenance, and repair of the Lahaina bypass north. The principal and interest on the revenue bonds, to the extent not paid from the proceeds of those bonds, shall be paid solely from and secured solely by the revenue allocated to the state highway fund for the Lahaina bypass north pursuant to section 251-2, Hawaii Revised Statutes.

SECTION 12. The sums appropriated in this part shall be expended by the department of transportation for the purposes of this Act.

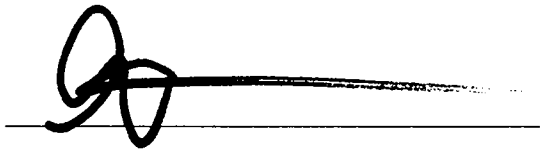
PART VII

SECTION 13. The department of transportation shall provide an annual report not later than twenty days prior to the convening of each regular session to the legislature detailing

the amounts collected and expended under this Act, as well as the progress of the Lahaina bypass north project. The reporting requirement established under this section shall remain in force until the Lahaina bypass north project is deemed complete by the legislature.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect on July 1, 2025; provided that on June 30, 2035, Section 2 of this Act shall be repealed and section 251-2, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

INTRODUCED BY: 

S.B. NO. 1659

Report Title:
Lahaina Bypass; Public-Private Partnership; Transient Accommodations Taxes; Rental Motor Vehicle Surcharge Tax; State Highway Fund; GO Bonds; Revenue Bonds

Description:
Adds a special assessment to the Rental Motor Vehicle Surcharge Tax, sunsetting in 10 years, to fund revenue bonds for the Lahaina Bypass North. Includes payment of principal and interest of revenue bonds for the construction, operation, and maintenance costs of the Lahaina Bypass North as a permissible use of the State Highway Fund. Authorizes the issuance of general obligation and revenue bonds to fund the Lahaina Bypass North. Authorizes public-private partnership agreements for the construction, operation, maintenance, and repair of the Lahaina Bypass North. Directs transient accommodations taxes collected from West Maui transient accommodations to fund the Lahaina Bypass North.

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