

ACT 68

H.B. NO. 1001

A Bill for an Act Relating to Bikeways.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 243-6, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 243-6 Fuel taxes, dispositions. The “city and county of Honolulu fuel tax” shall be paid by the department of taxation into the state treasury, and shall, by the state director of finance, be paid over to the director of finance of the city and county of Honolulu for deposit into the fund known as the “highway fund” created by section 249-18.

The “county of Kāuāi fuel tax” shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Kauai for deposit into the fund known as the “highway fund” created by section 249-18.

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

The "county of Maui fuel tax" collected on account of liquid fuel sold or used on the island of Lanai or sold elsewhere for ultimate use on the island of Lanai, shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Maui for deposit into the fund known as the "highway fund" created by section 249-18, for expenditure on the island of Lanai. The "county of Maui fuel tax" collected on account of liquid fuel sold or used on the island of Molokai or sold elsewhere for ultimate use on the island of Molokai, shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Maui for deposit into the fund known as the "highway fund" created by section 249-18, for expenditure on the island of Molokai. The remainder of the "county of Maui fuel tax" shall be paid by the department into the state treasury, and shall, by the state director of finance, be paid over to the treasurer of the county of Maui for deposit into the fund known as the "highway fund" created by section 249-18.

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

- (1) For payment of interest on and redemption of any bonds duly issued or sold on or after July 1, 1951, under chapter 47 for the financing or aiding in financing the construction of county highway tunnels, approach roads thereto, and highways. Such payments of interest and principal on the bonds when due, shall be first charges on such moneys so deposited in the fund.
- (2) For acquisition, designing, construction, reconstruction, improvement, repair, and maintenance of county main and general thoroughfares, highways, and other streets, street lights, storm drains, and bridges, including costs of new land therefor, when expenditures for the foregoing purposes cannot be financed under state-federal aid projects.
- (3) In the case of the city and county of Honolulu, for payment of the city and county's share in an improvement district initiated by the city and county for an improvement listed in (2) above which is permitted to be constructed in the city and county.
- (4) For the construction of county highway tunnels, overpasses, underpasses, and bridges, where such improvement cannot be made under state-federal aid projects.
- (5) For purposes and functions connected with county traffic control and preservation of safety upon the public highways and streets.
- (6) For purposes and functions in connection with mass transit.
- (7) For acquisition, design, construction, improvement, repair, and maintenance of bikeways.
- (8) No expenditure shall be made, out of the revenues paid into any such

fund, which will jeopardize federal aid for highway construction."

SECTION 2. Section 248-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The moneys remaining in the state highway fund after the payment and transfers required by subsections (a) and (b) of this section shall be expendable by the department of transportation for the design, construction, reconstruction, repair, and maintenance of and for engineering and acquisition of (1) rights-of-way for highways (including bikeways) in the State upon which federal moneys are expendable or have been expended, pursuant to chapter 264, and the Federal Highway Act and legislation supplementary thereto; and (2) lands and interests therein whether within or without these rights-of-way for highway beautification, scenic enhancement, and rest, recreational, and sanitary facilities; and (3) such other public highways (including bikeways) as may be designated by the director of transportation for inclusion in the state highway system under section 264-42; provided that except with the approval of the attorney general no expenditure shall be made from the fund for legal services; provided further that the expenditure from such fund for new construction work, including acquisition of rights-of-way, shall be so apportioned to the counties by the department of transportation that, as nearly as practicable and to the extent allowable under the Federal Highway Act and other federal legislation, there shall be expended by each county the estimated amount of its share of the collections in the fund remaining after the deduction of charges for bonds and maintenance, such estimate to be made by the department of transportation, except as hereinafter stated, and to be computed on the following basis:

- (1) There shall be credited to each county the amount of the collections made each year for deposit in the fund, for fuel sold or used within such county; provided that fuel intended for ultimate use in another county shall be credited to the county in which the same is to be so used; provided further that the amount of the county of Hawaii extra state tax shall be credited directly to the share of the county and shall be computed without any deduction from the amount for payments and transfers required by subsections (a) and (b) of this section or for repairs or maintenance. The department of taxation shall estimate the amount of such collections for each county for the year.
- (2) There shall be charged against the total of such collections for the entire State for the year (except as hereinabove provided) the amount of the bond requirements of the several counties for the year pursuant to subsection (a) of this section, as determined by the respective county treasurers and the director of finance. The department of taxation and the county treasurers and director of finance shall certify such amounts to the department of transportation and the state director of finance on or before January 31 of each year.
- (3) There further shall be charged against the total of such collection for the entire State for the year (except as hereinbefore provided) the cost for the year of repairs and maintenance of federal-aid highways, including the cost of equipment and general administrative overhead,

and the moneys paid or set aside in funds reserved for the payment of interest and principal on state highway revenue bonds during the year as required by subsection (b) of this section.

The balance remaining after the deductions of the foregoing charges for bonds and maintenance shall be divided among the several counties in proportion to their credits for collections (not including in the credit for Hawaii for that purpose, the county of Hawaii extra state tax), and the amount so determined for each county shall be deemed its share of the collections in the fund remaining after the deduction of charges for bonds and maintenance; provided that there shall be additionally credited to the county of Hawaii's share the county of Hawaii extra state tax. If the actual share of any county for the year, as determined at the close of the calendar year upon the basis of actual collections, repairs, and maintenance, exceeds or is less than the expenditure for such county for such year for new construction, such excess shall be added or such deficiency deducted in determining the share of such county for the following year.

Provided that there shall be expended from the moneys so remaining in the state highway fund for new construction in west Hawaii, and charged against the county of Hawaii's share of the collections, an amount at least equal to ten per cent of the principal of any state bonds issued on or after January 1, 1947, and prior to January 1, 1955 for new construction for the county of Hawaii; provided further that there shall be paid from the state highway fund and charged against the county of Hawaii's share of the collections, the same as if expended directly for new construction, the following requirements for state bonds issued on or after January 1, 1947, and prior to January 1, 1955, for new construction for the county of Hawaii, to wit: the interest on such bonds and the principal of all serial bonds maturing the following year, such payments to be made by the state director of finance, who shall certify the amount thereof to the state department of transportation, from time to time.

As used in this subsection (c) the term "new construction" includes the items enumerated in the first sentence hereof, except repairs and maintenance."

SECTION 3. Section 249-18, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 249-18 Highway fund. All taxes collected under this chapter, except those collected pursuant to sections 249-14 and 249-15, shall be deposited in a fund to be known as the "highway fund" and shall be expended in the county in which the taxes are collected for the following purposes:

- (1) For acquisition, designing, construction, improvement, repair, and maintenance of public roads and highways, including without restriction of the foregoing purposes, costs of new land therefor, of permanent storm drains or new bridges, as well as repairs or additions to storm drains or bridges;
- (2) For installation, maintenance, and repair of street lights and power, and other charges for street lighting purposes, including replacement of old street lights, on county-maintained public roads and highways;
- (3) For purposes and functions connected with traffic control and preservation of safety upon the public highways and streets;

- (4) For payment of interest on and redemption of bonds issued to finance highway and street construction and improvements;
- (5) In the case of the city and county of Honolulu, for appropriation for the police department up to the sum of \$500,000. No expenditures shall be made out of this fund which will jeopardize federal aid for highway construction;
- (6) For purposes and functions connected with mass transit; and
- (7) For the acquisition, design, construction, improvement, repair, and maintenance of bikeways."

SECTION 4. Section 264-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 264-1 Public highways, defined, etc. All roads, alleys, streets, ways, lanes, trails, bikeways, and bridges in the State, opened, laid out, or built by the State or any political subdivision thereof, are declared to be public highways. Public highways are of two types:

- (1) State or federal-aid highways, which are all those under the jurisdiction of the department of transportation; and
- (2) County highways, which are all other public highways.

All roads, alleys, streets, ways, lanes, trails, bikeways, and bridges in the State, opened, laid out, or built by private parties and dedicated or surrendered to the public use, are declared to be public highways. Dedication of public highways shall be by deed of conveyance naming the State as grantee in the case of a state highway and naming the county as grantee in the case of a county highway. The deed of conveyance shall be delivered to and accepted by the director of transportation in the case of a state highway and shall be delivered to and accepted by the legislative body of a county in the case of a county highway. Surrender of public highways shall be deemed to have taken place if no act of ownership by the owner of the road, alley, street, bikeway, way, lane, trail, or bridge has been exercised for five years and when, in the case of a county highway, in addition thereto, the legislative body of the county has, thereafter, by a resolution, adopted the same as a county highway. In every case where the road, alley, street, bikeway, way, lane, trail, bridge, or highway is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law, the legislative body of the county shall accept the dedication or surrender of the same without exercise of discretion.

All county highways once established shall continue until vacated, closed, abandoned, or discontinued by a resolution of the legislative body of the county wherein the county highway lies."

SECTION 5. Section 265-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 265-1 General supervision. The several boards of supervisors or other governing bodies of the several political subdivisions of the State shall have the general supervision, charge, and control of, and the duty to maintain and repair, all county highways (including bikeways) and shall have the power to determine the terms under which irrigation or drainage ditches, flumes, railroads, including

plantation railroads and similar structures, telephone, electric light and power lines, and pipes and other conduits may be maintained upon, under, over, and across the same, and the boards or other governing bodies may make all regulations needful for the public convenience and safety in all cases where permission has been or may be granted to maintain the ditches, railroads, pipes, or other structures across, under, over, and upon all county highways."

SECTION 6. Section 265-63, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 265-63 Driving on sidewalk, bicycle lane or bicycle path. No person shall drive, draw, or cause to go upon any bicycle lane, bicycle path, or sidewalk any vehicle whatsoever, except when it is necessary for the vehicle to cross the bicycle lane, bicycle path, or sidewalk for the purpose of going into some yard or lot, or into some place where the vehicle is kept when not in use; provided any vehicle may be driven in a bicycle lane or bicycle path if:

- (1) It is in the process of executing a legal turn;
- (2) It is an authorized emergency vehicle performing the functions under section 291C-26;
- (3) It is an official federal, state, or county vehicle in the performance of its actual duty;
- (4) It is a stalled or broken vehicle;
- (5) It is necessary to assist a stalled or broken vehicle;
- (6) It is necessary to yield to an authorized emergency vehicle pursuant to section 291C-65; or
- (7) It is otherwise provided by law."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 9, 1977.)

*Edited accordingly.