

JAN 22 2007

A BILL FOR AN ACT

RELATING TO TOLL ROADS.

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

1 SECTION 1. The legislature finds that motor vehicle
2 transportation has been and continues to be both a critical
3 necessity for, and the bane of, Hawaii's drivers. It has been
4 contended that the operation of toll roads has contributed to
5 controlling the amount of motor vehicle traffic, thus reducing
6 traffic congestion in various venues worldwide. It has also
7 been contended that toll roads offer a dedicated source of
8 revenue for the maintenance of heavily used highways and roads,
9 thus freeing up public revenues for other uses. Other
10 jurisdictions, both domestic and foreign, have implemented toll
11 roads with success.

12 The legislature further finds that, under section
13 46-1.5(19)(D), Hawaii Revised Statutes, the counties are
14 authorized and have the power to open, close, construct, or
15 maintain county highways or charge toll on county highways;
16 provided that all revenues received from a toll charge are used
17 for the construction or maintenance of county highways. The



1 purpose of this Act is to statutorily confer similar
2 authorization to the department of transportation.

3 SECTION 2. Chapter 264, Hawaii Revised Statutes, is
4 amended by adding two new sections to be appropriately
5 designated and to read as follows:

6 "§264-A Toll roads and transportation facilities;
7 agreement with private entities. (a) The department of
8 transportation may accept competing proposals from private
9 entities by advertising and may enter into written agreements
10 with private entities relating to both of the following:

- 11 (1) The construction of transportation facilities by
12 private entities; and
- 13 (2) The lease by the department of transportation
14 facilities that have been constructed pursuant to this
15 section to private entities.

16 (b) A private entity that submits a proposal pursuant to
17 subsection (a) shall include in the private entity's proposal a
18 description of any pending, threatened, or current lawsuit,
19 action, investigation, or administrative or other proceeding
20 involving the private entity or any firm, entity, or individual
21 of the private entity.



1 (c) To facilitate the development of transportation
2 facilities, the agreements with private entities prescribed in
3 subsection (a) may provide for any of the following:

- 4 (1) The lease of state highway rights-of-way;
- 5 (2) The lease of airspace over and under state highways;
- 6 (3) The granting of easements of necessity; and
- 7 (4) The issuance of permits or other authorization for the
8 private entities to construct transportation
9 facilities supplemental to existing state
10 transportation facilities.

11 (d) An agreement with a private entity entered into
12 pursuant to this section shall provide for all of the following:

- 13 (1) State ownership of the transportation facility
14 constructed by a private entity;
- 15 (2) Lease of the transportation facility to the private
16 entity for a period mutually agreeable to the
17 department and the private entity;
- 18 (3) Reversion to the State of the transportation facility
19 constructed by the private entity, after the
20 expiration of the lease, at no expense to the State,
21 as consideration for the lease granted by the State;



- 1 (4) Reimbursement by the private entity to the department
2 or any other state agency for costs incurred after the
3 written agreement is finalized, including the costs of
4 planning, environmental impact assessment, design,
5 maintenance, law enforcement services, and any other
6 services rendered;

- 7 (5) Authorization for the private entity to impose and
8 collect tolls for the use of a transportation facility
9 constructed by the private entity; and

- 10 (6) During the term of the lease, the private entity shall
11 apply toll revenues to:
 - 12 (A) Capital outlay costs for the transportation
13 facility plus interest and principal repayment
14 for any debt incurred;

 - 15 (B) Costs associated with operations, toll
16 collection, and administration of the facility;

 - 17 (C) Payment to the State for reimbursement of the
18 costs of maintenance, law enforcement, and other
19 services if these services are performed by the
20 State pursuant to the written agreement with the
21 private entity; and



1 (D) A reasonable return on investment to the private
2 entity.

3 (e) The director of transportation shall not approve more
4 than two proposals under this section.

5 (f) On negotiation of an agreement pursuant to this
6 section, the department shall make a copy of the agreement
7 available at a public hearing at a location convenient to the
8 private entity's project and for at least fifteen days before
9 the public hearing. The notice of the public hearing shall be
10 published in any newspaper with a general circulation of at
11 least sixty thousand published in the State. The notice of the
12 public hearing shall announce the availability of the agreement
13 and where a copy of the agreement may be obtained or reviewed
14 and shall state that comments may be submitted in writing to the
15 department within thirty days of the availability of the
16 agreement. The department may revise or renegotiate the
17 agreement based upon the public comments it receives.

18 (g) After compliance with subsection (f), the director may
19 give final approval to the project, project design, connections
20 of the roadway, and the agreement prescribed in this section and
21 execute the agreement.



1 (h) Nothing in this section shall prohibit the director of
2 transportation from designating any existing public highway
3 owned by the State as a toll road or from imposing toll charges
4 on those highways.

5 **§264-B** **Prior determination of feasibility.** Prior to
6 entering into any agreement or designating an existing public
7 highway owned by the State under section 264-A, the director of
8 transportation shall determine the feasibility of imposing toll
9 charges on the use of any existing public highway or road owned
10 by the State or constructing any new highway or road in the
11 State for which use toll charges are to be imposed. The
12 director shall include the following in the feasibility study:

13 (1) Data and experiences of other jurisdictions that have
14 converted or constructed similar toll roads that may
15 apply to Hawaii;

16 (2) The most appropriate areas for the placement of a toll
17 road in each county;

18 (3) Whether the placement of particular toll roads will
19 require the exercise of the power of eminent domain by
20 either the State or a county;

21 (4) Whether the toll roads should be funded, acquired,
22 owned, designed, constructed, maintained, and

controlled, either in whole or in part, by the State,
the counties, or private entities;

(5) The approximate costs for each suggested toll road,
including costs for:

(A) The acquisition of any land necessary for the
construction of the toll road and any necessary
maintenance facilities;

(B) The construction of the toll road; and

(C) The operation of the toll road system; and

(6) A review of all applicable federal, state, and county
laws that must be complied with relating to the
construction, operation, and maintenance of toll
roads, whether those roads are controlled by the
State, the counties, or private entities."

SECTION 3. New statutory material is underscored.

SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: Carol Fulkerson



Report Title:

Toll Road Authorization

Description:

Authorizes director of transportation to impose toll charges on existing highways or construct new toll roads. Provides for agreement with private entities to construct, operate, and maintain toll roads. Requires prior feasibility study.

