

SB 1324

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SUBJECT: RENTAL MOTOR VEHICLE AND TOUR VEHICLE SURCHARGE, Make increase permanent

BILL NUMBER: SB 1324, SD-1

INTRODUCED BY: Senate Committee on Commerce & Consumer Protection

BRIEF SUMMARY: Amends HRS section 251-2 to repeal the provision reducing the \$3 rental motor vehicle surcharge tax to \$2 on September 1, 2011.

Appropriates an unspecified amount out of the state highway fund for fiscal 2012 and the same sum for fiscal 2013 for the operations and maintenance of the state highway program.

EFFECTIVE DATE: July 1, 2011

STAFF COMMENTS: This is an administration measure submitted by the department of transportation TRN-08(11). The legislature by Act 263, SLH 1991, adopted a \$2 per day tax on rental motor vehicles as part of the state administration's plan to bail out the state's ailing highway fund. This action was in contrast to a citizen's task force that had been convened in 1988 to address the looming shortfall in the state highway fund that suggested the fuel and weight tax rates be increased as well as continuing to transfer the collections of the general excise tax imposed on the sale of fuel for highway use from the general fund to the state highway fund. This latter source of revenue provided a relatively accurate gauge of highway use given the ease of administration and compliance and represented a user-based activity charge. However, by the time the issue of sustaining the highway fund garnered the attention of the legislature in 1990, there was evidence that the state's general fund finances were also in trouble following the burst of the Japanese "bubble."

Rather than beginning the process to adjust the growth of state government to available revenues, lawmakers and the administration felt it expedient to "take back" the general excise tax collected on the sale of gasoline by allowing the transfer enacted by Act 239, SLH 1985, to lapse. Given the deleterious impact the lapsing of this transfer of general excise tax revenues may have had on the highway fund and the politically difficult challenge of raising the fuel tax on gasoline, lawmakers devised the rental motor vehicle/tour vehicle surcharge tax which was enacted with Act 263, SLH 1991. Aimed primarily at visitors, the attempt was intended to make this segment of the de facto population pay a larger share of the cost of maintaining the highways. It also allowed lawmakers to avoid raising the tax on gasoline even higher than the additional five cents they adopted with the 1991 legislation.

Since the early 1980's a number of citizens' task forces have been convened to evaluate the fiscal viability of the state highway fund. In all cases, these task forces came to the conclusion that the state motor vehicle tax, fuel and weight taxes would periodically have to be increased because the per unit taxes used to fund the state highway program were based on consumption and are not inflation sensitive like the costs of repairing and maintaining the highway system.

The failing fiscal health of the state became very apparent by 1999 after the legislature began raiding the fund to pay for general fund programs. Over the years since this began, more than \$155 million was taken from the highway fund to keep general fund programs running. The then administration revealed the projected failure of the state highway fund when it submitted its budget in 1999 which forecast that the state highway fund would be in the red to the tune of more than \$70 million by the end of fiscal year 2003. But opportunity also struck that session when the rental car industry sought approval to show out the multitude of fees and user charges imposed by the state on the industry and for concessions at the airports. In return, the industry agreed to a temporary seven-year increase in the per day rental car fee going from \$2 per day to \$3 per day. This deal is embodied in Act 223, SLH 1999, which increased the amount of the surcharge to \$3 between 11/1/99 to 8/31/07. Act 258, SLH 2007, extended the 8/31/07 sunset date to 8/31/08. The legislature by Act 226, SLH 2008, extended the sunset date to August 31, 2011. This measure proposes that the rental motor vehicle and tour vehicle surcharge shall be permanently set at \$3 per day.

Obviously keeping the burden on non-voting visitors is politically driven especially in the wake of public complaints about the high cost of motor fuel in Hawaii. But is it necessarily the most accountable approach or for that matter transparent? Is this bill doing nothing more than hiding, if not forestalling, the problems facing the state highway fund? Does it perpetuate the inefficiencies that are inherent in a program that is entirely special-fund financed where the majority of the beneficiaries are not being asked to shoulder their fair share of the cost of operating this program?

What would highway users say if, indeed, the fuel tax rates were increased to cover the forecasted shortfalls? Would they demand more accountability from highway officials for the repair and maintenance of the state roads? Would they ask more often why highway users are being asked to pay for so much when so little seems to be done to keep the roadways in good repair? Administration officials and lawmakers may think that visitors will not notice because it is a continuance of the rate that was adopted in 1999, but what will happen when the surcharge doesn't keep up with costs and a substantial hike will be needed in the fuel tax rate regardless of these strategies?

If, indeed, the highway fund is in dire straits, then the money that was taken to supplement the general fund in the 1990's should be returned. Further, small incremental increases in the fuel tax should be undertaken to ease the burden of taxes that will be needed over time to keep the fund solvent. Consideration might be given to reestablishing the transfer of general excise taxes collected on the sale of fuel for highway use to the highway fund as those taxes are paid by highway users. While the \$3 per day rental surcharge may still be needed to balance the fund, it by no means should be the only source to be tapped as it merely postpones the day of reckoning. It should be remembered that unlike the other resources of the state highway fund, the fortunes of the motor vehicle surcharge are highly dependent on the utilization of rental cars which in turn is dependent on the fortunes of the visitor industry and the number of those visitors electing to rent those vehicles. Thus, the motor vehicle rental surcharge is the least reliable of those revenue resources available to the state highway fund.

Digested 2/23/11