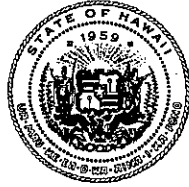


# **SB 248**

## **RELATING TO FEES.**

Prohibits the imposition of impact fees in urban land use districts.  
Requires the department of transportation to charge nominal fees, based on appraised values, for the disposal of easements within and access rights along the state highway rights-of-way to be used for the installation of infrastructure in roadways.



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 1, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION  
SENATE BILL NO. 248

COMMITTEE ON WATER, LAND AND HOUSING

TITLE: RELATING TO FEES

DESCRIPTION: Prohibits the imposition of impact fees in urban land use districts. Requires the Department of Transportation, to charge nominal fees, based on appraised values, for the disposal of easements within and access rights along the state highway rights-of-way to be used for the installation of infrastructure in roadways.

POSITION: The Department of Transportation (DOT) opposes this bill.

Under federal law, more particularly, Code of Federal Regulations 23 Part 710.403 titled Management, the acquiring agency (DOT) shall charge current fair market value or rent for the use or disposal of real property interests, including access control. This bill restricts the monetary value that can be assessed by the DOT to a nominal amount, rather than allowing the fair market value to control. By not following federal requirements, the State may jeopardize the bulk of funds directed towards State highway projects from the Federal Highways Administration.

Additionally, this bill attempts to distinguish "negligible impact on public land value" from other situations. The DOT cannot recognize such a distinction in its treatment of public property. By operation of other applicable laws, rules, and regulations, the DOT is required to assess any disposal of an interest in real property based upon fair market value.

Finally, it should be noted that amounts charged for the fair market value or rental of such dispositions should not be classified as "fees." The fair market value or rent are based on appraisals by certified approved appraisers knowledgeable in a particular field of valuation. The Right of Way, like any other form of public property, is a valuable asset that the State and Federal governments invested billions of dollars to construct and maintain. The disposal of such rights, not for transportation purposes, should not be taken lightly as all other uses have a large impact on the highway operations and design. By properly determining the appropriate value, the State and the public can be assured that is receiving a fair share of its investment.

For all of the reasons above, we oppose this bill.