
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 part III to be
5 appropriately designated and to read as follows:

6 "§264-A Toll roads; agreement with private entities. (a)

7 The department of transportation may request competing proposals
8 from private entities by advertising and may enter into written
9 agreements with private entities relating to both of the
10 following:

11 (1) The construction of toll roads by private entities;
12 and

13 (2) The lease of toll roads constructed pursuant to this
14 section by the department to private entities.

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



1 (c) To facilitate the development of toll roads, the
2 agreements with private entities prescribed in subsection (a)
3 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 toll roads supplemental
9 to existing state toll roads.

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

- 12 (1) State ownership of the toll road constructed by a
13 private entity;
- 14 (2) Lease of the toll road to the private entity for a
15 period mutually agreeable to the department of
16 transportation and the private entity;
- 17 (3) Reversion to the State of the toll road constructed by
18 the private entity, after the expiration of the lease,
19 at no expense to the State, as consideration for the
20 lease granted by the State;
- 21 (4) Reimbursement by the private entity to the department
22 of transportation or any other state agency for costs



1 incurred after the written agreement is finalized,
2 including the costs of planning, environmental impact
3 assessment, design, maintenance, law enforcement
4 services, and any other services rendered;

5 (5) Authorization for the private entity to impose and
6 collect tolls for the use of a toll road constructed
7 by the private entity; and

8 (6) During the term of the lease, the private entity shall
9 apply toll revenues to:

10 (A) Capital outlay costs for the toll road plus
11 interest and principal repayment for any debt
12 incurred;

13 (B) Costs associated with operations, toll
14 collection, and administration of the toll road;

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

20 (D) A reasonable return on investment to the private
21 entity.



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

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

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

21 (h) Nothing in this section shall prohibit the director of
22 transportation from designating any existing public highway



1 owned by the State as a toll road or from imposing toll charges
2 on those highways.

3 **§264-B Prior determination of feasibility.** Prior to
4 entering into any agreement or designating an existing public
5 highway owned by the State under section 264-A, the director of
6 transportation shall determine the feasibility of imposing toll
7 charges on the use of any existing public highway or road owned
8 by the State or constructing any new highway or road in the
9 State for which use toll charges are to be imposed. The
10 director of transportation shall include the following in the
11 feasibility study:

- 12 (1) Data and experiences of other jurisdictions that have
13 converted or constructed similar toll roads that may
14 be applicable to Hawaii;
15 (2) The most appropriate areas for the placement of a toll
16 road in each county;
17 (3) Whether the placement of particular toll roads will
18 require the exercise of the power of eminent domain by
19 either the State or a county;
20 (4) Whether the toll roads should be funded, acquired,
21 owned, designed, constructed, maintained, and



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

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

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

8 (B) The construction of the toll road; and

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

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

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. In codifying the new sections added by section
17 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

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

21

INTRODUCED BY:

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Report Title:

Transportation; Toll Roads

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.

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