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# 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;

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; and



1       (7) No construction of a toll road where there is no  
2       alternative toll-free route available for public use.

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

19      (g) After compliance with subsection (f), the director of  
20      transportation may give final approval to the project, project  
21      design, connections of the roadway, and the agreement prescribed  
22      in this section and 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; provided that a toll-free alternative route  
5 is available for public use.

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

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



1       (4) Whether the toll roads should be funded, acquired,  
2       owned, designed, constructed, maintained, and  
3       controlled, either in whole or in part, by the State,  
4       the counties, or private entities;

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

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

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

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

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

17       SECTION 3. New statutory material is underscored.

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

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



**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. Prohibits toll roads where there is no alternative route available for use without a toll being charged. Requires prior feasibility study. (HB2153 HD1)

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