

---

---

A BILL FOR AN ACT

RELATING TO UTILITY FRANCHISES.

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

1           SECTION 1. Section 240-1, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "§240-1 Electric light and power companies, tax on. Every  
4 person operating in the State an electric light or power  
5 business as a public utility, whose franchise [~~does not provide~~]  
6 provides for the payment to the county in which the public  
7 utility operates of a tax [~~7 or a tax of less than~~] of two and  
8 one-half per cent [~~7~~] or less, based upon the gross receipts of  
9 such person from all electric light or power furnished to  
10 consumers during each calendar year, shall file with the  
11 director of finance of the county in which the public utility  
12 operates, within one month after the expiration of each calendar  
13 year, a detailed statement showing all gross receipts from all  
14 electric light or power furnished to consumers during the  
15 preceding calendar year. Such person shall, at the same time  
16 pay one and one-fourth per cent of the gross receipts to the  
17 director of finance, for and on behalf of such county, in

1 addition to any and all other payments required to be made by  
2 law, [~~two and one half~~] one and one-fourth per cent of the gross  
3 receipts [~~;, or, if such person's franchise provides for a tax of~~  
4 ~~less than two and one half per cent of the gross proceeds, the~~  
5 ~~difference between the tax required under such franchise and two~~  
6 ~~and one half per cent of the gross receipts, of such person from~~  
7 ~~all electric light or power furnished to consumers during the~~  
8 ~~preceding calendar year.] to the department of transportation  
9 highways division. Payments of the franchise tax made to the  
10 department of transportation highways division shall be  
11 deposited into the state highway fund and shall be used for  
12 operation and maintenance of the department's highway  
13 facilities."~~

14 SECTION 2. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect upon its approval.

17

18

19

20

INTRODUCED BY:

  
BY REQUEST

JAN 22 2013

H.B. NO. 982

**Report Title:**

Department of Transportation; Franchise Utility

**Description:**

Allows the State Department of Transportation Highways Division to collect an equitable compensation from franchise utility companies for the use of the state right of way.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO UTILITY  
FRANCHISES

PURPOSE: Franchise utilities using and occupying state and county highways pay an annual franchise fee in the amount of 2.5 percent of gross income for the right to occupy public highways and roads. Since 1961, the fee collection, as authorized by law, is only going to the counties for their roadway infrastructure maintenance despite the fact that franchise utilities also occupy state highways.

The purpose of this bill is to allow the State Department of Transportation Highways Division to be able to collect an equitable compensation from these franchise utility companies for the use of the state right of way.

MEANS: Amend section 240-1, Hawaii Revised Statutes (HRS).

JUSTIFICATION: In 1961 under Act 134, the percentage and taxes from the franchise companies affected by Congressional and territorial (state) law went to the 4 counties. Prior to 1961, the franchise companies were required to pay a percentage to the DOT for use and occupancy in the DOT Highways right of way. Currently, because of Act 134, DOT Highways cannot charge these franchise utility companies any fair market value assessment to be in the State DOT Highway right of way. Yet under section 264-33, HRS, DOT Highways is responsible to pay for the removal, relocation, replacement, or reconstruction that exceed \$10,000. One half of this excess expense shall be a charge against the state or county funds available for

construction or maintenance of state and county Highways.

Impact on the public: No direct impact on the public.

Impact on the department and other agencies: This bill will compensate the Department for those franchise companies' use and occupancy in the state highway right of way. It will take away 1.25 percent from the counties current receivables annually and provide more reasonableness to the State having to fund for relocation or reconstruction type costs as stated in section 264-33, HRS.

GENERAL FUND: None.

OTHER FUNDS: Special funds.

PPBS PROGRAM DESIGNATION: TRN 595.

OTHER AFFECTED AGENCIES: Counties.

EFFECTIVE DATE: Upon approval.



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

February 11, 2013  
10:00 a.m.  
State Capitol, Conference Room 309

**H.B. 982**  
**RELATING TO UTILITY FRANCHISES**

House Committee on Transportation

---

The Department of Transportation (DOT) **supports** this Administration bill.

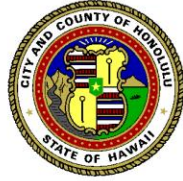
However, we request the following amendments be considered which mirrors the companion bill S.B. 1213 S.D.1 by dividing the public utility franchise tax collected equally between the county and the Department of Transportation Highways Division.

Franchise utility companies currently pay two and one-half percent of their gross receipts only to the counties for their use and occupancy of the county road systems. Further, the DOT, under Section 264-33, Hawaii Revised Statutes, is responsible to pay for the removal, relocation, replacement or reconstruction of the franchise utility companies' systems if they are impacted by a DOT highway project, at one-half of the cost to the franchise utility companies in excess of \$10,000. We believe this bill provides us with some relief in the maintenance and operation of our state highway right of way.



OFFICE OF THE MAYOR  
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 \* HONOLULU, HAWAII 96813  
PHONE: (808) 768-4141 \* FAX: (808) 768-4242 \* INTERNET: [www.honolulu.gov](http://www.honolulu.gov)



KIRK CALDWELL  
MAYOR

EMBER LEE SHINN  
MANAGING DIRECTOR DESIGNATE

GEORGETTE T. DEEMER  
DEPUTY MANAGING DIRECTOR

TESTIMONY OF KIRK CALDWELL, MAYOR  
CITY AND COUNTY OF HONOLULU  
BEFORE THE HOUSE  
COMMITTEE ON TRANSPORTATION  
Monday, February 11, 2013, 10:00 p.m., Conference Room 309

**HOUSE BILL 982: RELATING TO UTILITY FRANCHISES**

**Position: In Opposition**

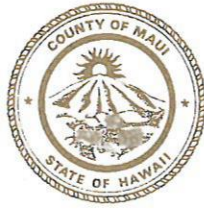
To: The Honorable Ryan I. Yamane, Chair  
and Members of the Committee on Transportation

The City & County of Honolulu opposes House Bill 982, "Relating to Utility Franchises", which proposes to allow the State Department of Transportation Highways Division to collect compensation from franchise utility companies for the use of the state right of way.

According to Section 240-1, Hawaii Revised Statutes, public utilities pay a 2.5% tax to the county based upon its gross receipts for all electric light or power furnished to its consumers during each calendar year. The City & County of Honolulu's FY13 proposed operating budget projected \$53.8 million in revenues from this Public Utilities Franchise Tax. This is a significant amount of revenue that the City relies on for its annual operations. HB982's proposal would essentially eliminate about half of what the City receives from this Public Utilities Franchise Tax. This drastic reduction in revenue would negatively impact the City's ability to serve the public. For this reason, the City & County of Honolulu respectfully requests that HB982 be held in Committee.

Mahalo for the opportunity to testify on this bill. Should you have any questions or concerns, please feel free to contact me at 768-4141.

ALAN M. ARAKAWA  
MAYOR



200 South High Street  
Wailuku, Hawai'i 96793-2155  
Telephone (808) 270-7855  
Fax (808) 270-7870  
e-mail: mayors.office@mauicounty.gov

## OFFICE OF THE MAYOR

Ke'ena O Ka Meia

COUNTY OF MAUI – Kalana O Maui

### TESTIMONY OF ALAN ARAKAWA, MAYOR COUNTY OF MAUI

BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION  
Monday, February 11, 2013, 10:00 a.m., Conf. Rm. 309

#### HOUSE BILL 982 RELATING TO UTILITY FRANCHISES

The Honorable Rep. Ryan I. Yamane, Chair  
And Members of the Committee on Transportation

Thank you for this opportunity to submit testimony in **strong opposition to House Bill 982**. The county understands the intent of House Bill 982 is to provide additional funds to the State for relocation or reconstruction costs related to its roads, however, the bill does so by taking away half of the franchise tax revenue that has long been intended for and relied upon by the counties. The impact of this bill to the county's operations and its residents would be devastating as it would result in a loss of over \$5.3 million of revenue for the county.

The county uses all of these funds to simply maintain our current roadways in order to keep them safe for our residents and visitors. They are also used for other essential purposes related to roads including public safety, traffic signals, maintenance, and planning. For clarity, a great majority of these funds are being used solely for maintenance and not to make any of the much-needed improvements to our roadways. Accordingly, any loss of these funds would drastically hinder our efforts to maintain the health and safety of our residents and visitors.

The effects of a loss of half of the county's franchise tax revenues on the county's taxpayers, and on county services, would also be devastating as the county would be forced to make the difficult choice between raising additional revenues and cutting necessary services. As previously mentioned, cuts in services would severely affect the filling of potholes and maintenance of county streets, police traffic functions, and other vital services needed to assure the health and safety of our residents and visitors. In lieu of, if not in addition to, cuts in services, the county would likely have to raise the fuel tax by over 9 cents per gallon in order to make up the loss in Highway Fund Revenues (note that the current State fuel tax is 17 cents per gallon and Maui County fuel tax is 16 cents per gallon). Ultimately, the brunt of losing half of the county's franchise tax revenues would fall squarely upon our residents who would pay the price in higher taxes or fees, or reduced services.



Mayor Alan Arakawa  
H.B. 982  
February 11, 2013  
Page 2 of 2

The County of Maui and our neighboring counties of Honolulu, Kauai, and Hawaii Island are popular vacation destinations for visitors from around the globe. To allow our roadways and services to deteriorate would severely tarnish this image for the entire state.

For these reasons the Office of the Mayor, Maui County respectfully opposes House Bill 982.

ALAN M. ARAKAWA  
MAYOR



DANILO F. AGSALOG  
DIRECTOR

MARK R. WALKER  
DEPUTY DIRECTOR

COUNTY OF MAUI  
**DEPARTMENT OF FINANCE**  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

**TESTIMONY OF DANILO F. AGSALOG**

Director of Finance  
County of Maui

and

**DAVID C. GOODE,**  
Director, Department of Public Works  
County of Maui

**BEFORE THE HOUSE COMMITTEE TRANSPORTATION**

Monday, February 11, 2013, 10:00 a.m., Conf. Rm. 309

**HOUSE BILL 982**  
**RELATING TO UTILITY FRANCHISES**

The Honorable Rep. Ryan I. Yamane, Chair  
And Members of the Committee on Transportation

The Department of Finance of the County of Maui submits its **strong opposition to House Bill 982**. The county understands the intent of House Bill 982 is to provide additional funds to the State for relocation or reconstruction costs related to its roads, however, the bill does so by taking away half of the franchise tax revenue that has long been intended for and relied upon by the counties. The impact of this bill to the county's operations and its residents would be devastating as it would result in a loss of over \$5.3 million of revenue for the county.

The county uses all of these funds to simply maintain our current roadways in order to keep them safe for our residents and visitors. They are also used for other essential purposes related to roads including public safety, traffic signals, maintenance, and planning. For clarity, a great majority of these funds are being used solely for maintenance and not to make any of the much needed improvements to our roadways. Accordingly, any loss of these funds would drastically hinder our efforts to maintain the health and safety of our residents and visitors.

The effects of a loss of half of the county's franchise tax revenues on the county's taxpayers, and on county services, would also be devastating as the county would be forced to make the difficult choice between raising additional revenues and cutting necessary services. As previously mentioned, cuts in services would severely affect the filling of potholes and maintenance of county streets, police traffic functions, and other

services needed to assure the health and safety of our residents and visitors. In lieu of, if not in addition to, cuts in services, the county would likely have to raise the fuel tax by over 9 cents per gallon in order to make up the loss in Highway Fund Revenues (note that the current State fuel tax is 17 cents per gallon and Maui County fuel tax is 16 cents per gallon). Ultimately, the brunt of losing half of the county's franchise tax revenues would fall squarely upon our residents who would pay the price in higher taxes or fees, or reduced services.

The County of Maui and our neighboring counties of Honolulu, Kauai, and Hawaii Island are popular vacation destinations for visitors from around the globe. To allow our roadways and services to deteriorate would severely tarnish this image for the entire state.

For these reasons the Department of Finance and the Department of Public Works of Maui County respectfully opposes House Bill 982.

**Bernard P. Carvalho, Jr.**  
Mayor



**Steven A. Hunt**  
Director of Finance

**Gary K. Heu**  
Managing Director

**Sally A. Motta**  
Deputy Director of Finance

**DEPARTMENT OF FINANCE**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite 280, Lihu'e, Hawai'i 96766  
TEL (808) 241-4200 FAX (808) 241-6529

**Testimony of**  
**STEVEN A. HUNT**  
**Director of Finance**  
**County of Kaua'i**

**Before the House Committee on Transportation**

**Monday , February 11, 2013**  
**10:00 am**  
**State Capitol, Senate Conference Room 309**

**In consideration of**  
**HOUSE BILL 982**  
**RELATING TO UTILITY FRANCHISES**

The County of Kaua'i (Kaua'i) submits the following testimony in opposition to House Bill 982. Kaua'i understands the intent of House Bill 982 is to provide additional funds to the State for relocation or reconstruction costs related to its roads, however, the bill does so by taking away half of the franchise tax revenue currently collected by the counties. Kaua'i would lose an estimated \$2.4 million in franchise tax revenues in fiscal year (FY) 2014 if this bill is enacted.

Kaua'i plans to make significant improvements to Kaua'i's roads and needs all of its Highway Fund revenues to accomplish this goal. In addition, the Highway Fund is used for other essential purposes related to roads including public safety, traffic signals, maintenance, and planning, as well as funding for the bus system. In FY 2013, Kaua'i appropriated \$13.9 million in operating funds from the Highway Fund for these purposes, as well as debt service on roads projects. Kaua'i's FY 2013 capital improvement program budget included about \$1.5 million for roads related projects.

The effects of a loss of half of Kaua'i's franchise tax revenues on Kaua'i's taxpayers, and on Kaua'i services, would be severe. Kaua'i would have to make the difficult choice between raising additional revenues or cutting necessary services. For example, Kaua'i may have to raise the fuel tax by approximately 8.4 (increase of 65%) per gallon in order to make up the loss in Highway Fund revenues. Cuts in services could affect the filling of potholes and other maintenance of city streets, police traffic

Senate Committee on Transportation and International Affairs

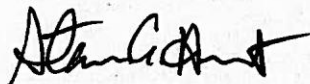
2/8/2013

Page 2

functions, as well as bus service. Kaua'i residents would ultimately pay the price in higher taxes or fees, or reduced services.

Thank you for the opportunity to testify on House Bill 982.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Steven A. Hunt". The signature is stylized with a large initial "S" and a long horizontal stroke at the end.

Steven A. Hunt  
Director of Finance  
County of Kauai

William P. Kenoi  
Mayor



Nancy E. Crawford  
Director

Deanna S. Sako  
Deputy Director

## County of Hawaii

### Finance Department

25 Aupuni Street, Suite 2103 • Hilo, Hawaii 96720  
(808) 961-8234 • Fax (808) 961-8569

February 8, 2013

The Honorable Ryan I. Yamane, Chair  
and Members of the House Committee on Transportation  
Hawai'i State Capitol  
415 South Beretania Street, Room 309  
Honolulu, Hawai'i 96813

RE: House Bill 982, RELATING TO UTILITY FRANCHISES

Aloha, Chair Yamane and Committee Members:

The County of Hawai'i opposes House Bill 982, which would divert to the state Department of Transportation about half of the franchise tax revenues that the County of Hawai'i now relies upon to maintain, improve and repair roads, to install and maintain street lights and to make traffic safety improvements to our roadways.

This measure would cost the county an estimated \$5 million per year in lost revenue, which amounts to more than 15 percent of the total annual revenues for our Highway Fund. This money is now used to make our roads more safe and functional.

The County of Hawai'i already faces very serious challenges as we seek to maintain and improve about 950 miles of county-owned roads. The county is also coping with maintenance and other problems on 122 miles of so-called "Roads in Limbo" that the state is unwilling to maintain. The loss of this franchise tax revenue would aggravate this situation and make it far more difficult to properly maintain our streets and keep our roadways safe.

We respectfully urge the committee to reject this bill. Mahalo for your consideration.

Aloha,

Nancy Crawford  
Director of Finance

**ichiyama1 - Tate**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 09, 2013 9:49 AM  
**To:** TRNtestimony  
**Cc:** tabraham08@gmail.com  
**Subject:** \*Submitted testimony for HB982 on Feb 11, 2013 10:00AM\*

**HB982**

Submitted on: 2/9/2013

Testimony for TRN on Feb 11, 2013 10:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Troy Abraham	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)