

STAND. COM. REP. NO. 2156

Honolulu, Hawaii

FEB 11 2014

RE: S.B. No. 2761
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committees on Transportation and International Affairs, Public Safety, Intergovernmental and Military Affairs, and Judiciary and Labor, to which was referred S.B. No. 2761 entitled:

"A BILL FOR AN ACT RELATING TO TRANSPORTATION,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Specify that a government agency does not assume ownership or jurisdiction over a disputed road solely through maintenance or repair activities;
- (2) Authorize the State to quitclaim ownership of roads in favor of counties; and
- (3) Establish necessary funding for the maintenance and repair of disputed roads through the authorization of an additional county surcharge on state tax.

Your Committees received testimony in support of this measure from the Department of Transportation and Department of Public Works of the County of Kauai. Your Committees received testimony in opposition to this measure from the Hawai'i Association of REALTORS. Your Committees received comments on this measure from the Department of Taxation, Department of Land and Natural Resources, and Tax Foundation of Hawaii.



Your Committees find that government agencies have been reluctant to assume maintenance responsibilities on "roads in limbo" as a precaution against liability since maintenance could be interpreted as assuming jurisdiction or ownership of the disputed road. Ownership usually implies liability for injury and damages arising out of the condition of the property. This measure addresses that reluctance by providing that a government agency that undertakes such maintenance or repair shall not be deemed to have assumed ownership or jurisdiction over the road solely because of such action.

Your Committees further find that allowing the counties to adopt ordinances to levy a one-half percent surcharge on state general excise and use taxes for the purpose of maintenance or repair of disputed roads satisfies the constitutional requirement of article VIII, section 5, of the Hawaii State Constitution that requires the State to share in the cost of new mandated programs to the counties.

It is the intent of your Committees that counties may adopt ordinances under this measure only if they have not adopted ordinances pursuant to section 46-16.8, Hawaii Revised Statutes, relating to county surcharge on state tax.

Your Committees have amended this measure by:

- (1) Authorizing the county surcharge on state tax for only those counties that have not adopted an ordinance pursuant to section 46-16.8, Hawaii Revised Statutes, and making conforming amendments to delete references to the surcharge as an additional surcharge;
- (2) Setting the county surcharge at a uniform rate of one-half percent of all gross proceeds and gross income taxable under the general excise tax and use tax laws;
- (3) Amending the authorized use of surcharges received by a county from operating costs of public transportation within the county for public transportation systems to maintenance and repair costs of disputed roads; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the records of votes of the members of your Committees on Transportation and International Affairs, Public Safety, Intergovernmental and Military Affairs, and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2761, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2761, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Transportation and International Affairs, Public Safety, Intergovernmental and Military Affairs, and Judiciary and Labor,

Will Espero

WILL ESPERO, Chair

J. Kalani English

J. KALANI ENGLISH, Chair

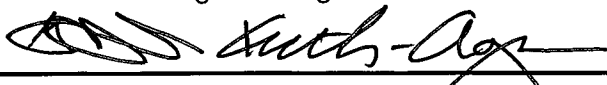
Clayton Hee

CLAYTON HEE, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Transportation and International Affairs
TIA

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2761	TIA/PSM/JDL, WAM	02/04/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ENGLISH, J. Kalani (C)	✓			
DELA CRUZ, Donovan M. (VC)				✓
ESPERO, Will	✓			
GABBARD, Mike	✓			
KAHELE, Gilbert	✓	✓		
KEITH-AGARAN, Gilbert S.C.	✓	✓		
KOUCHI, Ronald D.	✓			
SOLOMON, Malama		✓		
SLOM, Sam			✓	
TOTAL	5	2	1	1 1 <i>EW</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Public Safety and Military Affairs
PSM

Bill / Resolution No.:* SB 2761	Committee Referral: TIA/PSM/JDL, WAM	Date: 2/4/14
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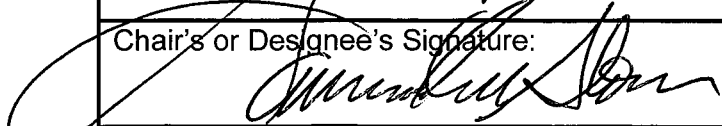
The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
ESPERO, Will (C)	X			
BAKER, Rosalyn H. (VC)	X			
GALUTERIA, Brickwood	X			
GREEN, M.D., Josh				X
SLOM, Sam			X	
TOTAL	3	0	1	1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2761	Committee Referral: TIA / PSM / JDL, WAM	Date: 2/4/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)				✓
GABBARD, Mike	✓			
GALUTERIA, Brickwood	✓			
IHARA, Jr., Les				✓
SOLOMON, Malama		✓		
SLOM, Sam				✓
TOTAL	3	1		3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; margin-top:10px;"> </div>				
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