
A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. The legislature finds that there are long-
2 standing disputes between the State and the counties regarding
3 the ownership and jurisdictional responsibilities of certain
4 public highways. As a result of these disputes, many public
5 highways have not received routine maintenance and repair from
6 either the State or the counties. The absence of routine
7 maintenance and repair of disputed public highways directly
8 impacts the safety of individuals that use these roads, and the
9 continued disregard for maintenance and repair leaves motorists
10 and their passengers at a higher risk of injury.

11 The legislature further finds that the cost of improving
12 and maintaining disputed public highways has impeded the State
13 and counties' efforts to resolve this issue. The longer
14 disputed public highways remain in a state of disrepair, the
15 more expensive repairs ultimately become. Thus, the legislature
16 finds that addressing this issue immediately will ultimately
17 save taxpayers money.



1 The purposes of this Act are to:

2 (1) Encourage the counties to repair disputed public
3 highways; and

4 (2) End ownership and jurisdictional disputes over public
5 highways.

6 SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§46-16.8 County surcharge on state tax. (a) Each county
9 may establish a surcharge on state tax at the rates enumerated
10 in sections 237-8.6 and 238-2.6. A county electing to establish
11 this surcharge shall do so by ordinance; provided that:

12 (1) No ordinance shall be adopted until the county has
13 conducted a public hearing on the proposed ordinance;

14 (2) The ordinance shall be adopted prior to December 31,
15 2005; and

16 (3) No county surcharge on state tax that may be
17 authorized under this subsection shall be levied prior
18 to January 1, 2007, or after December 31, 2022, unless
19 extended pursuant to subsection (b).

20 Notice of the public hearing required under paragraph (1) shall
21 be published in a newspaper of general circulation within the



1 county at least twice within a period of thirty days immediately
2 preceding the date of the hearing.

3 A county electing to exercise the authority granted under
4 this subsection shall notify the director of taxation within ten
5 days after the county has adopted a surcharge on state tax
6 ordinance and, beginning no earlier than January 1, 2007, the
7 director of taxation shall levy, assess, collect, and otherwise
8 administer the county surcharge on state tax.

9 (b) Each county that has established a surcharge on state
10 tax prior to [+]July 1, 2015, [+] under authority of subsection
11 (a) may extend the surcharge from January 1, 2023, until
12 December 31, 2027, at the same rates. A county electing to
13 extend this surcharge shall do so by ordinance; provided that:

14 (1) No ordinance shall be adopted until the county has
15 conducted a public hearing on the proposed ordinance;
16 and

17 (2) The ordinance shall be adopted prior to July 1, 2016,
18 but no earlier than July 1, 2015.

19 A county electing to exercise the authority granted under
20 this subsection shall notify the director of taxation within ten
21 days after the county has adopted an ordinance extending the



1 surcharge on state tax. Beginning on January 1, 2023, the
2 director of taxation shall levy, assess, collect, and otherwise
3 administer the extended surcharge on state tax.

4 (c) Each county that has not established a surcharge on
5 state tax prior to [+]July 1, 2015, [+] may establish the
6 surcharge at the rates enumerated in sections 237-8.6 and 238-
7 2.6. A county electing to establish this surcharge shall do so
8 by ordinance; provided that:

9 (1) No ordinance shall be adopted until the county has
10 conducted a public hearing on the proposed ordinance;

11 (2) The ordinance shall be adopted prior to July 1, 2016,
12 but no earlier than July 1, 2015; and

13 (3) No county surcharge on state tax that may be
14 authorized under this subsection shall be levied prior
15 to January 1, 2018, or after December 31, 2027.

16 A county electing to exercise the authority granted under
17 this subsection shall notify the director of taxation within ten
18 days after the county has adopted a surcharge on state tax
19 ordinance. Beginning on January 1, 2018, the director of
20 taxation shall levy, assess, collect, and otherwise administer
21 the county surcharge on state tax.



1 (d) Notice of the public hearing required under subsection
2 (b) or (c) before adoption of an ordinance establishing or
3 extending the surcharge on state tax shall be published in a
4 newspaper of general circulation within the county at least
5 twice within a period of thirty days immediately preceding the
6 date of the hearing.

7 (e) Each county with a population greater than five
8 hundred thousand that adopts or extends a county surcharge on
9 state tax ordinance pursuant to subsection (a) or (b) shall use
10 the surcharges received from the State for:

11 (1) Capital costs of a locally preferred alternative for a
12 mass transit project; ~~and~~

13 (2) Expenses in complying with the Americans with
14 Disabilities Act of 1990 with respect to paragraph
15 (1) ~~[-]~~; and

16 (3) Expenses to repair any public highway for which there
17 is a dispute between the State and the county over
18 ownership and jurisdiction.

19 [The] Except as authorized under paragraph (3) of this
20 subsection, the county surcharge on state tax shall not be used
21 to build or repair public roads or highways, bicycle paths, or



1 public transportation systems already in existence prior to July
2 12, 2005.

3 (f) Each county with a population equal to or less than
4 five hundred thousand that adopts a county surcharge on state
5 tax ordinance pursuant to this section shall use the surcharges
6 received from the State for:

7 (1) Operating or capital costs of public transportation
8 within each county for public transportation systems,
9 including public roadways or highways, public buses,
10 trains, ferries, pedestrian paths or sidewalks, or
11 bicycle paths; [~~and~~]

12 (2) Expenses in complying with the Americans with
13 Disabilities Act of 1990 with respect to paragraph
14 (1) [~~-~~]; and

15 (3) Expenses to repair any public highway for which there
16 is a dispute between the State and the county over
17 ownership and jurisdiction.

18 (g) Any county that expends state tax surcharge money
19 pursuant to this section for the repair of any public highway
20 for which there is a dispute between the State and the county



1 over ownership and jurisdiction shall be deemed to have assumed
2 ownership and jurisdiction over the repaired public highway.
3 [~~g~~] (h) As used in this section, "capital costs" means
4 nonrecurring costs required to construct a transit facility or
5 system, including debt service, costs of land acquisition and
6 development, acquiring of rights-of-way, planning, design, and
7 construction, and including equipping and furnishing the
8 facility or system. For a county with a population greater than
9 five hundred thousand, capital costs also include non-recurring
10 personal services and other overhead costs that are not intended
11 to continue after completion of construction of the minimum
12 operable segment of the locally preferred alternative for a mass
13 transit project."

14 SECTION 3. The department of transportation and the
15 department of each county that is responsible for public highway
16 maintenance shall compile a report of all public highways in the
17 State for which there is a dispute between the State and the
18 county over ownership and jurisdiction. The department of
19 transportation shall submit the report to the legislature no
20 later than twenty days prior to the convening of the regular
21 session of 2017.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

4

INTRODUCED BY: John M. Jones

JAN 21 2016



H.B. NO. 1697

Report Title:

Roads in Limbo; County State Tax Surcharge

Description:

Allows counties that establish a state tax surcharge to use the surcharge moneys for the repair of any public highway for which there is a dispute between the State and the county over ownership and jurisdiction. Provides that a county assumes ownership and jurisdiction over a public highway in which there is a dispute over ownership and jurisdiction by expending state tax surcharge money to repair the public highway. Requires the department of transportation and the county equivalents to prepare a report of all public highways in the State in which ownership and jurisdiction are disputed.

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