
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. Section 46-16.8, Hawaii Revised Statutes, is
3 amended as follows:

4 1. By amending subsections (b) and (c) to read:

5 "(b) Each county that has established a surcharge on state
6 tax prior to ~~[+]July 1, 2015, [+]~~ under authority of subsection
7 (a) may extend the surcharge from January 1, 2023, until
8 December 31, ~~[2027,]~~ 2057, at the ~~[same]~~ rates~~[-]~~ enumerated in
9 sections 237-8.6 and 238-2.6. A county electing to extend this
10 surcharge shall do so by ordinance; provided that:

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

14 (2) The ordinance shall be adopted prior to July 1, ~~[2016,~~
15 ~~but no earlier than July 1, 2015]~~ 2018.

16 A county electing to exercise the authority granted under
17 this subsection shall notify the director of taxation within ten



1 days after the county has adopted an ordinance extending the
2 surcharge on state tax. Beginning on January 1, 2023, the
3 director of taxation shall levy, assess, collect, and otherwise
4 administer the extended surcharge on state tax.

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

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

12 (2) The ordinance shall be adopted prior to July 1,
13 [~~2016,~~] 2018, but no earlier than July 1, [~~2015,~~]
14 2017; and

15 (3) No county surcharge on state tax that may be
16 authorized under this subsection shall be levied prior
17 to January 1, [~~2018, or after December 31, 2027~~] 2019.

18 A county electing to exercise the authority granted under
19 this subsection shall notify the director of taxation within ten
20 days after the county has adopted a surcharge on state tax
21 ordinance. Beginning on January 1, [~~2018,~~] 2019, the director



1 of taxation shall levy, assess, collect, and otherwise
2 administer the county surcharge on state tax."

3 2. By amending subsection (e) to read:

4 (e) Each county with a population greater than five
5 hundred thousand that adopts or extends a county surcharge on
6 state tax ordinance pursuant to subsection (a) or (b) shall:

7 (1) [use] Use the surcharges received from the State for:

8 ~~[(1)]~~ (A) Capital costs of a locally preferred alternative
9 for a mass transit project; and

10 ~~[(2)]~~ (B) Expenses in complying with the Americans with
11 Disabilities Act of 1990 with respect to
12 [paragraph (1)-.] subparagraph (A); and

13 (2) Require the appropriate agency managing the mass
14 transit project to provide to the legislature:

15 (A) A current financial report and management audit,
16 if available, no later than twenty days prior to
17 the convening of each regular session; and

18 (B) A presentation on the progress of the mass
19 transit project, to be conducted annually and as
20 needed;



1 provided that the State may withhold surcharges from
2 the county for failure to provide the necessary
3 reports pursuant to this paragraph.

4 The county surcharge on state tax shall not be used to build or
5 repair public roads or highways, bicycle paths, or support
6 public transportation systems already in existence prior to July
7 12, 2005."

8 SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Each county surcharge on state tax that may be
11 adopted or extended pursuant to section 46-16.8 shall be levied
12 beginning in the taxable year after the adoption of the relevant
13 county ordinance; provided that no surcharge on state tax may be
14 levied[+]

15 ~~(1)~~ ~~Prior~~] prior to:

16 ~~[(A)]~~ (1) January 1, 2007, if the county surcharge on state
17 tax was established by an ordinance adopted prior
18 to December 31, 2005; ~~[or]~~

19 ~~[(B)]~~ (2) January 1, 2018, if the county surcharge on state
20 tax was established by the adoption of an



1 ordinance after June 30, 2015, but prior to
2 July 1, 2016; [~~and~~] or

3 [~~(2) After December 31, 2027.~~]

4 (3) January 1, 2019, if the county surcharge on state tax
5 was established by the adoption of an ordinance after
6 June 30, 2017, but prior to July 1, 2018."

7 SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Each county surcharge on state tax that may be
10 adopted or extended shall be levied beginning in the taxable
11 year after the adoption of the relevant county ordinance;
12 provided that no surcharge on state tax may be levied[+

13 ~~(1) Prior]~~ prior to:

14 [~~(A)] (1) January 1, 2007, if the county surcharge on state~~

15 tax was established by an ordinance adopted prior

16 to December 31, 2005; [~~or~~]

17 [~~(B)] (2) January 1, 2018, if the county surcharge on state~~

18 tax was established by the adoption of an

19 ordinance after June 30, 2015, but prior to

20 July 1, 2016; [~~and~~] or

21 [~~(2) After December 31, 2027.~~]



1 (3) January 1, 2019, if the county surcharge on state tax
2 was established by the adoption of an ordinance after
3 June 30, 2017, but prior to July 1, 2018."

4 SECTION 4. Section 248-2.6, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) If adopted by county ordinance, all county surcharges
7 on state tax collected by the director of taxation shall be paid
8 into the state treasury quarterly, within ten working days after
9 collection, and shall be placed by the director of finance in
10 special accounts. Out of the revenues generated by county
11 surcharges on state tax paid into each respective state treasury
12 special account, the director of finance shall deduct:

13 (1) [~~ten~~ ___ per cent of the gross proceeds of a
14 respective county's surcharge on state tax to
15 reimburse the State for the costs of assessment,
16 collection, and disposition of the county surcharge on
17 state tax incurred by the State[-]; and

18 (2) ___ per cent of the gross proceeds of a respective
19 county's surcharge on state tax to be used by the
20 department of transportation for the purpose of state
21 highway projects.



1 Amounts retained shall be general fund realizations of the
2 State."

3 SECTION 5. Act 247, Session Laws of Hawaii 2005, as
4 amended by Act 240, Session Laws of Hawaii 2015, is amended by
5 amending section 9 to read as follows:

6 "SECTION 9. This Act shall take effect upon its approval;
7 provided that:

- 8 (1) If none of the counties of the State adopt an
9 ordinance to levy a county surcharge on state tax by
10 December 31, 2005, this Act shall be repealed and
11 section 437D-8.4, Hawaii Revised Statutes, shall be
12 reenacted in the form in which it read on the day
13 prior to the effective date of this Act;
- 14 (2) If any county does not adopt an ordinance to levy a
15 county surcharge on state tax by December 31, 2005, it
16 shall be prohibited from adopting such an ordinance
17 pursuant to this Act, unless otherwise authorized by
18 the legislature through a separate legislative act;
19 and
- 20 (3) If an ordinance to levy a county surcharge on state
21 tax is adopted by December 31, 2005 [+]



1 (A) The ordinance shall be repealed on December 31,
 2 2022; provided that the repeal of the ordinance
 3 shall not affect the validity or effect of an
 4 ordinance to extend a surcharge on state tax
 5 adopted pursuant to Act 240, Session Laws of
 6 Hawaii 2015 [~~7~~] and Act _____, Session Laws of
 7 Hawaii 2017;

8 (B) This Act shall be repealed on December 31,
 9 [~~20277~~] 2057; and

10 (C) Section 437D-8.4, Hawaii Revised Statutes, shall
 11 be reenacted in the form in which it read on the
 12 day prior to the effective date of this Act;
 13 provided that the amendments made to section
 14 437D-8.4, Hawaii Revised Statutes, by Act 226,
 15 Session Laws of Hawaii 2008, as amended by Act
 16 11, Session Laws of Hawaii 2009, and Act 110,
 17 Session Laws of Hawaii 2014, shall not be
 18 repealed."



PART II

SECTION 6. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§264- County highways; ownership. (a) As used in this section:

"Disputed public highway" means any public highway for which there is a dispute between the State and a county over ownership and jurisdiction, as determined by the department of transportation.

"Public highway" shall have the same meaning as defined in section 264-1.

"Road" means any highway, road, alley, street, way, lane, bikeway, bridge, or trail.

(b) Without regard to chapter 171, by January 1, 2018, the administrative head of each state department or agency shall convey, by deed of conveyance, the title of all disputed public highways to the respective county in which the disputed public highway is situated; provided that the administrative head of the department or agency first consults with the director of transportation.



1 All conveyances of disputed public highways made pursuant
2 to this subsection shall be accepted by the pertinent county
3 without exercise of discretion.

4 (c) Any road that is open to the public and for which the
5 director of transportation determines that:

6 (1) There is a dispute over ownership and jurisdiction of
7 the road between the State or any of its political
8 subdivisions and a private party; and

9 (2) No party has exercised ownership over the road in the
10 five years prior to the effective date of this
11 section; provided that driving on the road shall not,
12 on its own, constitute an act of ownership,

13 shall be deemed to have been surrendered to the county in which
14 the road is situated, pursuant to an administrative order issued
15 by the director of transportation. The county shall accept
16 without exercise of discretion all surrendered roads, except
17 where the State has notified the county within thirty days of
18 the surrender that the State will accept the surrendered road.
19 The county shall accept the road as surrendered and shall record
20 its ownership with the bureau of conveyances."



1 SECTION 7. Each county that accepts surrendered roads from
2 the State pursuant to section 264- , Hawaii Revised Statutes,
3 shall utilize various tax revenue sources available to the
4 respective counties for the maintenance and upkeep of the roads.

5 PART III

6 SECTION 8. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 9. This Act shall take effect on July 1, 2050.



Report Title:

County Surcharge on State Tax; Highways

Description:

Authorizes a county that has established a county surcharge on state tax for a limited time period, with the surcharge to be effective until 12/31/2057, if adopted. Requires counties that have not established a surcharge to adopt an ordinance to establish a surcharge prior to 7/1/2018. Requires counties with a population greater than five hundred thousand that have adopted a county surcharge to have the appropriate mass transit agency to report to the Legislature. Provides that the State shall retain an unspecified portion of surcharge. Directs the head of each state department or agency to convey title of all disputed highways the respective county. Requires each county to take ownership and jurisdiction over all roads over which there is a dispute over ownership between the State or any of its political subdivisions and a private party. (HB349 HD1)

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

