

DAVID Y. IGE
GOVERNOR



LAUREL A. JOHNSTON
ACTING DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

**TESTIMONY BY LAUREL A. JOHNSTON
ACTING DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON TRANSPORTATION
ON
HOUSE BILL NO. 2601**

**February 9, 2018
10:00 a.m.
Room 423**

RELATING TO TRANSPORTATION

House Bill No. 2601 creates a supplemental rental motor vehicle fee to be levied, assessed, and collected at a medium-hub airport that serves a county with a resident population of more than 125,000 but less than 195,000 that includes at least three islands inhabited by permanent residents. Revenues shall be deposited into the State Highway Fund (SHF) and shall be expended for the following projects on Maui: 1) the Paia bypass project; and 2) the Lahaina bypass project. Requires the Director of Transportation to cease collections of the supplemental motor vehicle fee upon completion of the projects.

The Department of Budget and Finance has policy concerns with earmarking the SHF for specific projects. The purpose of the SHF is to fund all highway projects and, currently, no other projects are specified in statute.

Thank you for your consideration of our comments.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 2601, RELATING TO TRANSPORTATION.

BEFORE THE:

HOUSE COMMITTEE ON TRANSPORTATION

DATE: Friday, February 9, 2018

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 423

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Reuel S. Toyama, Deputy Attorney General

Chair Aquino and Members of the Committee:

The Department of the Attorney General respectfully opposes this bill based on the following concerns.

This bill creates a supplemental rental motor vehicle user fee of \$4.50 per day to be levied, assessed, and collected for rental motor vehicles rented or leased from a rental motor vehicle concession located in any medium-hub airport serving a county that serves a resident population of more than 125,000 but less than 195,000 and that includes at least three islands inhabited by permanent residents. The fee is collected by lessors in the business of providing rental motor vehicles to the public and paid to the Department of Transportation (department). The department deposits the revenues collected into the state highway fund and expends those funds for two specific highway bypass projects on the island of Maui. Once these specified projects are completed the director shall cease levying, assessing, and collecting the fee.

The bill could be subject to challenge as a special law. Article XI, section 5, of the Hawai'i Constitution provides:

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

Under *Sierra Club v. Dept. of Transportation*, 120 Hawai'i 181, 202 P.3d 1226 (2009), it appears that restriction to counties of a certain population and containing three

inhabited islands is “logically and factually limited to a class of one and thus illusory.” A class is not illusory if it could include other members in the future. The actual probability of other members joining the class must be considered in determining whether a class is illusory.

In this case, the bill expires when two specified projects are built. It is unlikely that any other county could meet the population requirements during the life of the bill. Even more clearly, only one county comprises three permanently inhabited islands. No other county can reasonably be expected to meet this requirement.

This bill also seems to conflict with federal law. 49 U.S.C. § 47107(b)(1) provides that:

revenues generated by a public airport will be expended for the capital or operating costs of -- (A) the airport; (B) the local airport system; or (C) other local facilities which are owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

The Maui consolidated car rental facility is on airport premises and funds generated from it are airport revenues. To the extent the bill conflicts with federal law, it may be preempted.

In addition or in the alternative to preemption, the Federal Aviation Administration (FAA) is statutorily mandated to ensure that airport owners and operators comply with federal grants and violation of grant assurances may result in consequences including and are not limited to withholding grants, assessing civil penalties, and seeking judicial enforcement of grant assurances.

Finally we note a related provision in state law. Section 261-5(a), Hawaii Revised Statutes (HRS), provides in relevant part that:

all moneys received by the department from rents, fees, and other charges collected pursuant to this chapter, as well as all aviation fuel taxes paid pursuant to section 243-4(a)(2), shall be paid into the airport revenue fund created by section 248-8. All moneys paid into the airport revenue fund shall be appropriated, applied, or expended by the department for any purpose within the jurisdiction, powers, duties, and functions of the department related to the statewide system of airports, including, without limitation, the costs of operation, maintenance, and repair of the statewide system of airports and reserves therefor.

The bill as written also appears to conflict with this statutory mandate.

We respectfully ask the Committee to hold this bill.

.

HB-2601

Submitted on: 2/8/2018 5:23:10 AM

Testimony for TRN on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Yuki Lei Sugimura	Maui County Council	Support	No

Comments:

Monthly, Maui has an average of 40,000 visitors on island and our guests enjoy the many beauties which makes Maui the BEST ISLAND IN THE WORLD.

Maui island has the largest number of rental cars in the State of Hawaii.

I support the daily tax on rental cars. These funds would be used towards the Lahaina by-pass and Paia by-pass roads. These major road congestions creates road rage and irritation from residents and visitors alike.

I strongly support this legislation.

Yuki Lei Sugimura, Maui County Councilmember, Upcountry

Council Chair
Mike White



Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello

COUNTY COUNCIL

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

Councilmembers
Alika Atay
Elle Cochran
Don S. Guzman
Riki Hokama
Kelly T. King
Yuki Lei K. Sugimura

February 8, 2018

To: Honorable Henry J.C. Aquino
Chairman House Committee on Transportation

From: Riki Hokama
Councilmember

**SUBJECT: Testimony in Support of HB2601 RELATING TO
TRANSPORTATION**

I write in support of HB 2601 as a sound funding method for two critical highways projects. I recognize that collection of the fee will be ceased after completion of the 2 projects listed in Section 248-9 (c) of the bill. This is an effective and responsible method to fund highly impactful transportation projects.

Sincerely,

A handwritten signature in black ink that reads "Riki Hokama". The signature is written in a cursive style with a long, sweeping flourish at the end.

RIKI HOKAMA
Councilmember

Council Chair
Mike White

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello

Councilmembers
Alika Atay
Elle Cochran
Don S. Guzman
Riki Hokama
Kelly T. King
Yuki Lei K. Sugimura



COUNTY COUNCIL
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February 8, 2018

TO: Honorable Henry J. C. Aquino, Chair
House Committee on Transportation

FROM: Stacy Helm Crivello
Councilmember

A handwritten signature in dark ink, appearing to read "Stacy Helm Crivello", is written over the printed name.

DATE: February 9, 2018

SUBJECT: **SUPPORT OF HB2601, RELATING TO TRANSPORTATION**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is to create a supplemental rental motor vehicle user fee of \$4.50 per day to be levied, assessed, and collected for rental motor vehicles rented from a rental motor vehicle concession located in any medium-hub airport serving a county that includes at least 3 islands inhabited by permanent residents. Uses revenues to pay for certain highway projects. Requires the Director of Transportation to cease collecting the supplemental rental motor vehicle fee upon completion of the specified highway projects..

I **support** this measure for the following reasons:

1. There is severe congestion and gridlock on several of our Maui roadways that has steadily increased over the years. The side effect of a vibrant tourism based economy is the inevitable traffic attributed to our visitors who make up a very large portion of our public highway users.
2. Kahului Airport rents the most cars of all the airports in the state, averaging 2,200 cars rented daily, more than twice the amount of Honolulu.
3. The traffic on the Hana Highway gridlocks in Paia **daily** causing a backup over a mile long. Much of the traffic is generated by visitors traveling to Hookipa Beach for windsurfing and to and from Hana. The Paia Bypass project which will alleviate the traffic congestion in through Paia has had several proposals over the last 40 years and currently has an estimated price tag of \$90 million. Vehicles traveling along the Honoapiilani Highway to Lahaina /Kaanapali experience slowdowns and congestion daily after

February 8, 2018
Page 2

the slew of mainland flights have deplaned their passengers at Kahului Airport. The Lahaina Bypass project which is designed to alleviate the congestion of Honoapiilani Highway. Two sections of the multi-phased project are completed. Construction of the third segment is just getting underway with two additional segments to be designed and constructed.

For the foregoing reasons, I **support** this measure.

2018HB2061Support-Transportation



HAWAI'I LODGING & TOURISM
A S S O C I A T I O N

Testimony of

Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

before the
Committee on Transportation
February 9, 2018

House Bill 2601: Relating to Transportation

Chair Aquino, Vice Chair Quinlan, and Committee on Transportation members:

Thank you for the opportunity to testify on House Bill 2601, which calls for the imposition of a daily \$4.50 user fee on motor vehicle rentals to generate revenue for highway projects in certain jurisdictions of the state.

The Hawai'i Lodging & Tourism Association supports the maintenance and improvement of our transportation infrastructure, particularly our roads and freeways, as essential to the appeal of the islands as an international visitor destination, as necessary to the livelihoods of our tens of thousands of employees, and as a cornerstone of our quality of life. However, we would caution against the addition of a separate fee, above the existing rental tax of \$3.00 per day for the highway fund. When compounded with general excise taxes, motor vehicle registration fees, gasoline costs, airport concession fees, and the ever-increasing operating costs facing any business, adding yet another monetary burden will affect our industry's overall competitiveness. Surely there must be broader-based means of generating the revenue necessary to improve our infrastructure, and we believe those should be explored before creating a special tax, in a particular jurisdiction, for this purpose.

We, therefore, oppose House Bill 2601 and thank you for the opportunity to share our views on this legislation.

HB-2601

Submitted on: 2/7/2018 3:45:24 PM

Testimony for TRN on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph D Pluta	WEST MAUI TAXPAYERS ASSOCIATION INC.	Support	No

Comments:

We strongly support this Bill with reservations to the money being generated being used in the County where generated and earmarked exclusively for highway projects located therein.

The West Maui Taxpayers Association Inc., WMTA, understands that this bill and companion bill SB3009 propose generation of new revenue to be able to be used for Maui Highways with the money generated on Maui to be specifically designated for highway projects on Maui and most specifically the Lahaina ByPass (Our highest Priority) and Paia Bypass.



Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

HB 2601

Relating To Transportation

COMMITTEE ON TRANSPORTATION

Friday, February 9, 2018, 10am

Conference Room 423

Dear Chair Aquino, Vice Chair Quinlan, and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes 185 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA is **opposed** to HB 2601, which creates a supplemental rental motor vehicle user fee of \$4.50 per day to be levied, assessed, and collected for rental motor vehicles rented from a rental motor vehicle concession located in any medium-hub airport serving a county that includes at least 3 islands inhabited by permanent residents. Uses revenues to pay for certain highway projects. Requires the Director of Transportation to cease collecting the supplemental rental motor vehicle fee upon completion of the specified highway projects.

As written, this Bill unfairly targets Maui County only, with the additional fees collected to go into the State DOT to benefit the entire State.

MHLA believes that this measure would harm car rental business within Maui County. The taxes assessed on a rental car are already at an incredible rate: For example, a \$50/day car rental from Kahului Airport on Maui will have 32% in taxes* adding an additional \$4.50/day will have the tax rate go up to 41% in taxes per day.

Keeping our costs level is critical to our ability to compete against other sun destinations, especially now when we are seeing an increased amount of competition with new resort locations and other destinations' deeply discounted air/hotel/car packages. Hawai'i has reached the point where high business costs and tax rates make it increasingly difficult for business to be profitable and competitive, in both the domestic and international markets.

Tourism continues to be the largest single source of private capital for our economy. Recent reports have noted that (a) tourism accounted for 204,000 jobs; (b) visitor spending last year totaled \$16.8 billion, a new high; and (c) the state's tax take was \$1.96 billion.

Maui Hotel & Lodging Association is opposed to raising taxes and leveraging extra fees on the visitor industry.

Thank you for the opportunity to testify.

*Hawaii Motor Vehicle Surcharge Tax=\$3.00/day

Hawaii Rental Vehicle Customer Facility = \$4.50/day

Airport Concessionaire *f* Permitter Fee – 11.11%/day

Vehicle License Fee (Registration Fee/Weight Tax) = \$.35 to \$1.45/day

GET - Hawaii State General Excise Tax 4.166%/day



SanHi

GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 8, 2018

TO: Representative Henry Aquino
Chair, Committee on Transportation
Submitted Via Capitol Website

RE: **H.B. 2601 Relating to Transportation**
Hearing Date: Friday, February 9, 2018 at 10:00 a.m.
Conference Room: 423

Dear Chair Aquino and Members of the Committee on Transportation:

We submit this testimony on behalf of EAN Holdings, LLC, operating Enterprise Rent-A-Car, Alamo Rent-A-Car and National Car Rental in Hawaii (collectively referred to as "Enterprise").

Enterprise offers comments on H.B. 2601, which establishes a supplemental rental motor vehicle user fee of \$4.50 per day to collect revenue for use in the Paia and Lahaina bypass projects on the island of Maui.

Enterprise is concerned that doubling this category of fees and taxes for highway project purposes represents a significant increase in the total taxes and fees when compared to the cost of an average rental. H.B. 2601 proposes to impose a new supplemental rental motor vehicle user fee of \$4.50 for Maui renters, which more than doubles the existing motor vehicle surcharge tax of \$3.00 per day. The existing \$3.00 surcharge tax already goes into the highway fund for the purpose of highway projects.

If the committee is inclined to pass this bill, Enterprise would like to make sure that the motor vehicle rental industry is allowed to pass the fee on to Maui customers as is the current practice with other taxes and fees. Currently, a number of fees may already be passed on to the consumer under Hawaii Revised Statutes 437D-8.4. As this adds another class of similar fees, Enterprise asks that the committee include language to amend HRS 437D-8.4(a) with a new subsection (6) that allows rental car companies to pass on this new supplemental rental motor vehicle user fee.

Thank you for the opportunity to submit this testimony.



Robert Muhs, Esq.

Vice President Government Affairs,
Corporate Compliance &
Business Ethics

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Representative Henry Aquino, Chair
Representative Sean Quinlan, Vice Chair
House Committee on Transportation

Friday, February 9, 2018; 10:00 AM
Hawaii State Capitol; Conference Room 423

RE: HB 2601 – Relating to Transportation – IN OPPOSITION

Chair Aquino, Vice Chair Quinlan, and Members of the Committee:

My name is Robert Muhs, Vice President Government Affairs, Corporate Compliance and Business Ethics for Avis Budget Group. Thank you for giving us this opportunity to offer testimony in opposition of HB 2601, which creates a supplemental rental motor vehicle user fee of \$4.50 per day to be levied, assessed, and collected for rental motor vehicles rented from a rental motor vehicle concession located in any medium-hub airport serving a county that includes at least 3 islands inhabited by permanent residents and uses revenues to pay for certain highway projects.

Hawaii rental car customers currently pay the following charges - a rental motor vehicle customer facility charge of \$4.50 per day and a rental motor vehicle surcharge tax of \$3.00 per day, plus the State general excise tax (GET).

This bill adds another surcharge of \$4.50 per day. We question whether an economic elasticity study has been done, as we believe this supplemental surcharge could lead to an overall decline of transaction days, thereby generating less overall revenue. A decline in transaction days would also directly impact the bond obligation for the Consolidated Rental Car Facility being built on Maui.

If this bill were to pass, the total surcharge amount before GET would be among the highest in the country.

We urge the Committee to hold this measure.

HB-2601

Submitted on: 2/7/2018 1:24:18 PM

Testimony for TRN on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jess Park		Support	No

Comments:

State Highway Projects for Maui County are severely underfunded. The Lahaina ByPass is a perfect example. With multiple segments yet to fund/contract/complete the project is years away from completion. Ongoing construction in Lahaina Town at the intersection of Keawe Street and Hwy 30 is a perfect example and has traffic backed up on the highway and other roads (i.e., Front Street) as drivers try to weave around backups. I don't see this situation getting better as the current project is completed and there becomes only one north bound lane going straight through the traffic light at Keawe St. Only completing the north bound phases of the bypass and moving the traffic past Lahaina Town will alleviate this problem. These additional segments of the Lahaina ByPass and other stalled projects need funding. With 44,000 rental cars on Maui roads, the rental car companies and their customers need to help pay for these new roads. This is a tax that doesn't, for the most part, affect Maui residents / voters and can improve the visitor and resident experience for our entire population. The same can be said for other Counties within the state. Please support this bill to help expedite needed highway projects. Thank you.

HB-2601

Submitted on: 2/8/2018 2:08:09 PM

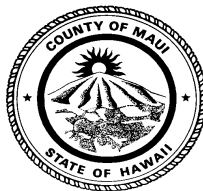
Testimony for TRN on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Moran		Support	No

Comments:

Mike Moran testifying for the Kihei Community Association (KCA) in support of this bill. While our non profit is charged with matters in South Maui., and there is some expectation that revenue generated would go toward transportation solutions in West Maui and north shore projects, as Maui residents we see the dire need for numerous transportation solutions in varied areas. South Maui is dramatically affected by visitors, as is the west side, so we see the need to seek revenue from those visitors, as this proposal would achieve. We cannot and should not continue to financially burden our residents with local tax increases . Mahalo, Mike Moran, Kihei, Maui for KCA

ALAN M. ARAKAWA
MAYOR



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LATE

OFFICE OF THE MAYOR
Ke`ena O Ka Meia
COUNTY OF MAUI – Kalana O Maui

February 9, 2018

TESTIMONY OF ALAN M ARAKAWA
MAYOR
COUNTY OF MAUI

BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION

Friday, February 9, 2018, 10:00 a.m.
Conference Room 423

HB2601 RELATING TO TRANSPORTATION.

Honorable Henry J.C. Aquino, Chair
Honorable Sean Quinlan, Vice Chair
Honorable Members of the House Committee on Transportation

Thank you for this opportunity to testify in **SUPPORT** OF HB2601.

The purpose of this bill is to create a supplemental rental motor vehicle user fee of \$4.50 per day to be levied, assessed, and collected for rental motor vehicles rented from a rental motor vehicle concession located in any medium-hub airport serving a county that includes at least 3 islands inhabited by permanent residents. Uses revenues to pay for certain highway projects. Requires the Director of Transportation to cease collecting the supplemental rental motor vehicle fee upon completion of the specified highway projects.

The State Department of Transportation (SDOT) has limited funds to start new traffic congestion mitigation projects. The funds created by this bill would allow for SDOT to move forward with several traffic congestion mitigation projects.

Some may say that this may cause people to cut back on renting vehicles. It may, indeed, do that. I would suggest that this may also be beneficial to mitigating traffic congestion in a small way.

For these reasons I support the passage of HB2601.

Sincerely,

Alan M. Arakawa
Mayor, County of Maui

HB-2601

Submitted on: 2/8/2018 8:50:38 PM

Testimony for TRN on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John NAYLOR	N/A	Support	No

Comments:

Aloha,

While I do support this tax for tourist rental cars with income for Maui road improvements, It would be nice if somehow Maui residents could avoid this tax. Over the last 35 years I have had to rent a car because my car needed repair or I needed to buy a new, to me, dependable used car. On two of those occasions, it has taken me over a month with a rental car. Please consider a Kamaaina exception to this tax.

Also Maui cannot afford to loose Maui's share of TAT and GET . The ammount taken is already unacceptable. Oahu legislators cannot use this Maui car rental Maui tax as an excuse to take other funds from us. It certainly cannot end up in the General (slush) Fund.

HB-2601

Submitted on: 2/9/2018 5:32:22 AM

Testimony for TRN on 2/9/2018 10:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Mary Whispering Wind	Patients Without Time	Oppose	No

Comments:

What about the traffic backups from MÄ• 'alaea to Olowalu? Have you noticed that the road is falling into the sea? For years, the drive in and out of West Maui has been plagued with traffic and high surf splashing onto roads during south swells. The state Department of Transportation has estimated realigning the highway from the Pali to Maalaea would cost \$500 million to \$1 billion. We need bigger and better projects, to ensure traffic flow and protect the economic future of Maui.

Huge road, education, housing, and environment clean-up projects need huge taxes, and Hawaii's lawmakers should be ashamed of themselves for allowing the racially prejudice cannabis prohibition to continue, while allowing the illegal cannabis industry to grow to becoming the largest agricultural industry in the State, without paying any taxes, fees, insurance, employee safety rules, or benefits plans, etc.

Colorado has collected 500 MILLION DOLLARS in taxes from recreational cannabis sales, while Hawaii has wastes millions every year failing to enforce the prohibition, whlie wasting more tax dollars clogging our courts, and sending good citizens to prisons-for-profit in Arizona.

LATE

HB-2601

Submitted on: 2/9/2018 6:32:53 AM

Testimony for TRN on 2/9/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
William Spence		Support	No

Comments:

I STRONGLY SUPPORT this measure as applied to Maui. We have a vibrant visitor industry and as a result we also have more rental cars than any of the other counties. The funds generated by this measure would go a long ways toward improvements that have been needed already for several decades. This tesimony comes as a resident of the county and not in any official capacity.