

JAN 22 2021

A BILL FOR AN ACT

RELATING TO RENTAL MOTOR VEHICLES.

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

1 SECTION 1. Hawaii is committed to mitigating emissions and
2 creating a clean energy pathway by investing in renewable energy
3 and energy efficiency. Utilities and transportation currently
4 account for the majority of emissions in Hawaii.

5 Reducing cars on the road will contribute to Hawaii's
6 meeting its clean energy goals because doing so reduces
7 dependency on petroleum and the resulting greenhouse gas
8 emissions generated from ground transportation vehicles.
9 However, over twenty thousand rental motor vehicles on Maui
10 adversely impact Hawaii's intent to mitigate greenhouse gas
11 emissions.

12 SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§46-1.5 General powers and limitation of the counties.**
15 Subject to general law, each county shall have the following
16 powers and shall be subject to the following liabilities and
17 limitations:



1 (1) Each county shall have the power to frame and adopt a
2 charter for its own self-government that shall
3 establish the county executive, administrative, and
4 legislative structure and organization, including but
5 not limited to the method of appointment or election
6 of officials, their duties, responsibilities, and
7 compensation, and the terms of their office;

8 (2) Each county shall have the power to provide for and
9 regulate the marking and lighting of all buildings and
10 other structures that may be obstructions or hazards
11 to aerial navigation, so far as may be necessary or
12 proper for the protection and safeguarding of life,
13 health, and property;

14 (3) Each county shall have the power to enforce all claims
15 on behalf of the county and approve all lawful claims
16 against the county, but shall be prohibited from
17 entering into, granting, or making in any manner any
18 contract, authorization, allowance payment, or
19 liability contrary to the provisions of any county
20 charter or general law;



(4) Each county shall have the power to make contracts and to do all things necessary and proper to carry into execution all powers vested in the county or any county officer;

(5) Each county shall have the power to:

(A) Maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters;

(B) Remove from the channels, and from the shores and beaches, any debris that is likely to create an unsanitary condition or become a public nuisance; provided that, to the extent any of the foregoing work is a private responsibility, the responsibility may be enforced by the county in lieu of the work being done at public expense;

(C) Construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend, and maintain projects or undertakings for the control of and protection against floods and flood waters, including the



power to drain and rehabilitate lands already
flooded;

(D) Enact zoning ordinances providing that lands
deemed subject to seasonable, periodic, or
occasional flooding shall not be used for
residence or other purposes in a manner as to
endanger the health or safety of the occupants
thereof, as required by the Federal Flood
Insurance Act of 1956 (chapter 1025, Public Law
1016); and

(E) Establish and charge user fees to create and
maintain any stormwater management system or
infrastructure;

(6) Each county shall have the power to exercise the power
of condemnation by eminent domain when it is in the
public interest to do so;

(7) Each county shall have the power to exercise
regulatory powers over business activity as are
assigned to them by chapter 445 or other general law;



(8) Each county shall have the power to fix the fees and charges for all official services not otherwise provided for;

(9) Each county shall have the power to provide by ordinance assessments for the improvement or maintenance of districts within the county;

(10) Except as otherwise provided, no county shall have the power to give or loan credit to, or in aid of, any person or corporation, directly or indirectly, except for a public purpose;

(11) Where not within the jurisdiction of the public utilities commission, each county shall have the power to regulate by ordinance the operation of motor vehicle common carriers transporting passengers and the number of rental motor vehicles within the county and adopt and amend rules the county deems necessary for the public convenience and necessity;

(12) Each county shall have the power to enact and enforce ordinances necessary to prevent or summarily remove public nuisances and to compel the clearing or removal of any public nuisance, refuse, and uncultivated



1 undergrowth from streets, sidewalks, public places,
2 and unoccupied lots. In connection with these powers,
3 each county may impose and enforce liens upon the
4 property for the cost to the county of removing and
5 completing the necessary work where the property
6 owners fail, after reasonable notice, to comply with
7 the ordinances. The authority provided by this
8 paragraph shall not be self-executing, but shall
9 become fully effective within a county only upon the
10 enactment or adoption by the county of appropriate and
11 particular laws, ordinances, or rules defining "public
12 nuisances" with respect to each county's respective
13 circumstances. The counties shall provide the
14 property owner with the opportunity to contest the
15 summary action and to recover the owner's property;

16 (13) Each county shall have the power to enact ordinances
17 deemed necessary to protect health, life, and
18 property, and to preserve the order and security of
19 the county and its inhabitants on any subject or
20 matter not inconsistent with, or tending to defeat,
21 the intent of any state statute where the statute does



1 not disclose an express or implied intent that the
2 statute shall be exclusive or uniform throughout the
3 State;

4 (14) Each county shall have the power to:

5 (A) Make and enforce within the limits of the county
6 all necessary ordinances covering all:

7 (i) Local police matters;

8 (ii) Matters of sanitation;

9 (iii) Matters of inspection of buildings;

10 (iv) Matters of condemnation of unsafe

11 structures, plumbing, sewers, dairies, milk,
12 fish, and morgues; and

13 (v) Matters of the collection and disposition of
14 rubbish and garbage;

15 (B) Provide exemptions for homeless facilities and
16 any other program for the homeless authorized by
17 part XVII of chapter 346, for all matters under
18 this paragraph;

19 (C) Appoint county physicians and sanitary and other
20 inspectors as necessary to carry into effect
21 ordinances made under this paragraph, who shall



1 have the same power as given by law to agents of
2 the department of health, subject only to
3 limitations placed on them by the terms and
4 conditions of their appointments; and

5 (D) Fix a penalty for the violation of any ordinance,
6 which penalty may be a misdemeanor, petty
7 misdemeanor, or violation as defined by general
8 law;

9 (15) Each county shall have the power to provide public
10 pounds; to regulate the impounding of stray animals
11 and fowl, and their disposition; and to provide for
12 the appointment, powers, duties, and fees of animal
13 control officers;

14 (16) Each county shall have the power to purchase and
15 otherwise acquire, lease, and hold real and personal
16 property within the defined boundaries of the county
17 and to dispose of the real and personal property as
18 the interests of the inhabitants of the county may
19 require, except that:



(A) Any property held for school purposes may not be disposed of without the consent of the superintendent of education;

(B) No property bordering the ocean shall be sold or otherwise disposed of; and

(C) All proceeds from the sale of park lands shall be expended only for the acquisition of property for park or recreational purposes;

(17) Each county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State under the authority of the attorney general of the State;

(18) Each county shall have the power to make appropriations in amounts deemed appropriate from any moneys in the treasury, for the purpose of:

(A) Community promotion and public celebrations;

(B) The entertainment of distinguished persons as may from time to time visit the county;

(C) The entertainment of other distinguished persons, as well as, public officials when deemed to be in the best interest of the community; and



(D) The rendering of civic tribute to individuals who, by virtue of their accomplishments and community service, merit civic commendations, recognition, or remembrance;

(19) Each county shall have the power to:

(A) Construct, purchase, take on lease, lease, sublease, or in any other manner acquire, manage, maintain, or dispose of buildings for county purposes, sewers, sewer systems, pumping stations, waterworks, including reservoirs, wells, pipelines, and other conduits for distributing water to the public, lighting plants, and apparatus and appliances for lighting streets and public buildings, and manage, regulate, and control the same;

(B) Regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephone, and telecommunications service to the county;

(C) Acquire, regulate, and control any and all appliances for the sprinkling and cleaning of the



1 streets and the public ways, and for flushing the
2 sewers; and

3 (D) Open, close, construct, or maintain county
4 highways or charge toll on county highways;
5 provided that all revenues received from a toll
6 charge shall be used for the construction or
7 maintenance of county highways;

8 (20) Each county shall have the power to regulate the
9 renting, subletting, and rental conditions of property
10 for places of abode by ordinance;

11 (21) Unless otherwise provided by law, each county shall
12 have the power to establish by ordinance the order of
13 succession of county officials in the event of a
14 military or civil disaster;

15 (22) Each county shall have the power to sue and be sued in
16 its corporate name;

17 (23) Each county shall have the power to:

18 (A) Establish and maintain waterworks and sewer
19 works;

20 (B) Implement a sewer monitoring program that
21 includes the inspection of sewer laterals that



1 connect to county sewers, when those laterals are
2 located on public or private property, after
3 providing a property owner not less than ten
4 calendar days' written notice, to detect leaks
5 from laterals, infiltration, and inflow, any
6 other law to the contrary notwithstanding;

7 (C) Compel an owner of private property upon which is
8 located any sewer lateral that connects to a
9 county sewer to inspect that lateral for leaks,
10 infiltration, and inflow and to perform repairs
11 as necessary;

12 (D) Collect rates for water supplied to consumers and
13 for the use of sewers;

14 (E) Install water meters whenever deemed expedient;
15 provided that owners of premises having vested
16 water rights under existing laws appurtenant to
17 the premises shall not be charged for the
18 installation or use of the water meters on the
19 premises; and

20 (F) Take over from the State existing waterworks
21 systems, including water rights, pipelines, and



1 other appurtenances belonging thereto, and sewer
2 systems, and to enlarge, develop, and improve the
3 same;

4 (G) For purposes of subparagraphs (B) and (C):

5 (i) "Infiltration" means groundwater, rainwater,
6 and saltwater that enters the county sewer
7 system through cracked, broken, or defective
8 sewer laterals; and

9 (ii) "Inflow" means non-sewage entering the
10 county sewer system via inappropriate or
11 illegal connections;

12 (24) (A) Each county may impose civil fines, in addition
13 to criminal penalties, for any violation of
14 county ordinances or rules after reasonable
15 notice and requests to correct or cease the
16 violation have been made upon the violator. Any
17 administratively imposed civil fine shall not be
18 collected until after an opportunity for a
19 hearing under chapter 91. Any appeal shall be
20 filed within thirty days from the date of the
21 final written decision. These proceedings shall



1 not be a prerequisite for any civil fine or
2 injunctive relief ordered by the circuit court;
3 (B) Each county by ordinance may provide for the
4 addition of any unpaid civil fines, ordered by
5 any court of competent jurisdiction, to any
6 taxes, fees, or charges, with the exception of
7 fees or charges for water for residential use and
8 sewer charges, collected by the county. Each
9 county by ordinance may also provide for the
10 addition of any unpaid administratively imposed
11 civil fines, which remain due after all judicial
12 review rights under section 91-14 are exhausted,
13 to any taxes, fees, or charges, with the
14 exception of water for residential use and sewer
15 charges, collected by the county. The ordinance
16 shall specify the administrative procedures for
17 the addition of the unpaid civil fines to the
18 eligible taxes, fees, or charges and may require
19 hearings or other proceedings. After addition of
20 the unpaid civil fines to the taxes, fees, or
21 charges, the unpaid civil fines shall not become



1 a part of any taxes, fees, or charges. The
2 county by ordinance may condition the issuance or
3 renewal of a license, approval, or permit for
4 which a fee or charge is assessed, except for
5 water for residential use and sewer charges, on
6 payment of the unpaid civil fines. Upon
7 recordation of a notice of unpaid civil fines in
8 the bureau of conveyances, the amount of the
9 civil fines, including any increase in the amount
10 of the fine which the county may assess, shall
11 constitute a lien upon all real property or
12 rights to real property belonging to any person
13 liable for the unpaid civil fines. The lien in
14 favor of the county shall be subordinate to any
15 lien in favor of any person recorded or
16 registered prior to the recordation of the notice
17 of unpaid civil fines and senior to any lien
18 recorded or registered after the recordation of
19 the notice. The lien shall continue until the
20 unpaid civil fines are paid in full or until a
21 certificate of release or partial release of the



1 lien, prepared by the county at the owner's
2 expense, is recorded. The notice of unpaid civil
3 fines shall state the amount of the fine as of
4 the date of the notice and maximum permissible
5 daily increase of the fine. The county shall not
6 be required to include a social security number,
7 state general excise taxpayer identification
8 number, or federal employer identification number
9 on the notice. Recordation of the notice in the
10 bureau of conveyances shall be deemed, at such
11 time, for all purposes and without any further
12 action, to procure a lien on land registered in
13 land court under chapter 501. After the unpaid
14 civil fines are added to the taxes, fees, or
15 charges as specified by county ordinance, the
16 unpaid civil fines shall be deemed immediately
17 due, owing, and delinquent and may be collected
18 in any lawful manner. The procedure for
19 collection of unpaid civil fines authorized in
20 this paragraph shall be in addition to any other



1 procedures for collection available to the State
2 and county by law or rules of the courts;
3 (C) Each county may impose civil fines upon any
4 person who places graffiti on any real or
5 personal property owned, managed, or maintained
6 by the county. The fine may be up to \$1,000 or
7 may be equal to the actual cost of having the
8 damaged property repaired or replaced. The
9 parent or guardian having custody of a minor who
10 places graffiti on any real or personal property
11 owned, managed, or maintained by the county shall
12 be jointly and severally liable with the minor
13 for any civil fines imposed hereunder. Any such
14 fine may be administratively imposed after an
15 opportunity for a hearing under chapter 91, but
16 such a proceeding shall not be a prerequisite for
17 any civil fine ordered by any court. As used in
18 this subparagraph, "graffiti" means any
19 unauthorized drawing, inscription, figure, or
20 mark of any type intentionally created by paint,
21 ink, chalk, dye, or similar substances;



1 (D) At the completion of an appeal in which the
2 county's enforcement action is affirmed and upon
3 correction of the violation if requested by the
4 violator, the case shall be reviewed by the
5 county agency that imposed the civil fines to
6 determine the appropriateness of the amount of
7 the civil fines that accrued while the appeal
8 proceedings were pending. In its review of the
9 amount of the accrued fines, the county agency
10 may consider:

- 11 (i) The nature and egregiousness of the
12 violation;
13 (ii) The duration of the violation;
14 (iii) The number of recurring and other similar
15 violations;
16 (iv) Any effort taken by the violator to correct
17 the violation;
18 (v) The degree of involvement in causing or
19 continuing the violation;
20 (vi) Reasons for any delay in the completion of
21 the appeal; and



1 (vii) Other extenuating circumstances.

2 The civil fine that is imposed by administrative
3 order after this review is completed and the
4 violation is corrected shall be subject to
5 judicial review, notwithstanding any provisions
6 for administrative review in county charters;

7 (E) After completion of a review of the amount of
8 accrued civil fine by the county agency that
9 imposed the fine, the amount of the civil fine
10 determined appropriate, including both the
11 initial civil fine and any accrued daily civil
12 fine, shall immediately become due and
13 collectible following reasonable notice to the
14 violator. If no review of the accrued civil fine
15 is requested, the amount of the civil fine, not
16 to exceed the total accrual of civil fine prior
17 to correcting the violation, shall immediately
18 become due and collectible following reasonable
19 notice to the violator, at the completion of all
20 appeal proceedings; and



1 (F) If no county agency exists to conduct appeal
2 proceedings for a particular civil fine action
3 taken by the county, then one shall be
4 established by ordinance before the county shall
5 impose the civil fine;

6 (25) Any law to the contrary notwithstanding, any county
7 mayor, by executive order, may exempt donors, provider
8 agencies, homeless facilities, and any other program
9 for the homeless under part XVII of chapter 346 from
10 real property taxes, water and sewer development fees,
11 rates collected for water supplied to consumers and
12 for use of sewers, and any other county taxes,
13 charges, or fees; provided that any county may enact
14 ordinances to regulate and grant the exemptions
15 granted by this paragraph;

16 (26) Any county may establish a captive insurance company
17 pursuant to article 19, chapter 431; and

18 (27) Each county shall have the power to enact and enforce
19 ordinances regulating towing operations."

20 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.s

2

INTRODUCED BY:

M. D. W.

By Request



S.B. NO. 438

Report Title:

Hawaii State Association of Counties Package; Counties; General Powers; Rental Motor Vehicles

Description:

Authorizes each county to regulate the number of rental motor vehicles within the county.

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

