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# A BILL FOR AN ACT

RELATING TO ROADS.

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

1           SECTION 1. The legislature finds that while private roads  
2 are under the ownership of private persons, the use of the  
3 private roads are not exclusive to those private persons. For  
4 example, private roads are often heavily used by first  
5 responders to respond to emergencies and by school buses for the  
6 transportation of students to and from school. Accordingly, the  
7 legislature finds that supporting the maintenance and upkeep of  
8 these private roads serve a public purpose.

9           Accordingly, the purpose of this Act is to:

- 10           (1) Permit the counties to use county surcharge revenues  
11           for the maintenance of public roadways and private  
12           roadways that are open to the public; and  
13           (2) Require the counties to use fuel tax revenues for the  
14           reconstruction, improvement, repair, and maintenance  
15           of private roadways that are open to the public.

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



1           **"§46-16.8 County surcharge on state tax.** (a) Each county  
2 may establish a surcharge on state tax at the rates enumerated  
3 in sections 237-8.6 and 238-2.6. A county electing to establish  
4 this surcharge shall do so by ordinance; provided that:

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

7           (2) The ordinance shall be adopted before December 31,  
8           2005; and

9           (3) No county surcharge on state tax that may be  
10           authorized under this subsection shall be levied  
11           before January 1, 2007, or after December 31, 2022,  
12           unless extended pursuant to subsection (b).

13 Notice of the public hearing required under paragraph (1) shall  
14 be published in a newspaper of general circulation within the  
15 county at least twice within a period of thirty days immediately  
16 preceding the date of the hearing.

17           A county electing to exercise the authority granted under  
18 this subsection shall notify the director of taxation within ten  
19 days after the county has adopted a surcharge on state tax  
20 ordinance and, beginning no earlier than January 1, 2007, the



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

3 (b) Each county that has established a surcharge on state  
4 tax before July 1, 2015, under authority of subsection (a) may  
5 extend the surcharge until December 31, 2030, at the same rates.  
6 A county electing to extend this surcharge shall do so by  
7 ordinance; provided that:

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

11 (2) The ordinance shall be adopted before January 1, 2018.

12 A county electing to exercise the authority granted under  
13 this subsection shall notify the director of taxation within ten  
14 days after the county has adopted an ordinance extending the  
15 surcharge on state tax. The director of taxation shall levy,  
16 assess, collect, and otherwise administer the extended surcharge  
17 on state tax.

18 (c) Each county that has not established a surcharge  
19 pursuant to subsection (a) on state tax before July 1, 2015, may  
20 establish the surcharge at the rates enumerated in sections 237-



1 8.6 and 238-2.6. A county electing to establish this surcharge  
2 shall do so by ordinance; provided that:

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

5 (2) The ordinance shall be adopted before December 31,  
6 2023; and

7 (3) No county surcharge on state tax that may be  
8 authorized under this subsection shall be levied  
9 before January 1, 2019, or after December 31, 2030.

10 A county electing to exercise the authority granted under  
11 this subsection shall notify the director of taxation within ten  
12 days after the county has adopted a surcharge on state tax  
13 ordinance. Beginning on January 1, 2019, January 1, 2020,  
14 January 1, 2024, or January 1, 2025, as applicable pursuant to  
15 sections 237-8.6 and 238-2.6, the director of taxation shall  
16 levy, assess, collect, and otherwise administer the county  
17 surcharge on state tax.

18 (d) Each county that has established a surcharge on state  
19 tax before March 31, 2019, under subsection (a) or (c) may amend  
20 the surcharge ordinance to change the authorized uses of  
21 surcharge revenues, pursuant to subsection (g); provided that:



1 (1) No ordinance shall be amended pursuant to this section  
2 until the county has conducted a public hearing on the  
3 proposed amendment; and

4 (2) The ordinance shall be amended before December 31,  
5 2023.

6 (e) Notice of the public hearing required under subsection  
7 (b), (c), or (d), before adoption or amendment of an ordinance  
8 establishing or extending the surcharge on state tax shall be  
9 published in a newspaper of general circulation within the  
10 county at least twice within a period of thirty days immediately  
11 preceding the date of the hearing.

12 (f) Each county with a population greater than five  
13 hundred thousand that adopts or extends a county surcharge on  
14 state tax ordinance pursuant to subsection (a) or (b) shall use  
15 the surcharge revenues received from the State for capital costs  
16 of a locally preferred alternative for a mass transit project;  
17 provided that revenues derived from the county surcharge on  
18 state tax shall not be used:

19 (1) To build or repair [~~public roads or highways,~~] bicycle  
20 paths[~~7~~] or support public transportation systems  
21 already in existence before July 12, 2005;



1 (2) For operating costs or maintenance costs of the mass  
2 transit project or any purpose not consistent with  
3 this subsection; or

4 (3) For administrative or operating, marketing, or  
5 maintenance costs, including personnel costs, of a  
6 rapid transportation authority charged with the  
7 responsibility for constructing, operating, or  
8 maintaining the mass transit project;

9 provided further that nothing in this section shall be construed  
10 to prohibit a county from using county funds that are not  
11 derived from a surcharge on state tax for a purpose described in  
12 paragraph (2) or (3).

13 (g) Each county having a population equal to or less than  
14 five hundred thousand that adopts a county surcharge on state  
15 tax ordinance pursuant to this section shall use the  
16 [~~surcharge~~] surcharge revenues received from the State for:

17 (1) Operating or capital costs of public transportation  
18 within each county for public transportation systems,  
19 including:

20 (A) Public roadways or highways;

21 (B) Public buses;



1 (C) Trains;

2 (D) Ferries;

3 (E) Pedestrian paths or sidewalks; or

4 (F) Bicycle paths;

5 (2) Expenses in complying with the Americans with

6 Disabilities Act of 1990 with respect to paragraph

7 (1); and

8 (3) Housing infrastructure; provided that a county that

9 uses surcharge revenues for housing infrastructure

10 shall not pass on those housing infrastructure costs

11 to the developer of a housing project; provided

12 further that this paragraph shall apply only if a

13 county amended its surcharge ordinance pursuant to

14 subsection (d) or adopts a county surcharge on state

15 tax ordinance after December 31, 2022;

16 provided that each county having a population equal to or less

17 than five hundred thousand that adopts a county surcharge on

18 state tax ordinance pursuant to this section after December 31,

19 2022, shall use the surcharge revenues received from the State

20 only for the purposes described in paragraph (3).



1        (h) In addition to the uses authorized by subsections (f)  
2 and (g), each county that adopts a county surcharge on state tax  
3 ordinance pursuant to this section may use the surcharge  
4 revenues received from the State for the maintenance of public  
5 roadways or the maintenance, including flood mitigation, of  
6 privately-owned roadways that are open to the public.

7        [~~h~~] (i) As used in this section:

8        "Capital costs" means nonrecurring costs required to  
9 construct a transit facility or system, including debt service,  
10 costs of land acquisition and development, acquiring of rights-  
11 of-way, planning, design, and construction, and including  
12 equipping and furnishing the facility or system. For a county  
13 with a population greater than five hundred thousand, capital  
14 costs also include non-recurring personal services and other  
15 overhead costs that are not intended to continue after  
16 completion of construction of the minimum operable segment of  
17 the locally preferred alternative for a mass transit project.

18        "Housing infrastructure" includes pedestrian paths or  
19 sidewalks on a county road near or around a public school, and  
20 water, drainage, sewer, water reuse, waste disposal, and waste





1 treatment systems that connect to the infrastructure of the  
2 county."

3 SECTION 3. Section 243-6, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§243-6 Fuel taxes, dispositions.** The "city and county of  
6 Honolulu fuel tax" shall be paid by the department of taxation  
7 into the state treasury, and shall, by the state director of  
8 finance, be paid over to the director of finance of the city and  
9 county of Honolulu for deposit into the fund known as the  
10 "highway fund" created by section 249-18.

11 The "county of Kauai fuel tax" shall be paid by the  
12 department into the state treasury, and shall, by the state  
13 director of finance, be paid over to the director of finance of  
14 the county of Kauai for deposit into the fund known as the  
15 "highway fund" created by section 249-18.

16 The "county of Hawaii fuel tax" shall be paid by the  
17 department into the state treasury, and shall, by the state  
18 director of finance, be paid over to the director of finance of  
19 the county of Hawaii for deposit into the fund known as the  
20 "highway fund" created by section 249-18.



1           The "county of Maui fuel tax" collected on account of  
2 liquid fuel sold or used on the island of Lanai or sold  
3 elsewhere for ultimate use on the island of Lanai[7] shall be  
4 paid by the department into the state treasury, and shall, by  
5 the state director of finance, be paid over to the director of  
6 finance of the county of Maui for deposit into the fund known as  
7 the "highway fund" created by section 249-18, for expenditure on  
8 the island of Lanai. The "county of Maui fuel tax" collected on  
9 account of liquid fuel sold or used on the island of Molokai or  
10 sold elsewhere for ultimate use on the island of Molokai[7]  
11 shall be paid by the department into the state treasury, and  
12 shall, by the state director of finance, be paid over to the  
13 director of finance of the county of Maui for deposit into the  
14 fund known as the "highway fund" created by section 249-18, for  
15 expenditure on the island of Molokai. The remainder of the  
16 "county of Maui fuel tax" shall be paid by the department into  
17 the state treasury, and shall, by the state director of finance,  
18 be paid over to the director of finance of the county of Maui  
19 for deposit into the fund known as the "highway fund" created by  
20 section 249-18.



1 Each of the foregoing taxes shall be expended for the  
2 following purposes, for the island for which the tax revenue is  
3 specially indicated, or, if none, for the county for which the  
4 tax revenue is indicated:

5 (1) For payment of interest on and redemption of any bonds  
6 duly issued or sold on or after July 1, 1951, under  
7 chapter 47 for the financing or aiding in financing  
8 the construction of county highway tunnels, approach  
9 roads thereto, and highways. [~~Such~~] The payments of  
10 interest and principal on the bonds when due, shall be  
11 first charges on [~~such~~] the moneys so deposited in the  
12 fund[-];

13 (2) For acquisition, designing, construction,  
14 reconstruction, improvement, repair, and maintenance  
15 of county main and general thoroughfares, highways,  
16 and other streets, street lights, storm drains, and  
17 bridges, including costs of new land therefor, when  
18 expenditures for the foregoing purposes cannot be  
19 financed under state-federal aid projects[-];



- 1        (3) For reconstruction, improvement, repair, and  
2        maintenance, including flood mitigation, of privately-  
3        owned roadways that are open to the public;
- 4        [~~(3)~~] (4) In the case of the city and county of Honolulu,  
5        for payment of the city and county's share in an  
6        improvement district initiated by the city and county  
7        for an improvement listed in [~~(1)~~] paragraph [~~(1)~~] (2)  
8        above, which is permitted to be constructed in the  
9        city and county[~~(1)~~];
- 10       [~~(4)~~] (5) For the construction of county highway tunnels,  
11       overpasses, underpasses, and bridges, where [~~such~~] the  
12       improvement cannot be made under state-federal aid  
13       projects[~~(1)~~];
- 14       [~~(5)~~] (6) For purposes and functions connected with county  
15       traffic control and preservation of safety upon the  
16       public highways and streets[~~(1)~~];
- 17       [~~(6)~~] (7) For purposes and functions in connection with  
18       mass transit[~~(1)~~];
- 19       [~~(7)~~] (8) For acquisition, design, construction,  
20       improvement, repair, and maintenance of bikeways[~~(1)~~];  
21       and



1        [~~(8)~~] (9) No expenditure shall be made, out of the revenues  
2                paid into any such fund, [~~which~~] that will jeopardize  
3                federal aid for highway construction."

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

6                SECTION 5. This Act shall take effect on July 1, 3000.



**Report Title:**

Privately-owned Roadways; State Tax; County Surcharge; Fuel Tax

**Description:**

Permits the counties to use county surcharge revenues for maintenance of public roadways and private roadways that are open to the public. Requires the counties to use fuel taxes for reconstruction, improvement, repair, and maintenance of private roads that are open to the public. Effective 7/1/3000. (HD2)

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