

JAN 18 2024

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

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

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

9 (2) The ordinance shall be adopted before December 31,  
10 2005; and

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

15 Notice of the public hearing required under paragraph (1) shall  
16 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 before July 1, 2015, under authority of subsection (a) may  
11 extend the surcharge until December 31, 2030, at the same rates.  
12 A county electing to extend this surcharge shall do so by  
13 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 before January 1, 2018.

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 an ordinance extending the  
21 surcharge on state tax. The director of taxation shall levy,



1 assess, collect, and otherwise administer the extended surcharge  
2 on state tax.

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

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

10 (2) The ordinance shall be adopted before December 31,  
11 2023; and

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

15 A county electing to exercise the authority granted under  
16 this subsection shall notify the director of taxation within ten  
17 days after the county has adopted a surcharge on state tax  
18 ordinance. Beginning on January 1, 2019, January 1, 2020,  
19 January 1, 2024, or January 1, 2025, as applicable pursuant to  
20 sections 237-8.6 and 238-2.6, the director of taxation shall



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

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

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

10 (2) The ordinance shall be amended before December 31,  
11 2023.

12 (e) Notice of the public hearing required under subsection  
13 (b), (c), or (d), before adoption or amendment of an ordinance  
14 establishing or extending the surcharge on state tax shall be  
15 published in a newspaper of general circulation within the  
16 county at least twice within a period of thirty days immediately  
17 preceding the date of the hearing.

18 (f) Each county with a population greater than five  
19 hundred thousand that adopts or extends a county surcharge on  
20 state tax ordinance pursuant to subsection (a) or (b) shall use  
21 the surcharge revenues received from the State for capital costs



1 of a locally preferred alternative for a mass transit project;  
2 provided that revenues derived from the county surcharge on  
3 state tax shall not be used:

4 (1) To build or repair public roads or highways, bicycle  
5 paths, or support public transportation systems  
6 already in existence before July 12, 2005;

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

10 (3) For administrative or operating, marketing, or  
11 maintenance costs, including personnel costs, of a  
12 rapid transportation authority charged with the  
13 responsibility for constructing, operating, or  
14 maintaining the mass transit project;

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

19 (g) Each county having a population equal to or less than  
20 five hundred thousand that adopts a county surcharge on state



1 tax ordinance pursuant to this section shall use the surcharges  
2 received from the State for:

3 (1) Operating or capital costs of public transportation  
4 within each county for public transportation systems,  
5 including:

6 (A) Public roadways or highways;

7 (B) Public buses;

8 (C) Trains;

9 (D) Ferries;

10 (E) Pedestrian paths or sidewalks; or

11 (F) Bicycle paths;

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

15 (3) Housing infrastructure; provided that a county that  
16 uses surcharge revenues for housing infrastructure  
17 shall not pass on those housing infrastructure costs  
18 to the developer of a housing project; provided  
19 further that this paragraph shall apply only if a  
20 county amended its surcharge ordinance pursuant to



1 subsection (d) or adopts a county surcharge on state  
2 tax ordinance after December 31, 2022;  
3 provided that each county having a population equal to or less  
4 than five hundred thousand that adopts a county surcharge on  
5 state tax ordinance pursuant to this section after December 31,  
6 2022, shall use the surcharge revenues received from the State  
7 only for the purposes described in paragraph (3).

8 (h) Each county that adopts a county surcharge on state  
9 tax ordinance pursuant to this section may use the surcharges  
10 received from the State for the maintenance of privately-owned  
11 roadways that are open to the public.

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

13 "Capital costs" means nonrecurring costs required to  
14 construct a transit facility or system, including debt service,  
15 costs of land acquisition and development, acquiring of rights-  
16 of-way, planning, design, and construction, and including  
17 equipping and furnishing the facility or system. For a county  
18 with a population greater than five hundred thousand, capital  
19 costs also include non-recurring personal services and other  
20 overhead costs that are not intended to continue after



1 completion of construction of the minimum operable segment of  
2 the locally preferred alternative for a mass transit project.

3 "Housing infrastructure" includes pedestrian paths or  
4 sidewalks on a county road near or around a public school, and  
5 water, drainage, sewer, water reuse, waste disposal, and waste  
6 treatment systems that connect to the infrastructure of the  
7 county."

8 SECTION 2. Section 243-6, Hawaii Revised Statutes, is  
9 amended to read as follows:

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

16 The "county of Kauai 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 Kauai for deposit into the fund known as the  
20 "highway fund" created by section 249-18.





1           The "county of Hawaii fuel tax" shall be paid by the  
2 department into the state treasury, and shall, by the state  
3 director of finance, be paid over to the director of finance of  
4 the county of Hawaii for deposit into the fund known as the  
5 "highway fund" created by section 249-18.

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



1 treasury, and shall, by the state director of finance, be paid  
2 over to the director of finance of the county of Maui for  
3 deposit into the fund known as the "highway fund" created by  
4 section 249-18.

5 Each of the foregoing taxes shall be expended for the  
6 following purposes, for the island for which the tax revenue is  
7 specially indicated, or, if none, for the county for which the  
8 tax revenue is indicated:

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

17 (2) For acquisition, designing, construction,  
18 reconstruction, improvement, repair, and maintenance  
19 of county main and general thoroughfares, highways,  
20 and other streets, street lights, storm drains, and  
21 bridges, including costs of new land therefor, when



1 expenditures for the foregoing purposes cannot be  
2 financed under state-federal aid projects[-];

3 (3) For reconstruction, improvement, repair, and  
4 maintenance of privately-owned roadways that are open  
5 to the public;

6 [+3] (4) In the case of the city and county of Honolulu,  
7 for payment of the city and county's share in an  
8 improvement district initiated by the city and county  
9 for an improvement listed in [+]paragraph[+] (2)  
10 above, which is permitted to be constructed in the  
11 city and county[-];

12 [+4] (5) For the construction of county highway tunnels,  
13 overpasses, underpasses, and bridges, where [~~such~~] the  
14 improvement cannot be made under state-federal aid  
15 projects[-];

16 [+5] (6) For purposes and functions connected with county  
17 traffic control and preservation of safety upon the  
18 public highways and streets[-];

19 [+6] (7) For purposes and functions in connection with  
20 mass transit[-];



1       ~~(7)~~ (8) For acquisition, design, construction,  
2           improvement, repair, and maintenance of bikeways~~(7)~~;  
3           and  
4       ~~(8)~~ (9) No expenditure shall be made, out of the revenues  
5           paid into any such fund, which will jeopardize federal  
6           aid for highway construction."

7       SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9       SECTION 4. This Act shall take effect upon its approval.

10

INTRODUCED BY: *Francis R. Brown*



# S.B. NO. 2178

**Report Title:**

Privately-Owned Roadways; Fuel Tax; State Tax

**Description:**

Allows for a percentage of general excise and fuel taxes generated by the counties to be used for maintenance of private roadways that are open to the public.

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