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# A BILL FOR AN ACT

RELATING TO THE COUNTIES.

**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           The purpose of this Act is to allow the counties to utilize  
10 tax revenues collected by the counties for certain purposes  
11 related to public roadways and private roads that are open to  
12 and used by the public.

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

15           "**§46-16.8 County surcharge on state tax.** (a) Each county  
16 may establish a surcharge on state tax at the rates enumerated



1 in sections 237-8.6 and 238-2.6. A county electing to establish  
2 this surcharge 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 [~~prior to~~] before  
6 December 31, 2005; and

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

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

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



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

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

9 (2) The ordinance shall be adopted [~~prior to~~] before  
10 January 1, 2018.

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

17 (c) Each county that has not established a surcharge on  
18 state tax [~~prior to~~] before July 1, 2015, may establish the  
19 surcharge at the rates enumerated in sections 237-8.6 and 238-  
20 2.6. A county electing to establish this surcharge shall do so  
21 by ordinance; provided that:



- 1 (1) No ordinance shall be adopted until the county has  
2 conducted a public hearing on the proposed ordinance;
- 3 (2) The ordinance shall be adopted [~~prior to~~] before  
4 March 31, 2019; and
- 5 (3) No county surcharge on state tax that may be  
6 authorized under this subsection shall be levied  
7 [~~prior to~~] before January 1, 2019, or after  
8 December 31, 2030.

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

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



1 (e) Each county with a population greater than five  
2 hundred thousand that adopts or extends a county surcharge on  
3 state tax ordinance pursuant to subsection (a) or (b) shall use  
4 the surcharge revenues received from the State for capital costs  
5 of a locally preferred alternative for a mass transit project;  
6 provided that revenues derived from the county surcharge on  
7 state tax shall not be used:

8 (1) To build or repair [~~public roads or highways,~~] bicycle  
9 paths[~~7~~] or support public transportation systems  
10 already in existence [~~prior to~~] before July 12, 2005;

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

14 (3) For administrative or operating, marketing, or  
15 maintenance costs, including personnel costs, of a  
16 rapid transportation authority charged with the  
17 responsibility for constructing, operating, or  
18 maintaining the mass transit project;

19 provided further that nothing in this section shall be construed  
20 to prohibit a county from using county funds that are not



1 derived from a surcharge on state tax for a purpose described in  
2 paragraph (2) or (3).

3 (f) Each county with a population equal to or less than  
4 five hundred thousand that adopts a county surcharge on state  
5 tax ordinance pursuant to this section shall use the surcharges  
6 received from the State for:

7 (1) Operating or capital costs of public transportation  
8 within each county for public transportation systems,  
9 including public roadways or highways, public buses,  
10 trains, ferries, pedestrian paths or sidewalks, or  
11 bicycle paths; and

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

15 (g) In addition to the uses specified in subsections (e)  
16 and (f), each county that adopts a county surcharge on state tax  
17 ordinance pursuant to this section may use the surcharges  
18 received from the State for the maintenance of public roadways  
19 or privately-owned roadways that are open to the public.

20 [~~g~~] (h) As used in this section, "capital costs" means  
21 nonrecurring costs required to construct a transit facility or



1 system, including debt service, costs of land acquisition and  
2 development, acquiring of rights-of-way, planning, design, [and]  
3 construction, and [~~including~~] equipping and furnishing the  
4 facility or system. For a county with a population greater than  
5 five hundred thousand, capital costs also include [~~non-~~  
6 ~~recurring~~] nonrecurring personal services and other overhead  
7 costs that are not intended to continue after completion of  
8 construction of the minimum operable segment of the locally  
9 preferred alternative for a mass transit project."

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

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

19 (b) The [~~"county of Kauai fuel tax"~~] county of Kauai fuel  
20 tax shall be paid by the department of taxation into the state  
21 treasury, and shall, by the state director of finance, be paid



1 over to the director of finance of the county of Kauai for  
2 deposit into the [~~fund known as the "highway fund"~~] highway fund  
3 created by section 249-18.

4 (c) The [~~"county of Hawaii fuel tax"~~] county of Hawaii  
5 fuel tax shall be paid by the department of taxation into the  
6 state treasury, and shall, by the state director of finance, be  
7 paid over to the director of finance of the county of Hawaii for  
8 deposit into the [~~fund known as the "highway fund"~~] highway fund  
9 created by section 249-18.

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





1 state treasury, and shall, by the state director of finance, be  
2 paid over to the director of finance of the county of Maui for  
3 deposit into the [~~fund known as the "highway fund"~~] highway fund  
4 created by section 249-18, for expenditure on the island of  
5 Molokai. The remainder of the [~~"county of Maui fuel tax"~~]  
6 county of Maui fuel tax shall be paid by the department of  
7 taxation into the state treasury, and shall, by the state  
8 director of finance, be paid over to the director of finance of  
9 the county of Maui for deposit into the [~~fund known as the~~  
10 ~~"highway fund"~~] highway fund created by section 249-18.

11 (e) Each of the [~~foregoing~~] taxes under subsections (a)  
12 through (d) shall be expended for the following purposes, for  
13 the island for which the tax revenue is specially indicated, or,  
14 if none, for the county for which the tax revenue is indicated:

15 (1) For payment of interest on and redemption of any bonds  
16 duly issued or sold on or after July 1, 1951, under  
17 chapter 47 for the financing or aiding in financing  
18 the construction of county highway tunnels, approach  
19 roads thereto, and highways. [~~Such payments~~] Payments  
20 of interest and principal on the bonds when due[~~7~~]



1 shall be first charges on such moneys so deposited in  
2 the fund[-];

3 (2) For acquisition, designing, construction,  
4 reconstruction, improvement, repair, and maintenance  
5 of county main and general thoroughfares, highways,  
6 and other streets, including private roadways that are  
7 open to and used by the public, street lights, storm  
8 drains, and bridges, including costs of new land  
9 therefor, when expenditures for [~~the foregoing~~] these  
10 purposes cannot be financed under state-federal aid  
11 projects[-];

12 (3) In the case of the city and county of Honolulu, for  
13 payment of the city and county's share in an  
14 improvement district initiated by the city and county  
15 for an improvement listed in [+]paragraph[+] (2)  
16 [~~above which~~] that is permitted to be constructed in  
17 the city and county[-];

18 (4) For the construction of county highway tunnels,  
19 overpasses, underpasses, and bridges, where such  
20 improvement cannot be made under state-federal aid  
21 projects[-];



- 1 (5) For purposes and functions connected with county  
2 traffic control and preservation of safety upon the  
3 public highways and streets~~[+]~~, including private  
4 roadways that are open to and used by the public;
- 5 (6) For purposes and functions in connection with mass  
6 transit~~[+]~~; and
- 7 (7) For acquisition, design, construction, improvement,  
8 repair, and maintenance of bikeways.

9 ~~[(8)]~~ (f) No expenditure under subsection (e) shall be  
10 made~~[+]~~ out of the revenues paid into any such fund~~[+]~~ ~~which~~  
11 that will jeopardize federal aid for highway construction."

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

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

15



# H.B. NO. <sup>279</sup> H.D. 2

**Report Title:**

County Surcharge; State Taxes; Repair and Maintenance; Private Roadways

**Description:**

Authorizes the counties to use the county surcharge on state tax revenues and fuel tax revenues for certain purposes related to public roadways and private roadways that are open to the public. Effective 7/1/3000. (HD2)

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