

JAN 23 2025

A BILL FOR AN ACT

RELATING TO ROADS.

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

SECTION 1. Section 46-16.8, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

Notice of the public hearing required under paragraph (1) shall 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
6 sections 237-8.6 and 238-2.6. A county electing to establish
7 this surcharge 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) Private roadways that are open to and used by the
8 public;

9 (C) Public buses;

10 [~~(C)~~] (D) Trains;

11 [~~(D)~~] (E) Ferries;

12 [~~(E)~~] (F) Pedestrian paths or sidewalks; or

13 [~~(F)~~] (G) Bicycle paths;

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

17 (3) Housing infrastructure costs; provided that a county
18 that uses surcharge revenues for housing
19 infrastructure shall not pass on those housing
20 infrastructure costs to the developer of a housing
21 project; provided further that this paragraph shall



1 apply only if a county amended its surcharge ordinance
2 pursuant to subsection (d) or adopts a county
3 surcharge on state tax ordinance after
4 December 31, 2022;

5 provided that each county having a population equal to or less
6 than five hundred thousand that adopts a county surcharge on
7 state tax ordinance pursuant to this section after
8 December 31, 2022, shall use the surcharge revenues received
9 from the State only for the purposes described in paragraph (3)
10 for county-appropriated housing infrastructure costs.

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

15 ~~(h)~~ (i) As used in this section:

16 "Capital costs" means nonrecurring costs required to
17 construct a transit facility or system, including debt service,
18 costs of land acquisition and development, acquiring of
19 rights-of-way, planning, design, and construction, and including
20 equipping and furnishing the facility or system. For a county
21 with a population greater than five hundred thousand, capital



1 costs also include non-recurring personal services and other
2 overhead costs that are not intended to continue after
3 completion of construction of the minimum operable segment of
4 the locally preferred alternative for a mass transit project.

5 "Housing infrastructure costs" includes pedestrian paths or
6 sidewalks on a county road near or around a public school, and
7 water, drainage, sewer, water reuse, waste disposal, and waste
8 treatment systems that connect to the infrastructure of the
9 county and shall include financing costs, including any related
10 debt service and financing agreement costs."

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

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

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



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

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

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



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

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

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

19 (2) For acquisition, designing, construction,
20 reconstruction, improvement, repair, and maintenance
21 of county main and general thoroughfares, highways,



1 and other streets, including private roadways that are
2 open to and used by the public, street lights, storm
3 drains, and bridges, including costs of new land
4 therefor, when expenditures for ~~[the foregoing]~~ these
5 purposes cannot be financed under state-federal aid
6 projects~~[-]~~;

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

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

16 ~~[(4)]~~ (5) For the construction of county highway tunnels,
17 overpasses, underpasses, and bridges, where ~~[such]~~ the
18 improvement cannot be made under state-federal aid
19 projects~~[-]~~;

20 ~~[(5)]~~ (6) For purposes and functions connected with county
21 traffic control and preservation of safety upon the



1 public highways and streets~~[-]~~, including private
2 roadways that are open to and used by the public;
3 ~~[(+6)]~~ (7) For purposes and functions in connection with
4 mass transit~~[-]~~; and
5 ~~[(+7)]~~ (8) For acquisition, design, construction,
6 improvement, repair, and maintenance of bikeways.
7 ~~[(+8)]~~ (f) No expenditure under subsection (e) shall be
8 made~~[-]~~ out of the revenues paid into any ~~[such]~~ fund~~[-, which]~~
9 that will jeopardize federal aid for highway construction."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2025.

13

INTRODUCED BY:



S.B. NO. 1244

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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