



RESOLUTION

URGING THE HAWAII LEGISLATURE TO ALLOW THE CITY AND COUNTY OF HONOLULU TO USE THE GENERAL EXCISE TAX SURCHARGE FOR ANY TYPE OF PUBLIC TRANSPORTATION SYSTEM.

WHEREAS, during the regular session of 2005, the Hawaii Legislature enacted Act 247, Session Laws of Hawaii 2005, which authorized each county to establish a general excise tax surcharge for transportation purposes, but limited the City and County of Honolulu ("City") to using the funds only for the operating or capital costs of a locally preferred alternative ("LPA") for a mass transit project, while expressly prohibiting the City from using the funds to build or repair public roads or highways, bicycle paths, or support public transportation systems already in existence prior to July 12, 2005; and

WHEREAS, by contrast, Act 247 authorized each neighbor island county that established the surcharge to use the funds, without limitation, for the operating or capital costs of public transportation within the county for public transportation systems, including public roadways or highways, public buses, trains, ferries, pedestrian paths or sidewalks, or bicycle paths; and

WHEREAS, in August 2005, Honolulu initiated the Honolulu High Capacity Transit Project ("Transit Project") with the passage of Ordinance 05-27, which established a general excise and use tax surcharge to be used, pursuant to the limitations and restrictions imposed by Act 247, for the purposes of funding the operating and capital costs of an LPA for a new mass transit project; and

WHEREAS, in December 2006, the Honolulu City Council ("Council") passed Ordinance 07-001, which selected a fixed guideway system as the LPA based on the analysis, evaluation, and recommendation found in the City's Alternatives Analysis ("AA") Report; and

WHEREAS, in June 2010, the City released the transit project's Final Environmental Impact Statement ("FEIS"), which the Governor accepted in December 2010; and

WHEREAS, in May 2011, transit project opponents filed a lawsuit in U.S. District Court seeking to invalidate the project's FEIS, with the plaintiffs accusing the City of violating federal environmental, historic preservation and transportation laws in preparing the environmental impact statement ("EIS"), while also claiming that City officials defined the requirements of the project so narrowly that it effectively excluded all reasonable alternatives (Honolulu Star-Advertiser, "Hui files federal lawsuit to stop rail plans" 5/13/2011); and



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WHEREAS, a lawsuit of this magnitude and scope could eventually cost Honolulu taxpayers untold millions of dollars to defend, result in months if not years of delay, and ultimately lead to an order for the City to prepare a new EIS to comply with federal law that would effectively end the transit project as currently planned; and

WHEREAS, if available to the City through an amended state law that does not limit the city's transit alternatives, one option that could avoid the enormous expense, interminable delays and community frustration of this litigation would be for the City to agree to prepare a new AA and EIS, which would render the lawsuit moot and result in a legally-compliant EIS that recommends a public transportation system proposal that truly is in the best interests of the residents and visitors of Oahu; and

WHEREAS, the preparation of a new AA and EIS could also address current criticisms related to claims and statistics in the City's FEIS, including, as Professor Panos D. Prevedouros pointed out in a recent community forum, the City's claim that rapid transit ridership in 2030 will be 97,000 per day based on an Oahu population of roughly 900,000, when other cities with much greater populations have substantially lower actual daily rail ridership figures: Houston—daily ridership of 38,000 with a population of 5.7 million; Phoenix—daily ridership of 33,000 with a population of 4.2 million; Charlotte—daily ridership of 14,000 with a population of 1.7 million (Prof. Panos D. Prevedouros, PowerPoint presentation, June 2011); and

WHEREAS, one potential alternative that may emerge from the preparation of a new AA and EIS, and which was studied, chosen and proposed for implementation by the City between 1998 and 2000, is bus rapid transit, which incorporated an integrated transportation approach, with roadway, high-occupancy vehicle, and transit improvements. A similar concept on an elevated toll facility is called a managed lane alternative in the current transit project FEIS and includes the use of express buses in a bus rapid transit operation (FEIS, pp.1-3, 2-9, 10); and

WHEREAS, according to the Federal Transit Administration, the New Starts program provides funds for construction of new fixed guideway systems or extensions to existing fixed guideway systems, including a busway/high occupancy vehicle facility (www.fta.dot.gov/funding/grants/grants_financing_3559.html); and



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WHEREAS, a managed lane system is a viable alternative for many reasons, including the following:

- Honolulu, at 1.5 miles of roadway per 1,000 people, has fewer miles of roadway than other cities, including New Orleans (3.1 miles), Nashville (4.4 miles), Austin (5.2 miles) and Birmingham (6.9 miles) (Prof. Panos D. Prevedouros, PowerPoint presentation, June 2011);
- The transit project FEIS estimates that the total capital cost (in 2006 dollars) of the managed lane alternative to be between \$3.6 and \$4.7 billion, while the rail fixed guideway alternative is estimated to be between \$4.1 and \$6.0 billion (FEIS, p.2-8); and
- According to the Bipartisan Policy Center's "National Transportation Policy Project," the hot lanes concept (elevated toll facility) is superior to rail in key performance metrics, including access to jobs and labor, petroleum consumption, CO₂ emissions, and fatalities and injuries per capita (Prof. Panos D. Prevedouros, PowerPoint presentation, June 2011);

and

WHEREAS, the Council finds that in enacting Act 247, the Hawaii Legislature unduly limited the City's ability to consider all viable transportation system alternatives to address Oahu's increasingly congested traffic and restricted the City's technological and modal options by prohibiting the consideration and use of existing public roads or highways, bicycle paths, or support public transportation systems; and

WHEREAS, the Council further finds that amending Section 46-16.8 of the Hawaii Revised Statutes, which was amended by Act 247, to remove limitations and restrictions currently placed upon the City and to make the provisions of Act 247 consistent for all counties is in the best interests of the people of Oahu in many ways, not the least in that it will provide the City with a way to avoid a costly and lengthy legal battle; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it urges the Hawaii Legislature to amend state law to allow the City and County of Honolulu to use the general excise tax surcharge to fund the operating or capital costs of any type of public transportation system; and



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BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Speaker of the Hawaii House of Representatives, the President of the Hawaii Senate, the Governor, the Mayor, and the Director of Transportation Services.

INTRODUCED BY:

Tom Pence

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DATE OF INTRODUCTION:

JUL 22 2011
Honolulu, Hawaii

Councilmembers