

## MINUTES

### FINANCE & ECONOMIC DEVELOPMENT COMMITTEE

September 1, 2021

A meeting of the Finance & Economic Development Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Luke A. Evslin, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, September 1, 2021, at 9:41 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock  
Honorable Felicia Cowden  
Honorable Bill DeCosta  
Honorable KipuKai Kualii  
Honorable Luke A. Evslin (*via remote technology*)  
Honorable Bernard P. Carvalho, Jr., Ex-Officio Member  
Honorable Arryl Kaneshiro, Ex-Officio Member

The meeting proceeded on its agenda items, as shown in the following Committee Reports, which are incorporated herein by reference:

- CR-FED 2021-05:** on Bill No. 2825      A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-1.20(b), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Overpayment*) (**Approved as Amended.**)
- CR-FED 2021-06:** on Bill No. 2826      A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTIONS 5A-12.9 AND 5A-12.10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Appeals*) (**Approved.**)
- CR-FED 2021-07:** on Bill No. 2827      A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, SECTION 6-1.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DISPOSITION OF UNCLAIMED MONIES (**Approved.**)

There being no objections, the meeting recessed at 10:43 a.m. for a caption break.

The meeting reconvened at 10:54 a.m., and proceeded as follows:

Bill No. 2828 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, ESTABLISHING A COMMERCIAL VEHICULAR RENTAL REAL PROPERTY TAX CLASS (This item was Deferred.)

Pursuant to Governor David Y. Ige's COVID-19 Response Emergency Proclamation dated August 5, 2021, public testimony was taken at the beginning of the day and as follows:

TIFFANY YAJIMA (*via remote technology*): Good morning, Chair, Vice Chair, and Councilmembers. I am Tiffany Yajima testifying on behalf of Enterprise Holdings, which includes the Enterprise, Alamo, and National car brands. Enterprise does, respectfully, strongly oppose this measure. We are concerned that this Bill exceeds the County's taxing authority, by taxing personal property and motor vehicles under the guise of tax on real property. The State already determines the taxes that counties are permitted to levy on motor vehicles and this Bill would effectively seek to impose an additional tax on cars in violation of State law. From a Constitutional perspective, we also believe this Bill raises questions related to the equal protection clause, because of the distinctions drawn by the Bill are arbitrary and capricious. For example, the threshold of more than ten (10) cars is arbitrary and not narrowly tailored to the goals of the Bill. There is no rational basis distinguishing between rental car companies with bricks and mortar locations, as compared to peer-to-peer rental car companies, or other companies with fleets of cars fewer than ten and without a physical location. In addition, there is no rational basis for distinguishing rental car operations with other entities, such as, moving companies, or other businesses that operate vehicular fleets that continue to use County infrastructure and roads throughout the day, but are not subject to the Bill. As an example, TMC, food delivery services, retailers, mail carriers, and other businesses. We are also concerned about how this Bill will be implemented and how the County intends to delineate the properties subject to the Bill, how they will collect tax information from all the rental car operations subject to the Bill. As a matter of parity, we would ask that the definition of "Commercial Vehicular Rental" conform with the State definition under 437-D to be defined as a motor vehicle, which is rented or leased for a period of six (6) months or less. We believe this would create parity between all vehicular rental businesses and address some of the equal protection concerns that we have raised. Thank you for allowing us time to share our thoughts and we would be happy to answer any questions you might have.

Council Chair Kaneshiro: Thank you, Tiffany. Are there any clarifying questions from the Councilmembers? If not, thank you Tiffany. We will take our next testifier, Lori Lum with Avis Budget Group.

LORI LUM (*via remote technology*): Good morning, Chair, Vice Chair, and Councilmembers. I am representing Avis Budget Group and appreciate your time this morning. My prepared comments are actually very similar to Tiffany's, so I am just going to summarize and give some highlights and perhaps some added comments. We also are in strong opposition to Bill No. 2828 and question the justification for creating a separate real property tax class just for rental cars. As Tiffany said, we believe it is unfair to disproportionately single out the rental car business and it is an equal protection issue, because there is no rational basis for distinguishing between rental car

companies and these other types of businesses that facilitate vehicular usage on the island. We also agree that while couched as a new real property tax class, it looks like it is an attempt to tax personal property in violation of State law since the Bill, as applied, would in fact impose an additional tax on the possession and use of motor vehicles. It is unclear on how this Bill will be implemented and enforced, how will the County equitably monitor and collect information to implement this new tax, and how will the County determine an equitable tax rate. The rental car industry does contribute its fair share in taxes to help address infrastructure needs. In fact, this year the legislature passed HB 485 CD 1, which is now Act 237, which increased the rental motor vehicle surcharge tax from five dollars (\$5) to eight dollars (\$8) over the next six (6) years to further enhance road and infrastructure improvements. Bill No. 2828 will create an undue burden, not only on visitors, but on Hawai'i residents that need to rent cars. In 2019, eighteen percent (18%) of Avis Budget's Kaua'i rentals were from customers with a Hawai'i driver's license. For these reasons, we ask that you hold this measure. Thank you, again, for the opportunity to testify.

Council Chair Kaneshiro: Thank you, Lori. Are there any clarifying questions from the Members? If not, the public testimony time is completed.

There being no further public testimony, the meeting proceeded as follows:

Councilmember Chock moved to approve Bill No. 2828, seconded by Councilmember Kualii.

Committee Chair Evslin: We did receive written testimony on this and had some registered speakers earlier this morning. I believe the Administration was looking to possibly defer this item, can you please explain what is going on with this Bill?

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance (*via remote technology*): Good morning. Reiko Matsuyama, Director of Finance. We are looking at this Bill and we are trying to do the right thing by everyone. We have seen and heard the testimony in opposition. We still believe in the policy that this Bill will set and we believe that these rental car operations need to be separated from the industrial class, but we want to make sure that we capture the intent, while trying to legally do the right thing, as it relates to the definition of Commercialized Vehicular Rental uses. We request a deferral for a couple of weeks, so we can analyze some things.

Committee Chair Evslin: Members, before we move to defer, do you have any questions for the Administration? Councilmember DeCosta.

Councilmember DeCosta: Twice in the testimony this morning, they mentioned a "legal thing." Did we check with the County Attorney on how legal it is to separate the class and tax the rental car companies?

MICHAEL A. DAHILIG, Managing Director (*via remote technology*): Councilmember DeCosta, this is Mike Dahilig, Managing Director, for the record. In

crafting the Bill with the Department of Finance, we did consult with our attorneys, as well as consulted internally on specifically the item that you raised; that the rental car companies are bringing up with respect to violations of equal protection clause under the Fourteenth Amendment or any types of violations under Article 8, Section 3, of the Hawai'i Constitution, relating to the power to tax. Obviously, we do not believe that any of the rental car companies fall into a protected class. Under the Constitution, we do not believe that they are eligible to sue on a civil rights or equal protection basis, based on them falling into a protected class. For example, this is not racial discrimination, this is not age discrimination, this is not discrimination based on geography, so we did look over those items before presenting the Bill to Council. I will say that, if the Bill is reviewed from a class of one type of equal protection argument where the government is engaging in disparate treatment, we did look at the distinction between rideshare versus a commercial rental car operations and we believe that there are enough factual distinctions between peer-to-peer car rental companies and commercial operations to say that both are distinguishable and therefore, definable for different potential tax treatment under the law. When we look at the utility of parking and commercial usage en masse versus sharing of a personal vehicle in a residential area, those are two (2) things that we believe, at least amounts to a rational basis why taxation could be considered separate between those two (2) items. We have looked at whether or not this would be viewed as arbitrary and capricious. We believe that there is enough defensibility within the Bill to overcome challenges to any type of State or Federal constitutionality and that we maintain the belief that the Council's ability to pass legislation to set tax rates is a supreme power that is not narrowed by either constitutional definition or something that would relate to some type of discriminatory attempt. When we look at the section under the State Constitution that reserves real property taxation strictly for the counties, there is nothing that shapes that power to define it as being narrow, so the ability for the County to look at taxation as a tool to shape the general welfare of the community should be recognized as a supreme authority by the Council to employ.

Councilmember DeCosta: Thank you, Mike for being so thorough.

Committee Chair Evslin: Sorry, Councilmember DeCosta, you were on mute. Do you have any further questions?

Council Chair Kaneshiro: No. He said, "That was thorough."

Committee Chair Evslin: Councilmember Cowden.

Councilmember Cowden: I just wanted to circulate, for the interest for everyone, the amount of dollars paid right now by the rental car companies, just to evaluate how much that is. As soon as it gets in front of me, I will give the total number. It looks like in a year, the taxes are under two hundred thousand dollars (\$200,000). I do not see a total here, but it is about two hundred thousand dollars (\$200,000) per year. I am just gazing at it quickly. I will add it in a minute. For two hundred thousand dollars (\$200,000) worth per year, if we even say triple these people's taxes, we would gain four hundred thousand dollars (\$400,000). We just passed three (3) ordinances trying to save the Department of Finance from unnecessary burden. It seems like this is working in the opposite direction. This creates a lot of burden. I doubt that we would

actually triple it. I am wondering, if we make enough money, because we think this would be enough money to offset the impacts of these rental cars and the traffic, or is it a little bit more of a way to discourage renting cars. It seems like it might be to discourage. What is our goal? It seems like a lot of work for very little money.

Mr. Dahilig: That is a good question, Councilmember Cowden. In response, we do want to emphasize that per our discussion at first reading, we are not at this juncture proposing any approach towards determining a tax rate for a potential class, as proposed in this measure. What we are simply saying is that based off of the way we see the current class system and structure set up, and the type of activity that is derived from these types of usages on the property, that the usages are unique and different from the different classes that already exist under the code. How or what would be a determination on return on investment for the work as compared to whether or not the taxation powers are being used to shape a usage to potentially be a discouraging mechanism, we are not making any determinations as to what we would recommend the policy to be before the Council. Rather, saying that those are discussions that have to be enabled as a consequence of this legislation. If this Bill does not pass, then ultimately things remain status quo. If ever given that we can derive a difference in use based off of the way that it is currently characterized as an industrial use, we do not believe that the type of usage on this property matches what generally is similar to industrial uses. In going through the evaluation of our other uses within the register or the table of classes as set by ordinance, we do not believe that this type of use comports or is largely similar with other uses that are currently established by the Council. That is why we are trying to enable a process and evaluation and that the return investment or cost benefit ratio items that you are describing, would largely be woven into a determination on what the rate would be set at, rather than the class existing.

Councilmember Cowden: When we have places like Sunbelt or places with big equipment rentals—I am not suggesting we punish these big equipment rentals, but there are U-Hauls from Home Depot that you can rent trucks—these are more work trucks that work every day, but they are a vehicle rental. Help me understand how that is different.

Mr. Dahilig: Councilmember that is a great question. What we did in Subsection (e), under Section 2 of the measure, the very last line of that paragraph was an attempt to carve out those situations that you have described and that we also share that same concern, because we do not want to be in a scenario where we are inhibiting the ability of the movement, for which we use the legal phrase “chattel,” around the island. For example, we understand that Home Depot rents vehicles, U-Haul rents vehicles, Sunbelt rents vehicles and we generally see that similar usage of those vehicles as the movement of chattel or the movement of commodities or other types of tangible items. We believe that it is not appropriate to characterize those as the same class as what would be considered a commercial vehicular rental. We have carved out in that last line that it “...shall not include properties facilitating vehicular rental or services strictly for the transport or movement of chattel...”, so that is our attempt to do so. If the Council believes that should be refined further, we are certainly open for discussion and normalizing the language on it, but we share the same intent as you allude to Councilmember.

Councilmember Cowden: Okay. I believe it was Avis who mentioned that twenty-eight percent (28%) is interisland travel or people with Hawai'i driver's license that are renting, so when I think about it, the cost to doing business is getting quite extraordinary.

Mr. Dahilig: In response to that, Councilmember, that figure actually reinforces the fact that the way the Bill is structured, it makes it defensible for equal protection claims under the Constitution that we are not discriminating based off of domicile in a situation like this.

Councilmember Cowden: Okay. Just for the record, one hundred sixty-two thousand, one hundred thirty-three dollars (\$162,133) are the taxes that were paid last year. I know this is just to change the tax classification rather than the amount, but why change it if we are not going to change the amount? I do not understand why it would not necessarily be commercial or whatever we would be putting it at. I am counting, one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12) parcels that were reported by real property tax. For twelve (12) parcels, we are creating a new classification, so that seems like it does not line up with what we hear regularly about our arguably, truly, highly burdened real property tax organization. So even if we doubled it, that would get another one hundred sixty-two thousand dollars (\$162,000). It just does not seem like it makes much economic sense. I will leave it at that, but I worry...okay, not quite leaving it. What I want to push for, is rental car companies having rows in parking lots at different hotels in Po'ipū. I would like to see satellites, so that we limit the amount of people who want to rent a car for their entire vacation, that they do it in smaller periods of time. How would this apply when it is just a portion of a resort's lot? Have you talked to the Hawai'i Lodging and Tourism Association on how they would or if that would discourage them from having satellite locations?

Mr. Dahilig: Councilmember that is a good question. If you take a look, currently at Subsection (f) of the measure, there is language that addresses that concern. Just to point you to that section of the Bill on the bottom of page 3, going on to page 4 of Bill No. 2828, we did talk internally about that being an issue and where we would look at the balance of a parcel being commingled with this type of use. Again, we share the same policy consideration that we would not want en masse for it to be an overall deterrent for a resort, or other types of commercial usages to then have something on property that would take the whole evaluation and turn it into something that would be at a different tax class rate. That is where we have provided language in a proposal to address that concern. Now, whether it comports with the policy consideration that you did raise, again, it is up for discussion and we feel that there is potential reasonable adjustments that can be made to tighten up or loosen that language, but it is an issue that we acknowledge and we certainly share that concern that we do not want to overly commingle the overall evaluation of a large parcel, as a consequence of having commercial vehicular rentals within the parcel.

Councilmember Cowden: At the Princeville Airport, I believe it was Avis, who had a bunch of cars there that were very evident. In peak season, a lot more cars are going to be put in these satellite locations, than in non-peak time. So when we are looking at what portion and whatnot, again, these are nuances that are going to fall on

the shoulders of Mike from Real Property Tax Assessment, so I probably said enough for this portion of this discussion, but it is not without nuance and when we are saying we do not want the extra effort of some of these other things, less than one hundred (100) checks...here we have these nuances of needing to drive out there and how do you look and how do you determine...my worry is it will cause satellite locations to simply not be that and it will discourage plans that the industry might make to minimize their impact. I believe it is pretty clear that the residential population is overwhelmed with the traffic.

Mr. Dahilig: Not to digress in response, Councilmember Cowden, the synthesis for the ten-car discussion and I know there has been a lot of focus both in the public media, as well as through testimony about the equity of having that bright line as a mechanism to not just focus on peer-to-peer type of car rentals, but also acknowledging that in fact there are point in sale or point of transaction rental car company operations at places that are far away from the Līhu'e Airport that are small in size. For example, when you go to places like the Marriott Kaua'i Lagoons or the Grand Hyatt Kaua'i Resort and Spa, you may be able to see that there are signs that say, "Reserved stalls for rental car operations," then there are generally less than ten in number. Obviously, we do not want the Bill to become a defacto battleground between peer-to-peer car companies and rental car companies—that is not the intent of the legislation, but we do recognize that these smaller boutique operations, point away from the Līhu'e Airport, actually facilitate less trip load on our highway systems leading to a decrease in commute times and promotional welfare for our community. So this is something we do want to encourage. Whether this is the right approach, either by that subsection that I referred you to previously, or through the bright line mechanism in defining what is the difference between peer-to-peer or other car rental companies with ten or less cars. We believe that those are the types of refining proposals that we will be bringing to the Council as we work on it during this deferral period.

Committee Chair Evslin: Are there further questions, Members? I have an additional follow-up question from Councilmember Cowden. She alluded to it and basically all of our testimony clearly referenced it. The difference in why are these other rental places like U-Haul or even freight companies not subject to this additional tax when they have many cars on the road. I think it is clearly outlined here in the findings and purpose where it says, "Beyond the impact to road infrastructure..." If you could just elaborate some of the different impacts of the rental car industry on our island as compared to these other freight rentals, et cetera.

Mr. Dahilig: It is very clear, right now, even though we have close to, but not right at pre-COVID-19 tourism numbers, the reduction in the amount of rental cars on-island leads to less traffic. Whenever we have less traffic, that is time saved for our citizens, which leads to an analysis of balancing the general welfare of our public with the commercial need of having more cars on the road. We believe that is the part of the most singular item that we can point to as to why we view these smaller parcels as generating a usage that goes beyond the parcel boundaries and that it has a direct impact on the general welfare. How that is normalized via tax rate, we believe is a policy discussion that should be had, but is nonetheless something that could ultimately be viewed down the line with parity with other tax class rates. It should be something that as an equitable tax evaluation and discussion that the Council goes

through every year as part of our budgetary process. It should be front and center and front in line with discussion, because there is a general welfare element related to this beyond a typical industrial use. While we see things like moving vans, large trucks, or things that move chattel, while they may necessarily move on the same highways that we are concerned about addressing general welfare concerns of the public on, we would in turn also say that there is a distinguishable and distinct difference in the movement of chattel as being necessary in function of our economy. So while we have other options that are out there for the movement of people via public transportation, bicycle systems, or walking systems, the movement of chattel may not necessarily comport with those other systems that we provide as the ability of people to move around the island, so we tend to fixate on that. There is also a number of other considerations that we would talk about concerning the quality of our roads, the quality of our general welfare in our public park systems—these types of things as a consequence of intense rental car usage. There are safety concerns relating to misuse of high volumes of rental cars, so these are things that obviously are not meant to stoke this debate at the moment, but they should be viewed in the context of a debate over the tax class when these policy considerations come in as a means to fund the municipal government every year. That is why we are making this proposal, because we think that consideration is not fully encapsulated when you look at the industrial class when the rate is sent to the Council every year.

Committee Chair Evslin: Are there any further questions? Vice Chair Chock.

Councilmember Chock: I know there is a request for a deferral, so I will pose my question with anticipation of our next meeting. My major focus is understanding the implementation of the Bill. Again, I do not need a response now, but I think that will determine some of the parameters we are discussing as to what we are trying to achieve and how we will do so. I am looking forward to those questions to be answered by the next time we get together. Thank you.

Committee Chair Evslin: Councilmember Kualii.

Councilmember Kualii: I do see that this Bill is by the request of the Administration. I want to put it out there and maybe at the risk of over simplifying it, is it true, that basically, this Bill will be creating a tool that the Council could potentially use in establishing tax rates, so the only way we can do that is if it is defined and separated out. The obvious thing to state is as a result of COVID-19, we have heard overwhelmingly from our community that there are too many cars on the road. When tourism slowed down to a stop and the rental cars were parked in parking lots and some even sent elsewhere, constituents were pleased and wanted that. Even the tourism industry and the Visitors Bureau are at the table and are staying balanced. There is also talk about a higher quality of tourists, where potentially there would be less coming, but spending more. So just the basic dollars and cents of this is, if it costs a business more to put cars on the road, they may put less on the road at a higher cost. I do not know where we will end up going, but in order to even address it we need tools in place. In fact, this is all the Administration is putting forward at this time, is the structure, so that we could potentially do that in the future. As long as the Administration can figure out the legalities, then the political decision of it can come

later, but we just need to know what is possible. I think we all agree with the community and the tourism industry, that we want to move in a certain direction to make things better based on what we have learned, as a result of COVID-19. Is that what the Administration is doing for us at this time?

Mr. Dahilig: In response, yes, Councilmember Kualii, that is correct. We are trying to establish a tool where we know that a dialogue will be able to flush out these concerns and use the broad powers of taxation to address those concerns. Whether or not they are addressed in one way or the other, it is simply a platform to stoke debate and resolve it through action via the County's broad authority to tax real property. That is why we believe it is an enabling mechanism rather than something that is a fixed type of policy approach. It just allows for the policy to be debated and to float as a consequence of the County's power to tax.

Councilmember Kualii: Also, even further, with the broad powers of taxation and quite literally in many ways as a County and as a County policy board, we are limited in some of the things we can do and a lot of it goes back to the State and the State Legislature. But this tool potentially is not just about raising revenue, it could also be, for a lack of a better word, a disincentive. That is the obvious part of it when you are talking about supply and demand, price, and we will get there if that is what the political body decides, but we would not even be able to start, if we did not see the possibility of a mechanism.

Mr. Dahilig: We firmly believe that is part of the bundle of sticks in this particular measure. The ability to tax, to shape and curb usage, or action is something that has been time tested going back to Hammurabi's law, so this is something that we believe is a tool that the Council should be able to use and it is not simply just about revenue, it is also about placing different uses within the context of its value, utility, and its impacts on the general welfare of Kauai's people.

Councilmember Kualii: Thank you.

Committee Chair Evslin: Councilmember Carvalho.

Councilmember Carvalho: Mike, I wanted to touch a little bit on "discouraged" versus encouraged, to encourage rental cars at a lesser volume and shift towards the thinking of more shuttles and shuttle services that we have talked about before. For example, park in Princeville and the only way to get down to Hanalei is via shuttle, so less cars going to certain parts of our island, which is more of a management type of thing. Is that still part of the discussion overall, as we continue to find balance in this discussion?

Mr. Dahilig: Ultimately, Councilmember Carvalho, these tools of good traffic planning that you have described are well set tenets in our general plan that was passed a couple of years ago. We firmly believe that implementation of that does depend on the ability to raise revenue. Now, whether the Council in its appropriation powers sees it fit to prioritize more of that type of activity, because of the balanced budget requirements, raising revenue or cutting costs in certain places has to be on the table. We are not suggesting that this particular measure is meant to create

special funds or create some type of revenue stream for a specific purpose. We are simply saying that this should be used as a tool for both of those items, either for revenue generation or for looking at being able to encourage or discourage a type of community or public activity. Therefore it opens up possibilities in terms of what can be put on the table. From an Administration standpoint, we are not suggesting that a special fund or particular designation for any potential increase in revenue, should the tax rates reflect that, be designated for off-sets in what we see as general welfare issues related to Commercial Vehicular Rentals.

Committee Chair Evslin: Councilmember Cowden.

Councilmember Cowden: Thank you. I am building on what Councilmember Carvalho just asked. When we look at the difference between discourage and incentivizing, is the County currently in any conversations with car rental companies to look at their solutions towards reducing the impact of car rentals on the road? Do we have any incentivizing dialogue underway?

Mr. Dahilig: We have not had any conversations concerning incentivizing, but I will say that at least via the same people who are communicating with you folks are on the table, we get those calls too, from people who are representing the large companies on-island. The impacts are clear and they are distinguishable. Whether it is within their toolkit to be able to take a look at rental cars as more of an impactful commodity that creates, via their usage, a problem on-island versus something that is beneficial where the utility of the rental cars contribute to the welfare on-island, we have not had those types of debates or conversations. What they do suggest is that the rental car companies are great for tourism on-island, so that seems to be a general mantra that we get that rental cars are great for tourists and great for the tourism industry. When we did have a number of folks come to the island without rental cars, our office received a large amount of complaints about it not being conducive for tourism activity because there was no rental cars on-island. So we need to look at it beyond what they can do, but also understanding that the secondary and tertiary impacts via the movement of tourists on-island using rental cars.

Councilmember Cowden: My business background that was significant for me for a couple of decades. When I look at the highest tax amount of twenty-three thousand seven hundred eighty-six dollars (\$23,786), so roughly twenty-four thousand dollars (\$24,000) for a year. Typically, my guess is and I would challenge these rental car companies to be able to give us some of their numbers. I would think that is less than one (1) day's revenue for them. So even if we doubled that on them, it is hardly a metaphoric speed bump for them in what they are doing and it is substantial if we were to double a tax rate. I am in agreement that we have too much rental car usage on the island—it overwhelms us. If we can incentivize them to make their revenue in a better way with these satellite areas or doing it more in the afternoons, because if we work with them, I know in the past I have spoken with Enterprise and they were very willing to that. There might be ways where they could be positive for us in alignment with our ETIP grant as opposed to what might work out to maybe twenty cents (\$0.20) a day, or a quarter (\$0.25) or less a day, per rental car company, for those cars going out. I do not think it is going to make any difference. The one hundred sixty-two thousand dollars (\$162,000) that we would gain if we doubled the amount—it is just a gesture, it

shows us having an intent to control the impacts, but I do not think it will control the impact. I would like to challenge them to come up with how they can have a model that is going to suit our real need, which is less rental cars on the road, because I am sure they can take a doubling of the cost and it still not make a difference—that is my concern. I would like to put that into the mindset of anyone listening, certainly the Department of Finance and the Administration, but also those most impacted, that we look at problem solving rather than adding a minimal amount when they are already getting an additional three dollars (\$3) a day on drivers.

Mr. Dahilig: We have been abstaining from looking at ability to pay for a pro rata type structure, simply because we do not have the authority to tax personal property. That is something that is very clear from our research on the measure and that is simply why we are looking at it from a utility of the property creating a usage and impact on-island. We certainly discourage discussions concerning whether or not something is pro rata or per personal property item, because we do not believe that is a legal analysis for us to move forward on it. I am certain that the County Attorney can delve into those items. The testimony that has been brought forward by the rental car companies are concerns that need to be heeded and that is why we are asking for this to be deferred, so we do this right. We put a proposal in front of you that is defensible, but we are not looking at this from an ability to pay standpoint. We do acknowledge that the ability to pay taxes is a necessary part of analyzing the cost of a usage and the consequential societal impact of that type of usage when a piece of property is used in that way. We think that the analysis or suggest that the analysis in structuring a rate, should this pass, be centered on those types of items rather than ability to pay on a conformed basis.

Councilmember Cowden: I apologize if I brought that into a framework that is not appropriate. I am just saying that real property tax is probably a negligible consideration in their business analysis and in how many cars they put on the road. So if we create a special class for less than twenty (20) properties, we are setting a precedent that we should think very carefully on, because if it not going to solve the problem of clogged roads that are unequivocally different from when we have visitors here versus not. We have had this example of seeing when we have these cars on the road versus not. Whether they are parked or they are in front of us, it is a huge difference. I think there is no question that there is an impact, but what we want to do is reduce the impact in the most effective way. Thank you so much for listening.

Committee Chair Evslin: Members, do you have any further questions for the Administration? I would like to take final discussion before we move to defer, because the motion to defer will end all discussion. I know we had a fair amount of discussion already in our questions. Members, is anything else you would like to add before we make a motion to defer? Councilmember Kualii.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kualii: I just wanted to put the thought out there that when we are talking about the tool, that is one thing, the future discussion that may be about how we use that tool, the sky is the limit. Councilmember Cowden had put out a

number, but the reality is that number could much higher than that in order to be a tool that is effective at bringing down the amount of cars that are on the island. I do not think the tool should be dismissed based on a future political decision that has not been made yet, by a body of seven (7) people. Thank you.

Committee Chair Evslin: Vice Chair Chock.

Councilmember Chock: I want to echo and agree with that statement. I believe we need to start with the end in mind, as well. When my request about implementation was brought up, my hope, again, is that we can consider the bigger picture and the proposal and its impact in a way that this body can stand behind and feel confident in the direction that we might fall upon in the future. That is my request. Thank you.

Committee Chair Evslin: Is there any further discussion? I want to thank the Administration for the lengthy discussion. I learned what the word "chattel" means and the origin of Hammurabi's law, so I appreciate that, Mike. For me, this is pretty straightforward. I know we are going to have more discussion as we move forward and we had some discussion at first reading already, but we are over capacity for tourism. We feel that every single day when we are out on the street or at a beach park, it is trying in our Kaua'i tourism strategic plan, which clearly says we are over capacity for tourism that has hugely detrimental impacts on all of our lives, on congestion time, on our roadways, on resident satisfaction, on environmental impacts at the beach parks, and also on visitor satisfaction. When visitor satisfaction declines, visitor spending goes down—there is an entire host of negative impacts that comes from being over capacity for tourists. It is also clear that a rental car company on industrial zoned land will have vastly disproportionate impacts of any other type of industrial use. As the Administration has said that these impacts are islandwide and not confined to the property or the neighbors of that property. Lastly, we should be using taxation as a tool to both encourage and discourage various uses, which we do, like our homestead rate is a way to encourage homeownership and this type of rate would be a way to maybe discourage this type of use, but certainly, it should be a way to try and recover some of those disproportionate impacts from the industry. If the rule we are using for passing policies, whether it is going to solve the problem for every single policy, then we are never going to pass any policy, because I do not think any single thing we deliberate here, whether it is housing policy, or the Transient Accommodation Tax (TAT), or charging visitors at beach parks, are not going to solve the problem. All of our policies are meant to make incremental progress towards a solution. We have limited tools here, we need to use what we can to try and get solutions, but no individual policy is going to solve the problem. Putting all of that together, this seems clear that this is the right direction. For all of us, we had a brief window of time over the last year where we saw what Kaua'i looks like with vastly less rental cars and we are not going to get there again, and I do not think anyone's goal is to get to that exact place again, but we can certainly do all we can here to make progress toward regaining balance in the industry and ensuring that they are paying their fair share. Does anyone have further discussion? Someone can make the motion to move to defer.

Councilmember Chock moved to defer Bill No. 2828, seconded by Councilmember DeCosta.

Committee Chair Evslin: Roll call vote to defer.

*(Written testimony was received and we have registered speakers requested to testify regarding this agenda item.)*

The motion to defer Bill No. 2828 was then put, and carried by the following vote:

FOR DEFERRAL:	Chock, Cowden, DeCosta, Kualii, Evslin	TOTAL – 5,
AGAINST DEFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Committee Chair Evslin: Motion passed. That will conclude the business of the Finance & Economic Development Committee Meeting.

There being no further business, the meeting was adjourned at 11:41 a.m.

Respectfully submitted,



Jessica Young  
Council Services Assistant I

APPROVED at the Committee Meeting held on September 15, 2021:



---

LUKE A. EVSLIN  
Chair, FED Committee