



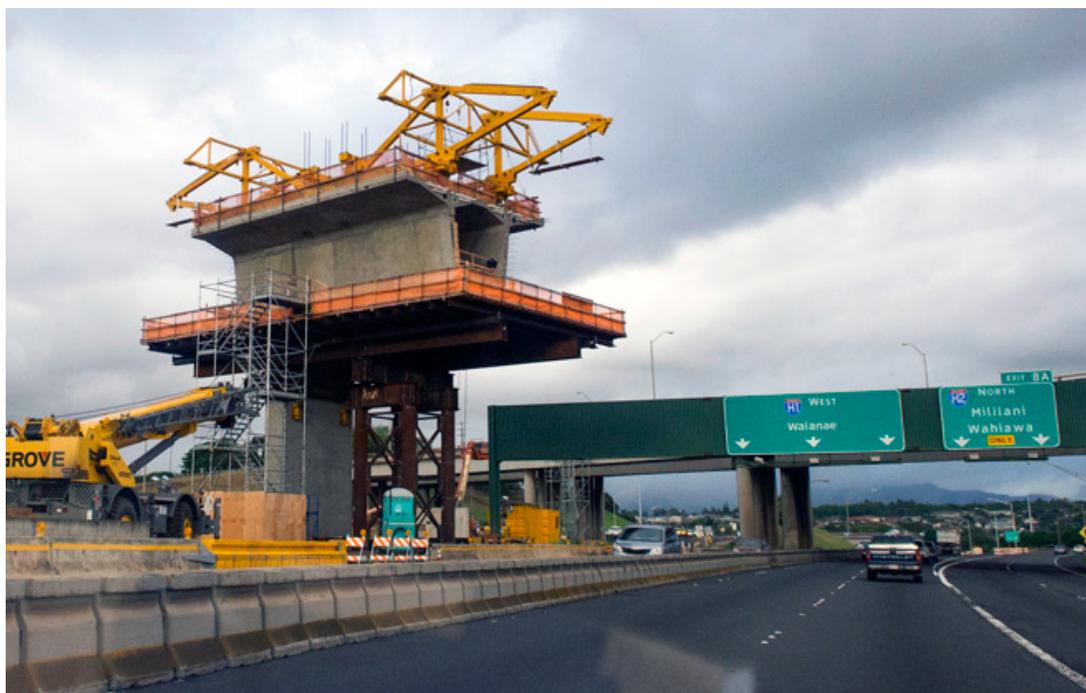
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Editorial | Our View

# 'Air rights' aside, extend rail tax

By [Star-Advertiser staff](#)

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A segment of the rail overpass is seen from the H-1 freeway in Waipahu.

No matter how carefully political watchers track the doings of state lawmakers, there are always surprises that pop up at the end, as bills emerge in their final form for an up-or-down vote.

Some of the surprises this year were positive — lawmakers have grappled with some longstanding issues, such as the move to privatize Maui hospitals and the settlement over Turtle Bay preservation, and have come to terms. Solutions aren't perfect, but they mark some real progress.

On one issue, though, the extension of the rail tax authorization, the results are more mixed. Although the bill should be passed, city officials should be concerned about the state's last-minute grab for control of "air rights" along the elevated rail corridor. Air rights relate to what can be built or placed in the stations, and in or on the rail cars moving through them.

In the waning hours of conference-committee discussion on the general excise tax rail surcharge, lawmakers settled on a five-year extension through 2027 that omitted a host of proposed codicils.

Unfortunately, one was tacked on with little notice. In the final bill, the state claims air rights — control over development extending above the rail line. What's concerning is that this suggests more state control of revenue streams, such as from advertising, that rail authorities are eyeing as a funding resource once the rail is built.

The state also is keeping the 10 percent "skim" off Honolulu GET revenues for state coffers, a tax-collection toll that has long been indefensible.

Air rights have been seen as an asset that could help fill operations-and-maintenance coffers. Complicating rail development with an additional layer of state bureaucracy is ill-advised.

One argument lawmakers made in favor of the move is that this will allow state control over what advertising will be envisioned along the 20-mile route. While the nature of any such advertising is a matter of public concern, there's no reason to think the state is better equipped to manage this issue any more fairly than the city.

There were other eleventh-hour maneuvers that diminish the lawmaking process. Just to pick one: The state used a "gut-and-replace" practice to insert language in a bill that it quickly passed, a ban on powdered alcohol. Whatever anyone thinks of the ban on the merits, the issue deserved a full public discussion. It got none.

Such legislative sleight-of-hand is lamentably common at the state Capitol. Although he's intimately familiar with such practices during his years in the lawmaking chamber, now that he's on the fifth floor, Gov. David Ige should give the transparency of lawmaking some weight in deciding which bills deserve to become law.

Among the major disappointments this session was the failure of the Legislature to take the vacation rentals regulatory challenge in hand, leaving most of the wrangling to the counties. One consolation prize was the emergence of Senate Bill 519 from conference committee, which strengthens reporting requirements in online advertising of vacation rentals.

Other measures that deserve a thumbs-up in the coming days would enable:

» The creation of a medical marijuana dispensary system comprising eight dispensary licenses statewide. It aligns closely with the recommendations of a task force and

clears the way for a more rational means of managing the medical marijuana provisions that have been long awaited.

» The privatization of Maui state-run hospitals, in what's hoped will be a model guiding future transitions at the financially ailing Hawaii Health Systems Corp.

» The preservation of much of the scenic resources at Turtle Bay. There is some acreage that fell out of the final blueprint, but this marks a turning point worth celebrating in a long, contentious battle.

It's too soon to hand out report cards for the 2015 session — things could still go awry before Thursday's adjournment — but lawmakers at least have taken needed action on some tough issues, enabling key improvements to move forward.