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## A BILL FOR AN ACT

RELATING TO HIGHWAYS.

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

1           SECTION 1. The legislature finds that the issue of  
2 jurisdiction over certain roadways has been the subject of  
3 dispute between the State and the counties for many years.  
4 Although the issue was analyzed in detail in a 1989 report by  
5 the legislative reference bureau: Roads in Limbo: Analysis of  
6 State-County Jurisdictional Dispute, the problem remains largely  
7 unchanged. The continued uncertainty in jurisdiction, and  
8 corresponding responsibility, frustrates many residents calling  
9 for maintenance, repair, or improvement of certain roads.  
10 Because the jurisdiction over these roads remains unsettled, it  
11 is often the residents who pay the price.

12           The purpose of this Act is to provide an efficient, low  
13 cost method to determine jurisdiction of the government roads  
14 when jurisdiction is at issue.

15           SECTION 2. Chapter 264, Hawaii Revised Statutes, is  
16 amended by adding a new section to part I to be appropriately  
17 designated and to read as follows:



1           "§264-    Public highways and trails; decision.   (a)  
2   Whenever the jurisdiction of a public highway or trail is  
3   contested between the State and the county, a person may  
4   petition the department of commerce and consumer affairs for a  
5   hearing and decision and order on the issue pursuant to section  
6   91-9; provided that:

7           (1)   Written notice of the hearing, pursuant to section  
8               91-9.5, shall be given to:

9               (A)   The attorney general;

10              (B)   The department of transportation;

11              (C)   The department of land and natural resources;

12              (D)   The county attorney for the county in which the  
13                   public highway or trail is located; and

14              (E)   The petitioner;

15           (2)   The hearing shall commence no later than one hundred  
16               eighty days after service of the written notice of the  
17               hearing;

18           (3)   The record shall be transcribed; and

19           (4)   A decision and order shall be rendered no later than  
20               one hundred eighty days after commencement of the  
21               hearing.



1        (b) A hearing officer appointed pursuant to section  
2 26-9(f) shall decide the contested case in accordance with  
3 sections 91-9, 91-10, 91-11, 91-12, and 91-13.

4        (c) Any party aggrieved by a final decision and order of  
5 the hearing officer shall be entitled to judicial review thereof  
6 in accordance with section 91-14.

7        (d) If the hearing does not commence or a decision and  
8 order is not rendered in accordance with the time limits  
9 prescribed in subsection (a), the aggrieved party may file a  
10 declaratory judgment action in the circuit court in which the  
11 public highway or trail is located.

12        (e) The department of commerce and consumer affairs shall  
13 adopt rules, pursuant to chapter 91, necessary to implement this  
14 section."

15        SECTION 3. Section 26-9, Hawaii Revised Statutes, is  
16 amended by amending subsection (f) to read as follows:

17        "(f) The director of commerce and consumer affairs may  
18 appoint a hearings officer or officers not subject to chapter 76  
19 to hear and decide any case or controversy regarding licenses  
20 [~~and~~], contested cases pursuant to section 264- , and the  
21 application and enforcement of rules involving any of the  
22 boards, commissions, or regulatory programs within the

1 department of commerce and consumer affairs. The hearings  
 2 officer or officers shall have power to issue subpoenas,  
 3 administer oaths, hear testimony, find facts, and make  
 4 conclusions of law and a recommended decision; provided that the  
 5 conclusions and decisions shall be subject to review and  
 6 redetermination by the officer, board, or commission which would  
 7 have heard the case in the first instance in the absence of a  
 8 hearings officer. The review shall be conducted in accordance  
 9 with chapter 91."

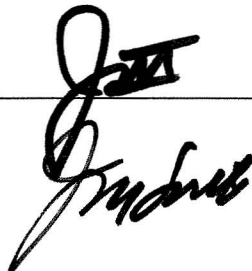
10 SECTION 4. This Act does not affect rights and duties that  
 11 matured, penalties that were incurred, and proceedings that were  
 12 begun, before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



JAN 17 2008



**Report Title:**

Highways; State and County; Administrative Hearing

**Description:**

Permits a person to petition the department of commerce and consumer affairs for a hearing and decision and order regarding whether a public highway or trail is under the jurisdiction of the state or a county whenever the issue is contested.

