

JAN 22 2007

S.B. NO. 1511

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 department of
2 transportation is not responsible for the construction,
3 management, maintenance, or improvement of any public highway or
4 bikeway not included within the state highway system or located
5 on public lands set aside to the department of transportation.

6 SECTION 2. Chapter 264, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§264-A Highway maintenance. The agency with jurisdiction
10 for a public highway may maintain that highway by public
11 employment, contract, or purchase of service from another
12 agency. When scheduling highway maintenance, the responsible
13 agency shall consider whether nighttime work is feasible and
14 appropriate to minimize traffic congestion on the state highway
15 system and disturbance to abutting property."

16 SECTION 3. Chapter 264, Hawaii Revised Statutes, is

1 amended by adding a new section to be appropriately designated
2 and to read as follows:

3 "§264-B Transfer of jurisdiction. Jurisdiction for a
4 public highway may be transferred by conveyance of title,
5 executive order, or interagency agreement; provided that an
6 interagency agreement may also be used for transfer of funds or
7 for purchase of service without transfer of jurisdiction. A
8 county may, by ordinance, prescribe procedures for county
9 participation in an interagency agreement."

10 SECTION 4. Section 248-9, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§248-9 State highway fund. (a) Moneys in the state
13 highway fund may be expended for the following purposes:

14 (1) To pay the costs of management, operation,
15 maintenance, and repair of highways and bikeways
16 within the state highway system[7] including, without
17 limitation, the cost of equipment and general
18 administrative overhead;

19 (2) To pay the costs of maintenance and repair of a
20 highway or bikeway under federal jurisdiction which
21 the director of transportation has proposed for

1 inclusion in the state highway system under section
2 264-42;

3 ~~[-2-]~~ (3) To pay the costs of acquisition (including real
4 property and interests therein), planning, designing,
5 construction, and reconstruction of highways and
6 bikeways within the state highway system ~~[and~~
7 ~~bikeways,~~] including, without limitation, the cost of
8 equipment and general administrative overhead;
9 provided that ~~[the director of transportation shall~~
10 ~~allot and expend]~~ two per cent of federally eligible
11 moneys in the state highway fund shall be expended for
12 state bikeways; ~~[and]~~

13 ~~[-3-]~~ (4) To reimburse the general fund for interest on
14 and principal of general obligation bonds issued to
15 finance highway and bikeway projects within the state
16 highway system where the bonds are designated to be
17 reimbursable out of the state highway fund; ~~[and]~~

18 ~~[-4-]~~ ~~To pay the costs of construction, maintenance, and~~
19 ~~repair of county roads; provided that none of the~~
20 ~~funds expended on a county road or program shall be~~
21 ~~federal funds when such expenditure would cause a~~

1 ~~violation of federal law or a federal grant~~
2 ~~agreement.]~~

3 (5) To pay for statewide functions and programs that
4 maintain or enhance state receipt of federal aid,
5 improve highway safety, recruit and train state
6 highway staff, or otherwise benefit the state highway
7 system; and

8 (6) To comply with the terms and conditions for use of
9 federal, county, and private moneys that the director
10 of transportation has accepted for deposit to the
11 state highway fund or another highway fund or trust
12 account.

13 (b) No agency other than the department of transportation
14 shall use the state highway fund for any purpose unless the
15 director of transportation:

16 (1) Determines that the proposed use benefits the state
17 highway system;

18 (2) Authorizes use of the state highway fund under an
19 interagency agreement; and

20 (3) Controls how much of the state highway fund may be
21 used.

1 ~~[(b)]~~ (c) At any time, as provided under section 37-53,
2 the director of transportation may transfer from the state
3 highway fund all or any portion of available moneys determined
4 by the director of transportation, in accordance with rules
5 adopted under chapter 91, to exceed one hundred ~~[thirty five]~~
6 fifty per cent of the requirements for the ensuing twelve months
7 for the state highway fund ~~[as permitted by and in accordance~~
8 ~~with section 37-53]~~. For purposes of the determination, the
9 director of transportation shall take into consideration:

- 10 (1) The amount of federal funds and bond funds on deposit
11 in, and budgeted to be expended from, the state
12 highway fund during the period;
- 13 (2) Amounts on deposit in the state highway fund that are
14 encumbered or otherwise obligated;
- 15 (3) Budgeted amounts payable from the state highway fund
16 during the period;
- 17 (4) Revenues anticipated to be received by and
18 expenditures to be made from the state highway fund
19 during the period based on existing agreements and
20 other information for the ensuing twelve months; and
- 21 (5) Any other factors as the director of transportation
22 shall deem appropriate."

1 SECTION 5. Section 264-21, Hawaii Revised Statutes, is
2 amended by amending the definition of "federal-aid project" to
3 read as follows:

4 "Federal-aid project" means any project [~~for the~~
5 ~~construction or reconstruction of any highway or portion~~
6 ~~thereof]~~ upon which federal-aid funds are to be, are being, or
7 have been, expended [~~, in connection with local appropriations as~~
8 ~~in this section defined.] to supplement, match, or reimburse
9 local funds. The term shall be broadly construed to include any
10 project funded entirely by expenditure of local funds if that
11 expenditure is used to satisfy Federal Highway Act requirements
12 for local participation in the cost of a federal-aid project."~~

13 SECTION 6. Section 264-31, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§264-31 Maintenance of federal-aid [highways-] projects.**

16 [~~(a) The maintenance work on all roads upon which federal aid~~
17 ~~funds have been expended shall be performed under the direction~~
18 ~~and supervision of the director of transportation either by~~
19 ~~public employment or by contract, or the director may have the~~
20 ~~work performed by the county road department, by public~~
21 ~~employment or by contract, upon authorization of the council of~~
22 ~~the county concerned. Expenditures for the maintenance work~~

1 ~~shall be made from the state highway fund created by section~~
2 ~~248-8.~~

3 ~~(b) All maintenance work shall consider the extent to~~
4 ~~which work undertaken will increase traffic congestion and the~~
5 ~~director shall ensure that action is taken to reasonably~~
6 ~~minimize any adverse impact. The feasibility of off hour~~
7 ~~maintenance work shall be considered for all maintenance work~~
8 ~~that results in significant traffic congestion or delay.~~

9 ~~(c) As used in this section, "off hour maintenance work"~~
10 ~~means maintenance work performed between the hours of six~~
11 ~~o'clock p.m. and six o'clock a.m.] Any agency that undertakes a~~
12 ~~federal-aid project shall maintain that project in compliance~~
13 ~~with requirements of the Federal Highway Act. When jurisdiction~~
14 ~~for a federal-aid project or for a public facility that includes~~
15 ~~a federal-aid project is transferred, the agency that assumes~~
16 ~~jurisdiction shall maintain that project or facility in~~
17 ~~compliance with requirements of the Federal Highway Act. The~~
18 ~~director of transportation may withhold approval of further~~
19 ~~federal-aid projects, and take any other action permitted by~~
20 ~~law, to cause other agencies to comply with this section."~~

21 SECTION 7. Section 264-41, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "§264-41 Establishment. There is established a state
2 highway system [~~which~~] that shall consist of [~~federal aid~~]
3 public highways and [~~either~~] bikeways on lands set aside by the
4 governor or otherwise acquired by the department of
5 transportation for the state highway system. The state highway
6 system shall also include public highways [~~which may be~~
7 designated for inclusion in the system pursuant to] and bikeways
8 for which the director of transportation has accepted
9 jurisdiction under section 264-42."

10 SECTION 8. Section 264-42, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§264-42 Authority to include [~~either~~] public highways in
13 the state highway system. In consultation with affected public
14 agencies, recognizing constraints on state resources, the
15 director of transportation shall propose a state system of
16 connected public highways and bikeways for through traffic
17 between different regions of the State and between major federal
18 and state facilities; provided that the state highway system
19 shall not include driveways to or internal access roadways for
20 any specific property. The director of transportation, acting
21 in cooperation with appropriate federal and county agencies, as
22 provided under section 264-2 or section 264-B, may [~~designate~~

1 ~~for inclusion in the state highway system, such other public~~
2 ~~highways, including county highways, which are used primarily~~
3 ~~for through traffic and not for access to any specific property,~~
4 ~~whether residential, business, or other abutting property.]~~
5 accept jurisdiction for any public highway or bikeway that the
6 director has proposed for permanent inclusion in the state
7 highway system. Whenever feasible, the director shall transfer
8 jurisdiction to the appropriate county for any state highway or
9 bikeway that the director has not proposed for permanent
10 inclusion in the state highway system and that is no longer
11 needed to connect other parts of the state highway system."

12 SECTION 9. Section 264-43, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§264-43 **Responsibility.** The department of transportation
15 shall construct, manage, and maintain [~~and administer~~] all
16 public highways and bikeways comprising the state highway
17 system. Notwithstanding section 264-1, the department of
18 transportation shall not be responsible for the construction,
19 management, maintenance, or improvement of any public highway or
20 bikeway not included within the state highway system or located
21 on public lands set aside by the governor to the department of
22 transportation."

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1 SECTION 10. Section 264-44, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§264-44 Maintenance of state highway system. (a) The~~
4 ~~maintenance of the state highway system may be performed either~~
5 ~~by public employment or by contract, or the director of~~
6 ~~transportation may have the maintenance performed by the county~~
7 ~~in which the highways are situated, by public employment or by~~
8 ~~contract, upon authorization of the legislative body of the~~
9 ~~county concerned.~~

10 ~~(b) All maintenance work shall consider the extent to~~
11 ~~which work undertaken will increase traffic congestion and the~~
12 ~~director shall ensure that action is taken to reasonably~~
13 ~~minimize any adverse impact. The feasibility of off hour~~
14 ~~maintenance work shall be considered for all maintenance work~~
15 ~~that results in significant traffic congestion or delay.~~

16 ~~(c) As used in this section, "off hour maintenance work"~~
17 ~~means maintenance work performed between the hours of six~~
18 ~~o'clock p.m. and six o'clock a.m."]~~

19 SECTION 11. Passage of this Act shall not be construed to
20 transfer jurisdiction for any highway, amend any agreement
21 proposing future transfer of highway jurisdiction, change any
22 agency's responsibilities for any highway under its

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1 jurisdiction, or create any new right for private vehicular
2 access to any highway.

3 SECTION 12. This Act shall not affect responsibilities
4 that have accrued, contracts executed, or proceedings begun
5 before its effective date.


6 SECTION 13. In codifying the new sections added to chapter
7 264, Hawaii Revised Statutes, by sections 2 and 3 of this Act,
8 the revisor of statutes shall substitute appropriate section
9 numbers for the letters used in the designations of the new
10 sections in this Act.

11 SECTION 14. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

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

14

INTRODUCED BY:



BY REQUEST

SB 1511

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAYS.

PURPOSE: To update state law to allow the Department of Transportation (DOT) and other agencies to consider nighttime maintenance of our highway system and other highway maintenance improvements.

MEANS: Add two new sections to chapter 264; amend sections 248-9, 264-21, 264-31, 264-41, 264-42, and 264-43; and repeal section 264-44, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Proposed statutory amendments will require all agencies responsible for highway maintenance to consider whether nighttime work is feasible and appropriate. Nighttime maintenance can reduce traffic impacts.

Proposed statutory amendments will allow highway jurisdiction to be transferred by interagency agreement when it is impractical to transfer jurisdiction by conveyance of title or executive order. This may be appropriate for cross-streets beneath the freeway, federal property, and Hawaiian Home Lands.

Proposed statutory amendments will authorize DOT to use the State Highway Fund to maintain highways across property controlled by federal agencies. This is not clearly authorized by existing law.

Proposed statutory amendments will repeal provisions (added by Act 125, SLH 2006), which authorize use of the State Highway Fund to construct, maintain, and repair county roads. The counties have reasonable alternatives to pay for county roadwork without diverting moneys from the State Highway Fund.

Proposed statutory amendments will authorize use of the State Highway Fund for statewide

functions and programs that maintain or enhance federal aid, improve highway safety, recruit and train highway staff, or otherwise benefit the State Highway System. Some potentially desirable programs, such as scholarships to recruit highway engineers, are not clearly authorized by existing law.

Proposed statutory amendments will require DOT consent for other agencies to use the State Highway Fund. Diversion of the State Highway Fund without DOT consent could adversely impact maintenance of the State Highway System, ratings and debt service for Highway Revenue Bonds, and DOT's ability to provide matching funds required for federal-aid projects.

Proposed statutory amendments will require all agencies to comply with federal requirements for maintenance of federal-aid projects under their jurisdiction. Failure to maintain federal-aid projects would jeopardize State receipt of federal funds.

Proposed statutory amendments will redefine the State Highway System to consist of public highways and bikeways on lands set aside by the Governor for the State Highway System, public highways and bikeways on lands acquired for the State Highway System, and public highways and bikeways for which DOT has accepted jurisdiction for inclusion in the State Highway System. This will clarify which State highways and bikeways should be maintained with the State Highway Fund.

Proposed statutory amendments will state that the DOT is only responsible for public highways and bikeways included within the State Highway System or located on lands set aside by the Governor to the DOT. This is not clearly provided by existing law.

Impact on the public: None.

Impact on the department and other agencies:
Department of Transportation (DOT) will be able to use the State Highway Fund to meet DOT responsibilities. Other agencies will

not be able to use the State Highway fund
without consent.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: TRN 595.

OTHER AFFECTED
AGENCIES: Agencies other than DOT which might wish to
use the State Highway Fund.

EFFECTIVE DATE: Upon approval.