

JAN 27 2010

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# A BILL FOR AN ACT

RELATING TO TRANSFER OF STATE HIGHWAYS.

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

1           SECTION 1. The legislature finds that the State's current  
2 fiscal crisis necessitates an abolition of duplicative state and  
3 county functions. The state department of transportation and  
4 the Maui department of transportation share overlapping  
5 functions for construction and maintenance of highways. The  
6 legislature further finds that counties are more economically  
7 efficient at providing highway functions inasmuch as the  
8 highways are inherently a county function in Hawaii which does  
9 not have an interstate highway system similar to mainland  
10 states.

11           The purpose of this Act is to establish a pilot project to  
12 provide for the transfer of all state highway functions on Maui,  
13 Molokai, and Lanai to the county of Maui, and to transfer  
14 applicable funding for state highways on Maui from the State to  
15 Maui county.

16           SECTION 2. **Pilot project established.** There is  
17 established a pilot project to transfer all state highway



1 jurisdiction and functions relating to state highways located on  
2 Maui, Molokai, and Lanai to the county of Maui, and to transfer  
3 applicable funding for state highways from the State to Maui  
4 county in accordance with this Act.

5 SECTION 3. **Definitions.** For purposes of this Act:

6 "Highway functions" mean functions presently performed by  
7 the county of Maui, department of transportation, including  
8 fiscal and clerical support services; engineering services,  
9 including engineering, planning, design, and construction; field  
10 inspections; surveys; maintenance, including inspection, repair,  
11 and alterations necessary to preserve existing roadways,  
12 structures, traffic control devices, landscaping and other  
13 appurtenant highway facilities, and operation of automotive and  
14 equipment service and repair shops; traffic signs, markings, and  
15 traffic control devices; traffic signals; and highway  
16 maintenance and landscaping.

17 "State highways" means every highway on Maui island,  
18 Molokai island, and Lanai island that is under the jurisdiction  
19 of the state department of transportation, highways division, as  
20 of July 1, 2010, including but not limited to:

21 A. Maui district:



- 1            1.    Route 30, Honoapiilani Highway, Intersection with  
2                            Kaahumanu Avenue (Route 32) in Wailuku to  
3                            Keawalua;
- 4            2.    Route 31, Piilani Highway, Intersection with  
5                            Mokulele Highway (Route 311) to Wailea;
- 6            3.    Route 32, Kaahumanu Avenue, Intersection with  
7                            Hana Highway (Route 36) near Kahului Harbor to  
8                            Wailuku;
- 9            4.    Route 36, Hana Highway, Kahului Harbor to  
10                           Intersection with Kaupakulua Road;
- 11           5.    Route 37, Haleakala Highway, Kahului Airport to  
12                           Intersection with Route 377 in Kula then  
13                           continues on as Kula Highway;
- 14           6    Route 310, North Kihei Road, Intersection with  
15                           Honoapiilani Highway (Route 30) to Intersection  
16                           with Mokulele Highway (Route 311) and Piilani  
17                           Highway (Route 31);
- 18           7.    Route 311, Mokulele Highway, Intersection with  
19                           Kuihelani Highway (Route 380) to Intersection  
20                           with North Kihei Road (Route 310);
- 21           8.    Route 340, Kahekili Highway, Intersection with  
22                           Waiehu Beach Road to Camp Maluhia;



- 1           9.    Route 360, Hana Highway, Continuation of Hana  
2                    Highway Route 36 at Intersection with Kaupakulua  
3                    Road to Hana;
- 4           10.   Route 377, Haleakala Highway, Junction of Kula  
5                    Highway (Route 37) to Junction with Kekaulike  
6                    Avenue;
- 7           11.   Route 378, Haleakala Crater Road, Junction with  
8                    Kekaulike Avenue to Haleakala National Park; and
- 9           12.   Route 380, Kuihelani Highway, Intersection with  
10                   Honoapiilani Highway (Route 30) to Intersection  
11                   with Mokulele Highway (Route 311;
- 12        B.    Molokai district:
- 13           1.    Route 450, Kamehameha V Highway, Kaunakakai to  
14                    Halawa Valley;
- 15           2.    Route 460, Maunaloa Highway, Maunaloa Village to  
16                    Kaunakakai;
- 17           3.    Route 465, Airport Loop off of Maunaloa Highway  
18                    (Route 460);
- 19           4.    Route 470, Kalāe Highway, Intersection with  
20                    Maunaloa Highway (Route 460) to Kalaupapa  
21                    Lookout; and



1           5.     Route 480, Puupeelua Avenue, Intersection with  
2                     Maunaloa Highway to Intersection with Farrington  
3                     Avenue; and

4           C.     Lanai district:

5                 1.     Route 440, Kaumalapau Highway, Kaumalapau Harbor  
6                     to intersection with Manele Road in Lanai City  
7                     continuing on Manele Road to Hulopoe Beach Park.

8           SECTION 4.   **Transfer of functions.**   No later than  
9     January 1, 2011, the jurisdiction, functions, powers, duties,  
10    and authority heretofore exercised by the state department of  
11    transportation relating to state highways located in the county  
12    of Maui shall be transferred to and conferred upon the  
13    department of transportation of the county of Maui by this Act.

14           The department of transportation of the county of Maui  
15    shall succeed to all of the rights and powers previously  
16    exercised, and all the duties and obligations incurred by the  
17    state department of transportation in the exercise of the  
18    functions, powers, duties, and authority transferred, whether  
19    such functions, powers, duties, and authority are mentioned in  
20    or granted by law, contract, or other document.

21           All rules, policies, procedures, guidelines, and other  
22    material adopted or developed by the state department of



1 transportation relating to state highways located in the county  
2 of Maui shall remain in full force and effect, including during  
3 the duration of the pilot project established under this Act,  
4 except as provided under section 11 for a county administrative  
5 rule to supercede a state administrative rule.

6 All deeds, leases, contracts, loans, agreements, permits,  
7 or other document executed or entered into by or on behalf of  
8 the state department of transportation highways division  
9 pursuant to the provisions of the Hawaii Revised Statutes, shall  
10 remain in full force and effect, including during the duration  
11 of the pilot project established under this Act.

12 **SECTION 5. Ownership of state highways.** Notwithstanding  
13 section 264-2, Hawaii Revised Statutes, for purposes of this Act  
14 the ownership of all state highways in Maui county shall remain  
15 with the State, including during the duration of the pilot  
16 project under this Act; provided that the State and the county  
17 of Maui may make arrangements during the duration of this Act  
18 for the eventual transfer of ownership of those state highways  
19 from the State to the county of Maui.

20 **SECTION 6. Transfer of state highway functions.** For  
21 purposes of this Act, specific provisions relating to state  
22 highway functions under chapter 264, Hawaii Revised Statutes,



1 that relate to state highways transferred to the county of Maui  
2 shall be deemed to be transferred to the county of Maui,  
3 including during the duration of the pilot project under this  
4 Act.

5       SECTION 7. **State highway system.** For purposes of this  
6 Act, reference to the "state highway system" under the state  
7 highway fund established in section 248-9, Hawaii Revised  
8 Statutes, shall be deemed to include state highways transferred  
9 to the county of Maui pursuant to this Act for the duration of  
10 the pilot project under this Act.

11       SECTION 8. **Transfer of department functions, officers, and**  
12 **employees.** Concurrent with the transfer of jurisdiction over  
13 state highways to the county of Maui, all rights, powers,  
14 functions, and duties of the state department of transportation  
15 with respect to the transferred state highways shall be  
16 transferred to the county of Maui, department of transportation,  
17 until this Act is repealed at which time the rights, powers,  
18 functions, and duties shall revert to the state department of  
19 transportation.

20       All officers and employees whose functions are transferred  
21 by this Act shall be transferred with their functions and shall  
22 continue to perform their regular duties upon their transfer,



1 subject to the state personnel laws and this Act, until this Act  
2 is repealed, at which time the officers and employees shall be  
3 transferred back to the state department of transportation.

4 No officer or employee of the State having tenure shall  
5 suffer any loss of salary, seniority, prior service credit,  
6 vacation, sick leave, or other employee benefit or privilege as  
7 a consequence of this Act, and such officer or employee may be  
8 transferred or appointed to a civil service position without the  
9 necessity of examination; provided that the officer or employee  
10 possesses the minimum qualifications for the position to which  
11 transferred or appointed; and provided that subsequent changes  
12 in status may be made pursuant to applicable civil service and  
13 compensation laws.

14 An officer or employee of the State who does not have  
15 tenure and who may be transferred or appointed to a civil  
16 service position as a consequence of this Act shall become a  
17 civil service employee without the loss of salary, seniority,  
18 prior service credit, vacation, sick leave, or other employee  
19 benefits or privileges and without the necessity of examination;  
20 provided that such officer or employee possesses the minimum  
21 qualifications for the position to which transferred or  
22 appointed.





1           If an office or position held by an officer or employee  
2 having tenure is abolished, the officer or employee shall not  
3 thereby be separated from public employment, but shall remain in  
4 the employment of the State with the same pay and classification  
5 and shall be transferred to some other office or position for  
6 which the officer or employee is eligible under the personnel  
7 laws of the State as determined by the state director of  
8 transportation or the governor.

9           **SECTION 9. Transfer of records and appropriations.**

10 Concurrent with the transfer of jurisdiction over state highways  
11 to the county of Maui, all appropriations, records, equipment,  
12 machines, files, supplies, contracts, books, papers, documents,  
13 maps, and other personal property heretofore made, used,  
14 acquired, or held by the state department of transportation  
15 relating to the functions transferred to the Maui department of  
16 transportation shall be transferred with the functions to which  
17 they relate, until this Act is repealed, at which time the  
18 appropriations, records, equipment, machines, files, supplies,  
19 contracts, books, papers, documents, maps, and other personal  
20 property shall be transferred back to the state department of  
21 transportation.



1           SECTION 10.   **Federal funds, administration and transfer.**

2   (a)   The highways division, or similar administrative division,  
3   of the state department of transportation shall continue to  
4   receive, transfer, or expend federal funds for state highways  
5   located in the county of Maui, including during the duration of  
6   the pilot project established under this Act.

7           (b)   Concurrent with the transfer of jurisdiction over  
8   state highways to the county of Maui, the state director of  
9   transportation shall transfer to the county of Maui all federal  
10   aid to the State that is to be used for highway maintenance,  
11   operation, repair, construction, or other uses on state highways  
12   transferred to Maui county under this Act.  The state department  
13   of transportation shall do all things necessary to ensure that  
14   federal aid to the State is transferred to Maui county as  
15   appropriate for the use by Maui county for state highways  
16   transferred to Maui county under this Act, and that no federal  
17   funds are lost or jeopardized for this use.

18           (c)   It is the intent of this Act not to jeopardize the  
19   receipt of any federal aid nor to impair the obligation of the  
20   State or Maui county, or any agency respectively thereof, to the  
21   holders of any bond issued by the State or by any such agency,  
22   and to the extent, and only to the extent, necessary to



1 effectuate this intent, the governor or mayor of Maui, as  
2 applicable, may modify the strict provisions of this Act, but  
3 shall promptly report any such modification with reasons  
4 therefor to the legislature at its next session thereafter for  
5 review by the legislature.

6       SECTION 11. **Adoption of ordinances and rules.** The county  
7 council of Maui may adopt ordinances and the Maui department of  
8 transportation may adopt administrative rules relating to  
9 highways, as defined in section 3 of this Act, for the period of  
10 time the pilot project is in existence; provided that ordinances  
11 shall be deemed to be supplemental to provisions of the Hawaii  
12 Revised Statutes, and county administrative rules shall be  
13 deemed to supercede state administrative rules where a county  
14 rule is comprehensive so as to be intended to be exclusive. In  
15 the absence of county administrative rules, state administrative  
16 rules shall continue in effect.

17       SECTION 12. **Transfer of mandated programs; funding.**  
18 Article VIII, section 5 of the Hawaii State Constitution,  
19 relating to state funding of mandated programs to the counties,  
20 shall be deemed satisfied by the transfer of state  
21 appropriations and federal funds from the State to the county of  
22 Maui under this Act; provided that the county of Maui may



1 request the legislature to appropriate additional funds as  
2 necessary from time to time to implement this Act.

3       SECTION 13. **Reports to legislature.** The state department  
4 of transportation and the Maui department of transportation  
5 shall each report separately to the legislature on the progress,  
6 problems, implementation, and other relevant issues concerning  
7 the transfer of jurisdiction over state highways located in the  
8 county of Maui to the county of Maui. The reports shall be  
9 filed not later than twenty days prior to the convening of the  
10 regular session immediately preceding the repeal date of this  
11 Act.

12       SECTION 14. **Reversion to State on sunset.** On the day of  
13 the sunset date of this Act or at a later date as may be  
14 specified for a sunset pursuant to amendment to this Act, the  
15 functions transferred by this Act to the Maui department of  
16 transportation shall revert back forthwith to the state  
17 department of transportation, including transfer of officers and  
18 employees, records and appropriations, and federal funds  
19 transfers, on the same terms and conditions as specified in this  
20 Act for the transfer from the state department of transportation  
21 to the Maui department of transportation.



1 SECTION 15. This Act shall take effect upon its approval,  
2 and shall be repealed on December 31, 2016.

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**Report Title:**

State Highways; Transfer to Maui

**Description:**

Creates a pilot project to transfer jurisdiction of state highways in Maui county from the state department of transportation to the Maui department of transportation.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

