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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

**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 public works share overlapping  
5 maintenance functions for the maintenance of highways. The  
6 legislature further finds that the counties are more  
7 economically efficient at providing highway maintenance inasmuch  
8 as highway maintenance is primarily a county function in Hawaii  
9 which does not have an interstate highway system similar to  
10 mainland states.

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

16           SECTION 2. **Pilot project established.** There is  
17 established a pilot project to transfer all state highway  
18 maintenance functions relating to state highways located on



1 Maui, Molokai, and Lanai to the county of Maui, and to transfer  
2 applicable funding for maintenance of those state highways from  
3 the State to Maui county in accordance with this Act.

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

5 "Highway maintenance functions" means those maintenance  
6 functions performed by the department of transportation on state  
7 highways located in Maui county, including any function included  
8 in a memorandum of agreement between the department of  
9 transportation and the Maui county department of public works  
10 relating to the transfer of highway maintenance.

11 "Memorandum of agreement" means a written agreement between  
12 the department of transportation and the Maui county department  
13 of public works to memorialize an understanding for the  
14 assumption by Maui county (from the department of  
15 transportation) of the highway maintenance functions for state  
16 highways located in the county of Maui.

17 "State highways" means every highway on the islands of  
18 Maui, Molokai, and Lanai that is under the jurisdiction of the  
19 state department of transportation, highways division, as of  
20 December 30, 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, Kalae 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, Kaunalapau Highway, Kaunalapau Harbor  
6 to intersection with Manele Road in Lanai City  
7 continuing on Manele Road to Hulopoe Beach Park;

8 (D) Any other state highway or parts thereof as may be  
9 identified in a memorandum of agreement.

10 SECTION 4. **Transfer of highway maintenance functions.** No  
11 later than January 1, 2012, the jurisdiction, functions, powers,  
12 duties, and authority heretofore exercised by the state  
13 department of transportation relating to the maintenance of  
14 state highways in the county of Maui shall be transferred to and  
15 conferred upon the Maui county department of public works.

16 All rules, policies, procedures, guidelines, and other  
17 material adopted or developed by the state department of  
18 transportation relating to the highway maintenance functions  
19 shall remain in full force and effect for the duration of the  
20 pilot project under this Act, except as provided under  
21 section 11 of this Act for a county administrative rule to  
22 supersede a state administrative rule.



1 All deeds, leases, contracts, loans, agreements, permits,  
2 or other document executed or entered into by or on behalf of  
3 the state department of transportation highways division  
4 pursuant to the provisions of the Hawaii Revised Statutes, shall  
5 remain in full force and effect for the duration of the pilot  
6 project under this Act.

7 SECTION 5. **Ownership of state highways.** Notwithstanding  
8 section 264-2, Hawaii Revised Statutes, the ownership of all  
9 state highways shall remain with the State for the duration of  
10 the pilot project under this Act.

11 SECTION 6. **Transfer of statutory state highway maintenance**  
12 **functions.** For purposes of this Act, specific provisions  
13 relating to state highway functions under chapter 264, Hawaii  
14 Revised Statutes, that relate to the maintenance of state  
15 highways transferred to the county of Maui department of public  
16 works shall be deemed to be transferred to the county of Maui  
17 department of public works for the duration of the pilot project  
18 under this Act.

19 SECTION 7. **Transfer of department functions, officers, and**  
20 **employees.** Concurrent with the transfer of the highway  
21 maintenance functions, all rights, powers, functions, and duties  
22 of the state department of transportation with respect to the



1 transferred highway maintenance functions shall be transferred  
2 to the county of Maui county department of public works, until  
3 this Act is repealed at which time the rights, powers,  
4 functions, and duties shall revert to the state department of  
5 transportation.

6 All officers and employees whose functions are transferred  
7 by this Act shall be transferred with their functions and shall  
8 continue to perform their regular duties upon their transfer,  
9 subject to the state personnel laws and this Act, until this Act  
10 is repealed, at which time the officers and employees shall be  
11 transferred back to the state department of transportation.

12 No officer or employee of the State having tenure shall  
13 suffer any loss of salary, seniority, prior service credit,  
14 vacation, sick leave, or other employee benefit or privilege as  
15 a consequence of this Act, and such officer or employee may be  
16 transferred or appointed to a civil service position without the  
17 necessity of examination; provided that the officer or employee  
18 possesses the minimum qualifications for the position to which  
19 transferred or appointed; and provided that subsequent changes  
20 in status may be made pursuant to applicable civil service and  
21 compensation laws.



1           An officer or employee of the State who does not have  
2 tenure and who may be transferred or appointed to a civil  
3 service position as a consequence of this Act shall become a  
4 civil service employee without the loss of salary, seniority,  
5 prior service credit, vacation, sick leave, or other employee  
6 benefits or privileges and without the necessity of examination;  
7 provided that such officer or employee possesses the minimum  
8 qualifications for the position to which transferred or  
9 appointed.

10           If an office or position held by an officer or employee  
11 having tenure is abolished, the officer or employee shall not  
12 thereby be separated from public employment, but shall remain in  
13 the employment of the State with the same pay and classification  
14 and shall be transferred to some other office or position for  
15 which the officer or employee is eligible under the personnel  
16 laws of the State as determined by the state director of  
17 transportation or the governor.

18           **SECTION 8. Transfer of records and appropriations.**  
19 Concurrent with the transfer of highway maintenance functions to  
20 the county of Maui department of public works, all  
21 appropriations, records, equipment, machines, files, supplies,  
22 contracts, books, papers, documents, maps, and other personal





1 property heretofore made, used, acquired, or held by the state  
2 department of transportation relating to the maintenance  
3 functions transferred to the Maui department of public works  
4 shall be transferred with the functions to which they relate,  
5 until this Act is repealed, at which time the appropriations,  
6 records, equipment, machines, files, supplies, contracts, books,  
7 papers, documents, maps, and other personal property shall be  
8 transferred back to the state department of transportation.

9 SECTION 9. **Federal funds, administration and transfer.**

10 (a) The highways division, or similar administrative division,  
11 of the state department of transportation shall continue to  
12 receive, transfer, or expend federal funds for state highways,  
13 including during the duration of the pilot project established  
14 under this Act.

15 (b) Concurrent with the transfer of highway maintenance  
16 functions to the county of Maui, the state director of  
17 transportation shall transfer a proportionate share of federal  
18 aid as may be received from time to time by the State, to the  
19 county of Maui to be used for highway maintenance and repair.

20 (c) It is the intent of this Act not to jeopardize the  
21 receipt of any federal aid nor to impair the obligation of the  
22 State or Maui county, or any agency respectively thereof, to the



1 holders of any bond issued by the State or by any such agency,  
 2 and to the extent, and only to the extent, necessary to  
 3 effectuate this intent, the governor or mayor of Maui, as  
 4 applicable, may modify the strict provisions of this Act, but  
 5 shall promptly report any such modification with reasons  
 6 therefor to the legislature at its next session thereafter for  
 7 review by the legislature.

8       SECTION 10. **Equitable proportionate funding formula.** By  
 9 no later than January 1, 2012, the department of transportation  
 10 shall develop and apply an equitable proportionate formula of  
 11 distribution of tax revenue, general fund appropriations, and  
 12 federal grant moneys to Maui county for purposes of highway  
 13 maintenance functions.

14       SECTION 11. **Adoption of ordinances and rules.** The county  
 15 council of Maui may adopt ordinances and the Maui department of  
 16 public works may adopt administrative rules relating to highway  
 17 maintenance functions, as defined in section 3 of this Act, for  
 18 the period of time the pilot project is in existence; provided  
 19 that ordinances shall be deemed to be supplemental to provisions  
 20 of the Hawaii Revised Statutes, and county administrative rules  
 21 shall be deemed to supersede state administrative rules where a  
 22 county rule is comprehensive so as to be intended to be



1 exclusive. In the absence of county administrative rules, state  
2 administrative rules shall continue in effect.

3 SECTION 12. **Transfer of mandated programs; funding.**

4 Article VIII, section 5, of the Hawaii state constitution,  
5 relating to state funding of mandated programs to the counties,  
6 shall be deemed satisfied by the transfer of state  
7 appropriations and federal funds from the State to the county of  
8 Maui under this Act; provided that the county of Maui may  
9 request the legislature to appropriate additional funds as  
10 necessary from time to time to implement this Act.

11 SECTION 13. **Reports to legislature.** The state department  
12 of transportation and the Maui department of public works shall  
13 each report separately to the legislature on the progress,  
14 problems, implementation, and other relevant issues concerning  
15 the transfer of highway maintenance functions to the county of  
16 Maui. The reports shall be filed not later than twenty days  
17 prior to the convening of the regular session immediately  
18 preceding the repeal date of this Act.

19 SECTION 14. **Reversion to State on sunset.** On December 31,  
20 2016, the highway maintenance functions transferred by this Act  
21 to the Maui department of public works shall revert back  
22 forthwith to the state department of transportation, including



1 transfer of officers and employees, records and appropriations,  
2 and federal funds transfers, on the same terms and conditions as  
3 specified in this Act for the transfer from the state department  
4 of transportation to the Maui department of public works.

5 SECTION 15. (a) There is established a State and Maui  
6 county transportation working group, exempt from section 26-34,  
7 Hawaii Revised Statutes, to create a plan of implementation of  
8 this Act.

9 (b) The State and Maui county transportation working group  
10 shall be composed of the director of transportation or designee,  
11 director of public works of the county of Maui or designee, and  
12 stakeholders on Maui as mutually determined by the director of  
13 transportation and director of public works. Members of the  
14 State and Maui county transportation working group shall serve  
15 without compensation and shall not be reimbursed for any  
16 expenses.

17 (c) The State and Maui county transportation working group  
18 shall report to the legislature no later than twenty days prior  
19 to the convening of the regular session of 2011, on a plan of  
20 implementation of this Act, including but not limited to, a  
21 timetable of transfer of maintenance functions and proposed  
22 legislation.



1           (d) The State and Maui county transportation working group  
2 shall cease to exist upon the filing of its report to the  
3 legislature.

4           SECTION 16. This Act shall take effect upon its approval;  
5 provided that this Act shall be repealed on December 31, 2016.

6



**Report Title:**

State Highways; Transfer to Maui

**Description:**

Creates a pilot project to transfer maintenance functions of state highways in Maui county from the state department of transportation to the Maui department of public works. Creates state and Maui county transportation working group to create plan of implementation. Report to legislature. Sunset 12/31/1016. (SD1)

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

