
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 public works share overlapping
5 maintenance functions for maintenance of highways. The
6 legislature further finds that counties are more economically
7 efficient at providing highway maintenance inasmuch as highway
8 maintenance is primarily 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 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 from the State to Maui county.

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

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

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

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

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

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

22 A. Maui district:

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- 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, Kaumalapau Highway, Kaumalapau 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, 2011, 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 for a county administrative rule to supersede a state
 22 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 functions
3 transferred to the Maui department of public works shall be
4 transferred with the functions to which they relate, until this
5 Act is repealed, at which time the appropriations, records,
6 equipment, machines, files, supplies, contracts, books, papers,
7 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 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.** The
9 department of transportation shall develop and apply an
10 equitable proportionate formula of distribution of tax revenue,
11 general fund appropriations, and federal grant moneys to Maui
12 county for purposes of highway maintenance functions.

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

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

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

9

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. (SD1)

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