

MAR 16 2011

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CREATE A TASK
FORCE TO STUDY AND RECOMMEND PROPOSED LEGISLATION REQUIRING
THE COUNTIES TO TAKE RESPONSIBILITY FOR CERTAIN DISPUTED
ROADS THAT ARE NOT BEING MAINTAINED.

1 WHEREAS, it is often difficult for tenants, landlords, and
2 other interested parties to ascertain information about
3 ownership of certain rights-of-way, which is important for
4 issues relating to maintenance, improvement, and liability; and
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6 WHEREAS, many government and homestead roads were created
7 during the Territory of Hawaii, and after statehood, the State
8 of Hawaii awarded jurisdiction of some government and homestead
9 roads to the counties; and
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11 WHEREAS, since that time, many roads have taken on
12 uncertain status and jurisdiction because they were laid out by
13 government, but are not part of the state highway system and are
14 not currently maintained by county government; and
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16 WHEREAS, these roads of uncertain status and jurisdiction
17 were never improved or upgraded to acceptable standards before
18 being transferred to the counties, and no funding was provided
19 for their maintenance after transfer; and
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21 WHEREAS, for years, these roads have been an issue between
22 the State and the counties over who should maintain the roads,
23 pay for the costs of their maintenance and improvement, and
24 assume liability for injuries and damages incurred on them; and
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26 WHEREAS, according to a 1989 Legislative Reference Bureau
27 report entitled *Roads in Limbo: Analysis of the State-County*
28 *Jurisdictional Dispute*: "The State and Counties have been at an
29 impasse over this conflict, and neither side is willing to take



1 jurisdiction over these roads with their concomitant expense for
2 maintenance, upgrading and repair"; and
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4 WHEREAS, residents who need to use these roads suffer when
5 roadway jurisdiction is in dispute because these roads are less
6 likely to be cared for than roads over which there is no
7 jurisdictional dispute; and
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9 WHEREAS, although the State transferred these roads to the
10 counties, the counties, in turn, claim the transfer amounted to
11 an unfunded state mandate because the State has never provided
12 the counties with funds with which to maintain roads that the
13 counties did not create; and
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15 WHEREAS, according to the Legislative Reference Bureau's
16 report, the standoff on maintenance of roads in limbo has "the
17 practical effect of leaving a significant number of roads in all
18 four counties in substandard conditions and without routine
19 maintenance because no government body will accept
20 responsibility for them"; now, therefore,
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22 BE IT RESOLVED by the Senate of the Twenty-sixth
23 Legislature of the State of Hawaii, Regular Session of 2011, the
24 House of Representatives concurring, that the Department of
25 Transportation is requested to create a task force to explore
26 the feasibility of transferring to the counties responsibility
27 for roads that are not currently being maintained and the means
28 by which the counties may meet that responsibility, including
29 estimated costs and possible funding sources; and
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31 BE IT FURTHER RESOLVED that the Department of
32 Transportation is requested to compose the task force of the
33 following members:
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- 35 (1) The Director of Transportation, who is requested to
36 serve as Chairperson;
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38 (2) The Director of the Office of Planning, or the
39 Director's designee;
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41 (3) The mayor of each of the counties, or the mayors'
42 designees;
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- 1 (4) The Director of Transportation Services of the City
2 and County of Honolulu, or the Director's designee;
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- 4 (5) The Chief Engineer of the Department of Public Works
5 of the County of Hawaii;
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- 7 (6) The County Engineer of the Department of Public Works
8 of the County of Kauai; and
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- 10 (7) The County Engineer of the Department of Public Works
11 of the County of Maui; and
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13 BE IT FURTHER RESOLVED that the Department of
14 Transportation is requested to submit to the Legislature, no
15 later than twenty days prior to the convening of the Regular
16 Session of 2012, a report of the findings and recommendations of
17 the task force, including any proposed legislation; and
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19 BE IT FURTHER RESOLVED that certified copies of this
20 Concurrent Resolution be transmitted to the Director of
21 Transportation; the Director of the Office of Planning; the
22 Mayor of each of the counties; the Chairperson of each County
23 Council; the Director of Transportation Services of the City and
24 County of Honolulu; the Chief Engineer of the Department of
25 Public Works of the County of Hawaii; the County Engineer of the
26 Department of Public Works of the County of Kauai; and the
27 County Engineer of the Department of Public Works of the County
28 of Maui.
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OFFERED BY: 