



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 1, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 606

COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY
AFFAIRS AND

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

The Department of Transportation (DOT) supports the concept of a carefully planned experiment with county maintenance of State highways. Regardless of the arrangements made to provide for the maintenance of state roadways, the DOT is still responsible to meet and ensure that federal regulations and requirements are met in accordance with the receipt of federal funds. To this extent, we do have concerns about some of the broadly written language in this Bill that could be construed as overriding any county-state agreement.

- Section 1 states that the DOT and the counties have duplicative, overlapping responsibilities for highway maintenance. In reality, there is no duplication or overlap. DOT does not maintain county highways and the counties do not maintain State highways. Moreover, because State highways require a higher level of maintenance than county facilities and because counties are not familiar with State facilities, procedures and requirements, mandating that any county must maintain all State highways in that county to State standards will more than likely increase the initial cost of State highway maintenance.
- Sections 3 and 4 appropriately require a county-state highway maintenance agreement to resolve county responsibilities and liability for State highway maintenance. However, Sections 5, 7 and 8 of the bill broadly transfer DOT jurisdiction, responsibility and liability in a manner which could be construed to override any county-state agreement. The language regarding the county-state agreement should be strengthened to make it clear that the county-state agreement is the guiding document that outlines and defines the terms and conditions of the pilot program.
- Sections 5 and 8 do not satisfactorily resolve hiring, firing, promotions, transfers, disciplinary actions, grievances, furloughs, compensation, etc. for positions that are temporarily transferred to county control. We believe a better approach is to retain State positions as State positions during the pilot program, without change in rights and responsibilities, but authorize temporary county supervision of specific State personnel under county-state highway maintenance agreements. The details of such a transfer would be outlined in the county-state agreement.

- If a county takes responsibility for routine maintenance of State highways, DOT employees in that county will still need to monitor whether county maintenance meets State standards, determine if reconstruction is more appropriate than routine maintenance, contract for special maintenance projects, contract for CIP, regulate highway access, and regulate work within the highway right-of-way. Sections 3 and 4 appropriately require a county-state highway maintenance agreement to resolve which State employees are transferred to county supervision. However, the broad wording of Section 8 could be construed to override the provisions of a county-state highway maintenance agreement concerning transfer of State employees and as such the language regarding the county-state agreement should be strengthened to make it clear that the county-state agreement is the guiding document that outlines and defines the terms and conditions of the pilot program.
- Section 9 transfers unspecified funds for county expenditure. Section 13 also authorizes counties to request additional funds without consulting DOT. DOT's position is that we have statewide responsibilities and should only be obligated to transfer the funds, personnel, and resources detailed in the county-state highway maintenance agreement.

NEIL ABERCROMBIE
GOVERNOR



SUNSHINE P.W. TOPPING
INTERIM DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 1, 2011

TESTIMONY TO THE
COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND
MILITARY AFFAIRS

AND

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS
For Hearing on Tuesday, February 1, 2011
2:45 p.m., Conference Room 224

BY

SUNSHINE P.W. TOPPING
INTERIM DIRECTOR

Senate Bill No. 606
Relating to Transfer of State Highways

WRITTEN TESTIMONY ONLY

TO CHAIRPERSONS WILL ESPERO, J. KALANI ENGLISH AND COMMITTEE
MEMBERS

The purpose of S.B. 606 is to create a pilot project to transfer maintenance
functions of state highways in the county of _____ from the state
department of transportation to that county.

The Department of Human Resources Development has **comments** on
the proposed transfer. To protect the rights and benefits of the employees to be
transferred, we prefer the following proposed transfer language be used in place

of the third and fourth paragraphs of Section 7 of the bill:

"All rights, powers, functions, and duties of the department of _____ are transferred to the county of _____.

All employees who occupy civil service positions and whose functions are transferred to the department of _____ by this Act shall retain their civil service status (permanent or temporary). Employees shall be transferred without loss of salary, seniority, retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act, provided that the employees possess the minimum qualifications and public employment requirements for the class and/or position to which transferred or appointed, as applicable, provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act, provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of

_____ may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.”

Thank you for opportunity to offer comments on this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White




Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.maui-county.gov/council

January 31, 2011

TO: The Honorable Will Espero, Chair
Senate Committee on Public Safety, Government Operations, and Military Affairs
The Honorable J. Kalani English, Chair
Senate Committee on Transportation and International Affairs

FROM: Danny A. Mateo
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 1, 2011; TESTIMONY ON SB 606, RELATING TO TRANSFER OF STATE HIGHWAYS**

Thank you for the opportunity to provide comments on this important measure. The purpose of this measure is to create a pilot project to transfer all State highway maintenance functions from the State department of transportation to an as yet unnamed county, and to transfer applicable funding for maintenance of those State highways from the State to the appropriate county.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I offer the following comments:

1. Addressing duplicative State and county functions seems a reasonable approach, particularly during our current fiscal crisis. However, a jurisdictional transfer of this complexity requires a level of foresight not readily revealed by the current wording of this bill. Similar measures have been introduced in the past, and there is no indication that this proposal has been discussed with any county department that would bear the brunt of the shifted responsibility.
2. I urge the Committee to maintain a prudent respect for the multiple issues being impacted by a jurisdictional transfer of this scope, including the effect on union contracts, sources of revenue, liability, Federal grants, required personnel, equipment purchases, and repair and maintenance. The current bill addresses these concerns broadly, without the specificity needed to implement such a change. I am particularly concerned about the potential liability shifted to the county from the State during the term of this pilot project.
3. I am also concerned about the lack of clarity for the funding mechanisms that will be available to the county, on a long term basis, to allow the county to properly maintain the minimum standard of efficiency and management. While a formula is to be devised by the State, there is no mechanism for county input regarding this formula, nor is there an assurance that adequate funding will continue throughout the duration of the pilot project until 2017.

Thank you for the opportunity to provide testimony on this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
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January 31, 2011

TO: Honorable Will Espero, Chair
Senate Committee on Public Safety, Government Operations, and Military Affairs

Honorable J. Kalani English, Chair
Senate Committee on Transportation and International Affairs

FROM: Joseph Pontanilla, Council Vice-Chair

A handwritten signature in cursive script, appearing to read "JPontanilla".

DATE: February 1, 2011

SUBJECT: **TESTIMONY ON SB 606, RELATING TO TRANSFER OF STATE HIGHWAYS**

Thank you for the opportunity to provide comment on this measure. I provide this testimony as an individual member of the Maui County Council.

I share the same concerns as cited in testimony submitted by Maui County Council Chair Danny A. Mateo.

Thank you for the opportunity to testify on this measure.