
A BILL FOR AN ACT

RELATING TO PRIVATE ROADS.

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

1 SECTION 1. The legislature finds that while federal,
2 state, and county agencies maintain jurisdiction over, and are
3 responsible for, the repair and maintenance of a majority of
4 highways, streets, and roads throughout Hawaii, there are
5 numerous roads throughout the State that are privately owned, or
6 whose ownership has been called into question. In many cases,
7 these "private roads" are remnants of a road, or a small portion
8 of a larger public road, whose ownership has been disputed due
9 to a deed oversight that occurred decades ago. This has
10 resulted in questions arising as to the party responsible for
11 the repair and maintenance of these roads, many of which are
12 regularly used for vehicular traffic.

13 Since these "private roads" are not owned by a governmental
14 entity, or their ownership is being disputed, they often do not
15 receive proper repair and maintenance. As a result, many of
16 these roads have fallen into serious disrepair, even though they
17 have been, and continue to be used for, vehicular traffic.



1 Although these roads are often used by and benefit the general
2 public, the general public does not often realize that the road
3 is not owned by a governmental agency. This makes it difficult
4 for both the public and government agencies when individuals
5 attempt to report repair or maintenance issues on specific
6 roads.

7 A county may have policies and procedures to assist owners
8 with the repair of private roads; however, if the county is not
9 able to determine or locate the actual owner of the road, or if
10 ownership is disputed, repair and maintenance problems cannot be
11 resolved. Additionally, private owners rarely have the
12 expertise, equipment, or coordination to address road ownership
13 and maintenance issues and seek government assistance. Other
14 concerns, including liability and cost, also play a major role
15 in determining how much assistance a government agency will
16 provide, if any.

17 While the legislature finds that jurisdictional issues
18 dealing with road ownership have been unresolved for decades,
19 the problems associated with the repair and maintenance of these
20 roads need to be addressed. The legislature further finds that
21 a comprehensive review should be undertaken and recommendations



1 made on how to address repair and maintenance issues of private
2 roads. As such, the purpose of this Act is to establish a task
3 force to make recommendations for a plan to address the long
4 overdue question of how to maintain and repair private roads
5 that are open to, and serves and benefits, the general public.

6 SECTION 2. (a) There is established a private road repair
7 and maintenance task force within the department of
8 transportation for administrative purposes. The task force
9 shall be composed of the following members:

- 10 (1) The director of transportation, or the director's
11 designee, who shall co-chair the task force;
- 12 (2) The attorney general, or the attorney general's
13 designee;
- 14 (3) The chairperson of the board of land and natural
15 resources, or the chairperson's designee;
- 16 (4) The chairperson of the Hawaiian homes commission, or
17 the chairperson's designee;
- 18 (5) A member of the house of representatives appointed by
19 the speaker of the house of representatives;
- 20 (6) A member of the senate appointed by the president of
21 the senate;



- 1 (7) The acting director of the legislative reference
2 bureau, or the acting director's designee;
- 3 (8) The director of the department of transportation
4 services of the city and county of Honolulu, or the
5 director's designee, who shall co-chair the task
6 force;
- 7 (9) A member who is the director of transportation, or
8 serves in a similar capacity, from a county other than
9 the city and county of Honolulu appointed by the
10 governor;
- 11 (10) The director of the department of facility maintenance
12 of the city and county of Honolulu, or the director's
13 designee;
- 14 (11) A member who serves as the chief legal adviser and
15 legal representative of a county other than the city
16 and county of Honolulu, appointed by the governor;
- 17 (12) The executive director of the Hawaii Asphalt Paving
18 Industry;
- 19 (13) A private developer of subdivisions, appointed by the
20 governor;



1 (14) A contractor specializing in subdivision development,
2 appointed by the governor; and

3 (15) An individual representing private road owners,
4 appointed by the governor.

5 Members of the task force shall serve without compensation
6 but shall be reimbursed for any necessary expenses, including
7 travel expenses, incurred in the performance of duties under
8 this Act.

9 (b) The private road repair and maintenance task force
10 shall make recommendations for a plan to address the repair and
11 maintenance of private roads. The plan shall include the
12 following objectives:

13 (1) The feasibility of establishing a commission to
14 address specific issues relating to private road
15 maintenance and repair;

16 (2) Investigation of issues relating to liability concerns
17 and issues with the maintenance or repair of private
18 roads including recommendations to address these
19 concerns and issues, particularly as they pertain to
20 the counties;



- 1 (3) Investigation of issues relating to the initial and
2 ongoing costs for a repair and maintenance program as
3 well as funding mechanisms for these costs including
4 the dedication of a portion of real property taxes or
5 general excise taxes for this purpose;
- 6 (4) Examination of current procedures, if any, for the
7 repair and maintenance of private roads used by the
8 city and county of Honolulu or any other county and
9 the feasibility of applying any of these procedures on
10 a statewide basis;
- 11 (5) Exploration of the establishment of initiatives for
12 repair and maintenance cost-sharing through public-
13 private partnerships with owners of private roads;
- 14 (6) Recommendations for the development of a system to
15 categorize private roads relative to the repair and
16 maintenance needs of the private road;
- 17 (7) Examination of laws and ordinances relating to private
18 roads that do not meet state or county standards;
19 issues facing government agencies dealing with these
20 situations; policies and procedures, if any, used to



- 1 address these situations; and any possible solutions
2 to these situations;
- 3 (8) Identification of all roads or parts of roads that do
4 not fall under State or county jurisdiction;
- 5 (9) Exploration of the establishment of guidelines for the
6 repair and maintenance of private roads that would
7 allow private road owners to:
- 8 (A) Opt out of any maintenance program;
- 9 (B) Transfer ownership of the road to a governmental
10 agency; or
- 11 (C) Maintain ownership of the road while allowing a
12 government agency to repair and maintain the
13 road;
- 14 (10) Exploration of the use of eminent domain to acquire
15 private roads;
- 16 (11) Identification of situations where repair and
17 maintenance of a private road by a government agency
18 would not be feasible or practical; and
- 19 (12) Any other issues that may impact the establishment of
20 a system to repair and maintain private roads.



1 (c) The private road repair and maintenance task force
2 shall submit an interim report of its findings and
3 recommendations, including any proposed legislation, to the
4 legislature no later than twenty days prior to the convening of
5 the regular session of 2016. The private road repair and
6 maintenance task force shall submit the final report of its
7 findings and recommendations, including any proposed
8 legislation, to the legislature no later than twenty days prior
9 to the convening of the regular session of 2017.

10 (d) The private road repair and maintenance task force
11 shall cease to exist on June 30, 2017.

12 (e) For the purposes of this section, "private road" means
13 every way or place in private ownership, or whose ownership is
14 disputed, that is used for vehicular travel.

15 SECTION 3. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so much
17 thereof as may be necessary for fiscal year 2015-2016 and the
18 same sum or so much thereof as may be necessary for fiscal year
19 2016-2017 to enable the private road repair and maintenance task
20 force to carry out the purposes of this Act, including the
21 hiring of necessary staff.



H.B. NO. 601

1 The sums appropriated shall be expended by the department
2 of transportation for the purposes of this Act.

3 SECTION 4. This Act shall take effect on July 1, 2015.

4

INTRODUCED BY:

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JAN 23 2015



H.B. NO. 601

Report Title:

Private Roads; Repair and Maintenance; Task Force

Description:

Establishes a task force to make recommendations for a plan to address the repair and maintenance of private roads.

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