

JAN 27 2016

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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 status coupled with loss of seniority in Congress  
3 necessitates an abolition of duplicative state and county  
4 functions. The state department of transportation and the  
5 county departments of public works share overlapping maintenance  
6 and repair functions for the maintenance and repair of highways.

7           The purpose of this Act is to establish a pilot project to  
8 provide for the transfer of all applicable state highway  
9 maintenance and repair functions to counties with resident  
10 populations that are divided among at least three islands. This  
11 Act also transfers applicable funding for maintenance and repair  
12 of state highways to counties with resident populations that are  
13 divided among at least three islands.

14           SECTION 2. **Pilot project established.** There is  
15 established a pilot project to transfer all applicable state  
16 highway maintenance and repair functions to counties with  
17 resident populations that are divided among at least three



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1 islands and to transfer applicable funding for maintenance and  
2 repair of those state highways in accordance with this Act.

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

4 "Highway maintenance and repair functions" means those  
5 functions specified in a memorandum of agreement between the  
6 department of transportation and a county department of public  
7 works concerning maintenance and repair of state highways  
8 located in any county with a resident population that is divided  
9 among at least three islands.

10 "Memorandum of agreement" means a written agreement,  
11 acceptable to the county council in any county with a resident  
12 population that is divided among at least three islands, under  
13 which the county department of public works agrees to assume  
14 responsibility and liability for specified highway maintenance  
15 and repair functions, consistent with Federal Highway  
16 Administration preventive maintenance and repair guidelines, for  
17 state highways in the county and the department of  
18 transportation agrees to transfer or delegate specified state  
19 facilities, resources, personnel, and funding to the department  
20 of public works for the maintenance and repair of state highways  
21 for the duration of the pilot project under this Act.



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1 "State highways" means every highway that is in any county  
2 with a resident population that is divided among at least three  
3 islands and that is under the jurisdiction of the state.

4 department of transportation, highways division, as of December  
5 30, 2016, including but not limited to:

- 6 (1) Route 30, Honoapiilani Highway, Intersection with  
7 Kaahumanu Avenue (Route 32) in Wailuku to Keawalua;
- 8 (2) Route 31, Piilani Highway, Intersection with Mokulele  
9 Highway (Route 311) to Wailea;
- 10 (3) Route 32, Kaahumanu Avenue, Intersection with Hana  
11 Highway (Route 36) near Kahului Harbor to Wailuku;
- 12 (4) Route 36, Hana Highway, Kahului Harbor to Intersection  
13 with Kaupakulua Road;
- 14 (5) Route 37, Haleakala Highway, Kahului Airport to  
15 Intersection with Route 377 in Kula then continues on  
16 as Kula Highway;
- 17 (6) Route 310, North Kihei Road, Intersection with  
18 Honoapiilani Highway (Route 30) to Intersection with  
19 Mokulele Highway (Route 311) and Piilani Highway  
20 (Route 31);



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- 1           (7) Route 311, Mokulele Highway, Intersection with
- 2           Kuihelani Highway (Route 380) to Intersection with
- 3           North Kihei Road (Route 310);
- 4           (8) Route 340, Kahekili Highway, Intersection with Waiehu
- 5           Beach Road to Camp Maluhia;
- 6           (9) Route 360, Hana Highway, Continuation of Hana Highway
- 7           Route 36 at Intersection with Kaupakulua Road to Hana;
- 8           (10) Route 377, Haleakala Highway, Junction of Kula Highway
- 9           (Route 37) to Junction with Kekaulike Avenue;
- 10          (11) Route 378, Haleakala Crater Road, Junction with
- 11          Kekaulike Avenue to Haleakala National Park;
- 12          (12) Route 380, Kuihelani Highway, Intersection with
- 13          Honoapiilani Highway (Route 30) to Intersection with
- 14          Mokulele Highway (Route 311);
- 15          (13) Route 450, Kamehameha V Highway, Kaunakakai to Halawa
- 16          Valley;
- 17          (14) Route 460, Maunaloa Highway, Maunaloa Village to
- 18          Kaunakakai;
- 19          (15) Route 465, Airport Loop off of Maunaloa Highway (Route
- 20          460);

1 (16) Route 470, Kalae Highway, Intersection with Maunaloa  
2 Highway (Route 460) to Kalaupapa Lookout;

3 (17) Route 480, Puupeelua Avenue, Intersection with  
4 Maunaloa Highway to Intersection with Farrington  
5 Avenue; and

6 (18) Route 440, Kaumalapau Highway, Kaumalapau Harbor to  
7 intersection with Manele Road in Lanai City continuing  
8 on Manele Road to Hulopoe Beach Park.

9 Any other state highway or parts thereof as may be  
10 identified in a memorandum of agreement.

11 SECTION 4. **Memorandum of agreement.** The memorandum of  
12 agreement between the department of transportation and the  
13 department of public works in any county with a resident  
14 population that is divided among at least three islands shall  
15 provide, at minimum, for the following:

- 16 (1) Defined county responsibilities;
- 17 (2) Potential county liability;
- 18 (3) The amount of state funding that will be allocated for  
19 county expenditure to maintain and repair the state  
20 highways;



- 1 (4) Priority to the maintenance and repair of federal-aid  
2 highways;
- 3 (5) Prohibitions against the use of state resources to  
4 subsidize "catch-up" or deferred maintenance of county  
5 highways or facilities;
- 6 (6) State retention of operational control and regulatory  
7 authority over state highway access and permitted work  
8 within the state highway right-of-way; and
- 9 (7) Specifically all new highway realignments shall be  
10 included as maintenance and repair.

11 **SECTION 5. Transfer of highway maintenance and repair**  
12 **functions.** No later than January 1, 2018, the jurisdiction,  
13 functions, powers, duties, and authority heretofore exercised by  
14 the state department of transportation relating to the  
15 maintenance and repair of state highways in counties with  
16 resident populations that are divided among at least three  
17 islands shall be transferred to and conferred upon the county  
18 department of public works in those counties.

19 All rules, policies, procedures, guidelines, and other  
20 material adopted or developed by the state department of  
21 transportation relating to the highway maintenance and repair



1 functions shall remain in full force and effect for the duration  
2 of the pilot project under this Act, except as provided under  
3 section 12 of this Act for a county administrative rule to  
4 supersede a state administrative rule.

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

11 SECTION 6. **Ownership of state highways.** Notwithstanding  
12 section 264-2, Hawaii Revised Statutes, the ownership of all  
13 state highways shall remain with the State for the duration of  
14 the pilot project under this Act.

15 SECTION 7. **Transfer of statutory state highway maintenance**  
16 **and repair functions.** For purposes of this Act, specific  
17 provisions relating to state highway functions under chapter  
18 264, Hawaii Revised Statutes, that relate to the maintenance and  
19 repair of state highways transferred to the county department of  
20 public works in counties with resident populations that are  
21 divided among at least three islands shall be deemed to be



1 transferred to the county department of public works for the  
2 duration of the pilot project under this Act.

3 SECTION 8. **Transfer of department functions, officers, and**  
4 **employees.** Concurrent with the transfer of the highway  
5 maintenance and repair functions, all rights, powers, functions,  
6 and duties of the state department of transportation with  
7 respect to the transferred highway maintenance and repair  
8 functions shall be transferred to the county department of  
9 public works in counties with resident populations that are  
10 divided among at least three islands until this Act is repealed,  
11 at which time the rights, powers, functions, and duties shall  
12 revert to the state department of transportation.

13 All officers and employees whose functions are transferred  
14 by this Act shall be transferred with their functions and shall  
15 continue to perform their regular duties upon their transfer,  
16 subject to the state personnel laws and this Act, until this Act  
17 is repealed, at which time the officers and employees shall be  
18 transferred back to the state department of transportation.

19 No officer or employee of the State having tenure shall  
20 suffer any loss of salary, seniority, prior service credit,  
21 vacation, sick leave, or other employee benefit or privilege as





1 a consequence of this Act, and such officer or employee may be  
2 transferred or appointed to a civil service position without the  
3 necessity of examination; provided that the officer or employee  
4 possesses the minimum qualifications for the position to which  
5 transferred or appointed; and provided that subsequent changes  
6 in status may be made pursuant to applicable civil service and  
7 compensation laws.

8 An officer or employee of the State who does not have  
9 tenure and who may be transferred or appointed to a civil  
10 service position as a consequence of this Act shall become a  
11 civil service employee without the loss of salary, seniority,  
12 prior service credit, vacation, sick leave, or other employee  
13 benefits or privileges and without the necessity of examination;  
14 provided that such officer or employee possesses the minimum  
15 qualifications for the position to which transferred or  
16 appointed.

17 If an office or position held by an officer or employee  
18 having tenure is abolished, the officer or employee shall not  
19 thereby be separated from public employment, but shall remain in  
20 the employment of the State with the same pay and classification  
21 and shall be transferred to some other office or position for



1 which the officer or employee is eligible under the personnel  
2 laws of the State as determined by the state director of  
3 transportation or the governor.

4       **SECTION 9. Transfer of records and appropriations.**

5 Concurrent with the transfer of highway maintenance and repair  
6 functions to the county department of public works in counties  
7 with resident populations that are divided among at least three  
8 islands, all appropriations, records, equipment, machines,  
9 files, supplies, contracts, books, papers, documents, maps, and  
10 other personal property heretofore made, used, acquired, or held  
11 by the state department of transportation relating to the  
12 maintenance and repair functions transferred to the department  
13 of public works shall be transferred with the functions to which  
14 they relate, until this Act is repealed, at which time the  
15 appropriations, records, equipment, machines, files, supplies,  
16 contracts, books, papers, documents, maps, and other personal  
17 property shall be transferred back to the state department of  
18 transportation.

19       **SECTION 10. Federal funds, administration and transfer.**

20 (a) The highways division, or similar administrative division,  
21 of the state department of transportation shall continue to



1 receive, transfer, or expend federal funds for state highways,  
2 including during the duration of the pilot project established  
3 under this Act.

4 (b) It is the intent of this Act not to jeopardize the  
5 receipt of any federal aid nor to impair the obligation of the  
6 State or a county, or any agency respectively thereof, to the  
7 holders of any bond issued by the State or by any such agency,  
8 and to the extent, and only to the extent, necessary to  
9 effectuate this intent, the governor or mayor, as applicable,  
10 may modify the strict provisions of this Act, but shall promptly  
11 report any such modification with reasons therefor to the  
12 legislature at its next session thereafter for review by the  
13 legislature.

14 SECTION 11. **Equitable proportionate funding formula.** By  
15 no later than January 1, 2018, the department of transportation  
16 shall develop and apply an equitable proportionate formula of  
17 distribution of tax revenue, general fund appropriations, and  
18 federal grant moneys to counties with resident populations that  
19 are divided among at least three islands for purposes of highway  
20 maintenance and repair functions.



1           SECTION 12. **Adoption of ordinances and rules.** The county  
2 councils of counties with resident populations that are divided  
3 among at least three islands may adopt ordinances and the  
4 department of public works may adopt administrative rules  
5 relating to highway maintenance and repair functions, as defined  
6 in section 3 of this Act, that are consistent with Federal  
7 Highway Administration preventive maintenance and repair  
8 guidelines for the period of time the pilot project is in  
9 existence; provided that ordinances shall be deemed to be  
10 supplemental to the Hawaii Revised Statutes, and county  
11 administrative rules shall be deemed to supersede state  
12 administrative rules only where a county rule is more stringent  
13 than a state rule or standard relating to highway maintenance  
14 and repair. In the absence of county administrative rules,  
15 state administrative rules shall continue in effect.

16           SECTION 13. **Transfer of mandated programs; funding.**  
17 Article VIII, section 5, of the Hawaii State Constitution,  
18 relating to state funding of mandated programs to the counties,  
19 shall be deemed satisfied by the transfer of state  
20 appropriations and federal funds from the State to a county  
21 department of public works in counties with resident populations



1 that are divided among at least three islands under this Act;  
2 provided that the counties may request the legislature to  
3 appropriate additional funds as necessary from time to time to  
4 implement this Act.

5 SECTION 14. **Reports to legislature.** The state department  
6 of transportation and the department of public works in counties  
7 with resident populations that are divided among at least three  
8 islands shall each report separately to the legislature on the  
9 progress, problems, implementation, and other relevant issues  
10 concerning the transfer of highway maintenance and repair  
11 functions to the county. The reports shall be filed not later  
12 than twenty days prior to the convening of the regular session  
13 of 2025.

14 SECTION 15. **Reversion to State on sunset.** On December 31,  
15 2025, the highway maintenance and repair functions transferred  
16 by this Act to the department of public works in counties with  
17 resident populations that are divided among at least three  
18 islands shall revert back forthwith to the state department of  
19 transportation, including transfer of officers and employees,  
20 records and appropriations, and federal funds transfers, on the  
21 same terms and conditions as specified in this Act for the



1 transfer from the state department of transportation to the  
2 department of public works.

3 SECTION 16. (a) There is established a state and county  
4 transportation working group, exempt from section 26-34, Hawaii  
5 Revised Statutes, to create a plan of implementation of this  
6 Act.

7 (b) The state and county transportation working group  
8 shall be composed of the director of transportation or designee,  
9 directors of public works of counties with resident populations  
10 that are divided among at least three islands or designees, and  
11 stakeholders that are mutually selected by the director of  
12 transportation and the directors of public works. Members of  
13 the state and county transportation working group shall serve  
14 without compensation and shall not be reimbursed for any  
15 expenses.

16 (c) The state and county transportation working group  
17 shall report to the legislature, no later than twenty days prior  
18 to the convening of the regular session of 2017, on a plan of  
19 implementation of this Act, including but not limited to a  
20 timetable of transfer of maintenance and repair functions and  
21 proposed legislation.



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1 (d) The state and county transportation working group  
2 shall cease to exist upon the filing of its report to the  
3 legislature required pursuant to section 14.

4 SECTION 17. This Act shall take effect on July 1, 2016;  
5 provided that this Act shall be repealed on December 31, 2025.

6

INTRODUCED BY:

J. Alani English



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**Report Title:**

State Highways; Transfer; Pilot Project

**Description:**

Creates a pilot project to transfer maintenance and repair functions of state highways from the state department of transportation to counties with populations that are divided among at least three islands. Creates a state and county transportation working group to establish a plan of implementation. Requires a report to legislature. Sunsets 12/31/2025.

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

