

S.B. NO. 1209

JAN 27 2021

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# A BILL FOR AN ACT

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RELATING TO HIGHWAYS.

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

1       SECTION 1. The purpose of this Act is to authorize the  
2 director of the department of transportation to acquire real  
3 property for roads and streets, without review or approval by  
4 the board of land and natural resources.

5       SECTION 2. Chapter 264, Hawaii Revised Statutes, is  
6 amended by adding to part 1 a new section to be appropriately  
7 designated and to read as follows:

8       "§264- Powers of director. The director of transportation  
9 shall have any powers that may be necessary for the full and  
10 effective performance and discharge of the duties imposed upon  
11 the director by this chapter or which may be necessary fully and  
12 completely to carry out and effectuate the purposes of this  
13 chapter.

14       Notwithstanding any law to the contrary, the director may,  
15 on behalf of the State:

16       (1) Directly acquire real property to be used for roads  
17 and streets, without review or approval by the board  
18 of land and natural resources, and upon acquisition,

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1        jurisdiction over such real property shall be within  
2        the department of transportation without further  
3        action by the board; and

4        (2) With the approval of the governor, accept donations of  
5        land, money, or other property for deposit in the  
6        state highway fund or for any purpose of this chapter,  
7        upon such terms and conditions as are acceptable to  
8        the director, and not inconsistent with the proper  
9        discharge of the director's duties and functions or  
10       prejudicial to the obtaining of the federal-aid funds  
11       payable to the State without such donations."

12       SECTION 3. Section 171-30, Hawaii Revised Statutes, is  
13       amended by amending subsection (a) to read as follows:

14       "(a) The board of land and natural resources shall have  
15       the exclusive responsibility, except as provided herein, of  
16       acquiring, including by way of dedications:

17       (1) All real property or any interest therein and the  
18       improvements thereon, if any, required by the State  
19       for public purposes, including real property together  
20       with improvements, if any, in excess of that needed  
21       for such public use in cases where small remnants  
22       would otherwise be left or where other justifiable

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1 cause necessitates the acquisition to protect and  
2 preserve the contemplated improvements, or public'  
3 policy demands the acquisition in connection with such  
4 improvements; except that the board of land and  
5 natural resources shall not be responsible for  
6 acquisitions by the department of transportation as  
7 provided in section 264- (1); and

8 (2) Encumbrances, in the form of leases, licenses, or  
9 otherwise on public lands, needed by any state  
10 department or agency for public purposes or for the  
11 disposition for houselots or for economic development.

12 The board shall upon the request of and with the funds from  
13 the state department or agency effectuate all acquisitions as  
14 provided under this section. The acceptance by the territorial  
15 legislature or to convey title to the State.

16 SECTION 4. Section 264-24, Hawaii Revised Statutes, is  
17 repealed.

18 [~~"§264-24 Powers of director. The director of~~  
19 ~~transportation shall have any powers which may be necessary for~~  
20 ~~the full and effective performance and discharge of the duties~~  
21 ~~imposed upon the director by this part or which may be necessary~~

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~~fully and completely to carry out and effectuate the purposes of  
this part.~~

~~The director may, on behalf of the State, with the approval  
of the governor, accept donations of land, money, or other  
property for deposit in the state highway fund or for any  
purpose of this part, upon such terms and conditions as are  
acceptable to the director, and not inconsistent with the proper  
discharge of the director's duties and functions or prejudicial  
to the obtaining of the federal aid funds payable to the State  
without such donations."]~~

SECTION 5. Statutory material to be repealed is bracketed  
and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY:

*Ken N. Mc*

BY REQUEST

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**Report Title:**

Transportation; Highways

**Description:**

Amends the Hawaii Revised Statutes to provide the director of the Department of Transportation with authority to acquire real property on behalf of the State for roads and streets without review or approval by the board of land and natural resources and upon acquisition, jurisdiction over such real property shall be immediately transferred to the Department of Transportation.

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAYS.

PURPOSE: Amend chapters 171 and 264 of the Hawaii Revised Statutes to provide the director of the Department of Transportation (DOT), with authority to acquire real property in the name of the State of Hawaii for roads and streets, without review or approval by the Board of Land and Natural Resources (BLNR). The legislation will also recommend that the DOT be granted jurisdiction immediately upon acquisition of such real property, thereby eliminating the necessity of an executive order to transfer jurisdiction of the property from the Department of Land and Natural Resources to the DOT and reduce the amount of time to acquire the real property.

MEANS: Add a new section to part I of 264, Hawaii Revised Statutes (HRS), amend section 171-30(a), and repeal section 264-24, HRS.

JUSTIFICATION: The bill will remove any obstacles that delay the essential work needed for the State's highway system. Highway projects are typically set on a tight schedule by the funding source in order to maintain management and control over the project. Due to the highly technical and complex work involved, the final specifications are often not known until the eleventh hour when funding is at risk of lapsing and negotiations with landowners have not even begun. The BLNR will generally not approve an acquisition unless it receives complete information on all affected landowners and any liens and/or encumbrances, the precise boundaries and types of interests being acquired, and final environmental reports. This information is required by law and would

otherwise be obtained for the acquisition, however, revisions to the project require further review by the BLNR and result in costly delays to the State. The DOT strives to post progress reports on major highway projects to its website and encourages feedback from the public. Exempting the department of transportation from review or approval by the BLNR will expedite the process to give the DOT full management and control of the properties necessary to improve our public roads and streets in a more timely fashion.

Impact on the public: None as the public is kept informed on highway projects through the DOT website and neighborhood board meetings.

Impact on the department and other agencies: The BLNR would be relieved of the responsibility of whether to approve an acquisition proposed by DOT.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: TRN 595.

OTHER AFFECTED  
AGENCIES: Board of Land and Natural Resources and the counties.

EFFECTIVE DATE: Upon approval.