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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF TRANSPORTATION.

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

1           SECTION 1. Section 26-19, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§26-19 Department of transportation.** (a) The department  
4 of transportation shall be headed by a single executive to be  
5 known as the director of transportation. The department shall  
6 establish, maintain, and operate transportation facilities of  
7 the State, including highways, airports, harbors, and ~~such~~ any  
8 other transportation facilities and activities as may be  
9 authorized by law.

10           (b) The department shall plan, develop, promote, and  
11 coordinate various transportation systems management programs  
12 that shall include~~[ ]~~ but not be limited to~~[ ]~~ alternate work  
13 and school hours programs, bicycling programs, and ridesharing  
14 programs.

15           (c) The department shall develop and promote ridesharing  
16 programs ~~which~~ that shall include but not be limited to~~[ ]~~  
17 carpool and vanpool programs, and may assist organizations



1 interested in promoting similar programs, arrange for contracts  
2 with private organizations to manage and operate these programs,  
3 and assist in the formulation of ridesharing arrangements.

4 Ridesharing programs include informal arrangements in which two  
5 or more persons ride together in a motor vehicle.

6 (d) The functions and authority heretofore exercised by  
7 the department of public works with respect to highways are  
8 transferred to the department of transportation established by  
9 this chapter.

10 (e) On July 1, 1961, the Hawaii aeronautics commission,  
11 the board of harbor commissioners and the highway commission  
12 shall be abolished and their remaining functions, duties, and  
13 powers shall be transferred to the department of transportation.

14 (f) Notwithstanding any law to the contrary, the  
15 department of transportation may:

16 (1) Acquire, or contract to acquire, by grant or purchase  
17 any real, personal, or mixed property or any interest  
18 therein for immediate or future use for the purposes  
19 of:

20 (A) Climate mitigation and adaptation;

21 (B) Noise and visual buffer zones and barriers;



1           (C) Transportation projects pursuant to section 264-  
2                   142;  
3           (D) This section; or  
4           (E) Title 15;  
5       (2) Own, hold, improve, and rehabilitate any real,  
6           personal, or mixed property acquired pursuant to this  
7           subsection; and  
8       (3) Sell, assign, exchange, transfer, convey, lease or  
9           otherwise dispose of, or encumber any real, personal,  
10           or mixed property acquired pursuant to this  
11           subsection. Upon making a finding that it is  
12           necessary to acquire any real property for immediate  
13           or future use for the purposes of this section or  
14           title 15, the department of transportation may acquire  
15           the property by condemnation pursuant to chapter 101;  
16           provided that the property shall not thereafter be  
17           acquired for any other public use without the consent  
18           of the department of transportation;  
19       provided that for the purposes of this subsection, the director  
20       of transportation shall be authorized to exercise all the powers  
21       vested in the board of land and natural resources for functions



1 subject to chapter 171; provided further that if state lands,  
 2 other than public lands, under the control and management of  
 3 another department or agency are required by the department of  
 4 transportation for the purposes of this section or title 15, the  
 5 department or agency having control and management of the  
 6 required lands shall, upon a request by the department of  
 7 transportation and with the approval of the governor, transfer  
 8 title to or lease those lands to the department of  
 9 transportation under terms and conditions as may be agreed to by  
 10 the parties."

11 SECTION 2. Section 171-2, Hawaii Revised Statutes, is  
 12 amended to read as follows:

13 **"§171-2 Definition of public lands.** "Public lands" means  
 14 all lands or interest therein in the State classed as government  
 15 or crown lands previous to August 15, 1895, or acquired or  
 16 reserved by the government upon or subsequent to that date by  
 17 purchase, exchange, escheat, or the exercise of the right of  
 18 eminent domain, or in any other manner; including lands accreted  
 19 after May 20, 2003, and not otherwise awarded, submerged lands,  
 20 and lands beneath tidal waters that are suitable for



1 reclamation, together with reclaimed lands that have been given  
2 the status of public lands under this chapter, except:

3 (1) Lands designated in section 203 of the Hawaiian Homes  
4 Commission Act, 1920, as amended;

5 (2) Lands set aside pursuant to law for the use of the  
6 United States;

7 (3) Lands being used for roads and streets;

8 (4) Lands to which the United States relinquished the  
9 absolute fee and ownership under section 91 of the  
10 Hawaiian Organic Act before the admission of Hawaii as  
11 a state of the United States unless subsequently  
12 placed under the control of the board of land and  
13 natural resources and given the status of public lands  
14 in accordance with the state constitution, the  
15 Hawaiian Homes Commission Act, 1920, as amended, or  
16 other laws;

17 (5) Lands to which the University of Hawaii holds title;

18 (6) Non-ceded lands set aside by the governor to the  
19 Hawaii housing finance and development corporation or  
20 lands to which the Hawaii housing finance and



- 1 development corporation in its corporate capacity  
2 holds title;
- 3 (7) Lands to which the Hawaii community development  
4 authority in its corporate capacity holds title;
- 5 (8) Lands set aside by the governor to the Hawaii public  
6 housing authority or lands to which the Hawaii public  
7 housing authority in its corporate capacity holds  
8 title;
- 9 (9) Lands to which the department of agriculture holds  
10 title by way of foreclosure, voluntary surrender, or  
11 otherwise, to recover moneys loaned or to recover  
12 debts otherwise owed the department under chapter 167;
- 13 (10) Lands that are set aside by the governor to the Aloha  
14 Tower development corporation, lands leased to the  
15 Aloha Tower development corporation by any department  
16 or agency of the State, or lands to which the Aloha  
17 Tower development corporation holds title in its  
18 corporate capacity;
- 19 (11) Lands that are set aside by the governor to the  
20 agribusiness development corporation, lands leased to  
21 the agribusiness development corporation by any



1 department or agency of the State, or lands to which  
2 the agribusiness development corporation in its  
3 corporate capacity holds title;

4 (12) Lands to which the Hawaii technology development  
5 corporation in its corporate capacity holds title;

6 (13) Lands to which the department of education holds  
7 title;

8 (14) Lands to which the stadium authority holds title;  
9 [~~and~~]

10 (15) Lands to which the school facilities authority holds  
11 title; and

12 (16) Lands that are set aside by the governor to the  
13 department of transportation, lands leased to the  
14 department of transportation by any department or  
15 agency of the State, or lands to which the department  
16 of transportation holds title;

17 provided that, except as otherwise limited under federal law and  
18 except for state land used as an airport as defined in section  
19 262-1, public lands shall include the air rights over any  
20 portion of state land upon which a county mass transit project  
21 is developed after July 11, 2005; provided further that if the



1 lands pursuant to paragraph (6) are no longer needed for housing  
2 finance and development purposes, the lands shall be returned to  
3 the agency from which they were obtained; provided further that  
4 if the lands pursuant to paragraph (14) are no longer needed for  
5 the stadium development district or related purposes, the lands  
6 shall be returned to the public land trust administered by the  
7 department."

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

10 "(a) [~~The~~] Except as provided in section 26-19(f), the  
11 board [~~of land and natural resources~~] shall have the exclusive  
12 responsibility, except as provided herein, of acquiring,  
13 including by way of dedications:

- 14 (1) All real property or any interest therein and the  
15 improvements thereon, if any, required by the State  
16 for public purposes, including real property together  
17 with improvements, if any, in excess of that needed  
18 for [~~such~~] the public use in cases where small  
19 remnants would otherwise be left or where other  
20 justifiable cause necessitates the acquisition to  
21 protect and preserve the contemplated improvements, or





1 public policy demands the acquisition in connection  
2 with [~~such~~] the improvements[~~-~~]; and

3 (2) Encumbrances, in the form of leases, licenses, or  
4 otherwise on public lands, needed by any state  
5 department or agency for public purposes or for the  
6 disposition for houselots or for economic development.

7 The board shall upon the request of and with the funds from  
8 the state department or agency effectuate all acquisitions as  
9 provided under this section.

10 The acceptance by the territorial legislature or the  
11 legislature of a dedication of land in the Kakaako community  
12 development district by a private owner is sufficient to convey  
13 title to the State."

14 SECTION 4. Section 264-15, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§264-15 Highway advance acquisition; source of funds.**

17 The director may, with the approval of the governor, expend  
18 moneys appropriated by the legislature as may be necessary for  
19 the acquisition of real property when the director determines:

20 (1) The acquisition of the real property is necessary for  
21 a state highway project authorized by the legislature;



1 (2) Funds previously authorized by the legislature are  
2 inadequate; [~~and~~]

3 (3) That any delay in the acquisition of such property  
4 would unnecessarily increase the cost of the highway  
5 project; and

6 (4) The acquisition, management, or maintenance of the  
7 real property as necessary for projects relating to  
8 climate mitigation and adaptation and visual and noise  
9 buffer zones and barriers;

10 provided that the selected corridor and alignment of the project  
11 shall have been approved by the governor.

12 All moneys received from the rental, sale, or lease of any  
13 property acquired under this section shall be paid into the  
14 state general fund; provided that whenever federal funds are  
15 involved in the acquisition of the property, any money received  
16 from the sale, lease, or rental of such property shall be  
17 expended toward the project for which the property was  
18 acquired."

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



**1** SECTION 6. This Act shall take effect on July 1, 2024.



**Report Title:**

DOT; Public Lands; Real Property; Acquisition; Disposition

**Description:**

Authorizes the Department of Transportation to acquire, including by condemnation, any real, personal, or mixed property for immediate or future use and own, hold, improve, rehabilitate, sell, assign, exchange, transfer, convey, lease, or dispose of the property acquired. Amends the definition of "public lands" to exclude lands set aside for the Department of Transportation, leased by the Department of Transportation, or to which the Department of Transportation holds title.

Authorizes the Department of Transportation to directly acquire any real property for its purposes. Authorizes the Director of Transportation to expend funds for the acquisition, management, or maintenance of property for projects relating to climate mitigation and adaptation and visual and noise buffer zones and barriers. (CD1)

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