

ACT 30

A Bill for an Act Amending Chapter 111 of the Revised Laws of Hawaii 1955, as Amended, Relating to Highways.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of

section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

It is imperative that the department of transportation be authorized to exchange easements and access rights to continue its accelerated highway construction program. Under the existing law, (section 103A-11, R.L.H. 1955, as amended by section 8, Act 239, S.L.H. 1965), the granting of highway access rights and easements within the highway rights-of-way is not expressly covered. Under section 103A-11, R.L.H. 1955, as amended, the department of transportation is authorized to exercise the powers that are vested in the board of land and natural resources. The board of land and natural resources is authorized to exchange public lands for private lands under section 103A-47, R.L.H. 1955, as amended. However, under section 103A-2, R.L.H. 1955, as amended, lands that are being used for roads and streets do not fall within the definition of public lands. Easements and access rights are parts of our roads and streets; therefore, it appears that the board of land and natural resources is not authorized to exchange interests in land within highway rights-of-way pursuant to section 103A-47, R.L.H. 1955, as amended. This being the case, the department of transportation would also be without this power. Accordingly, there exists the possibility that neither agency has the authority to exchange easement and access points within highway rights-of-way creating a "no man's land" in this area. To avoid the necessity of condemnation and delays in the highway construction, which may result in the possible loss of federal highway funds, it is imperative that the department of transportation be authorized to exchange and relocate easements within and access rights abutting state highway rights-of-way.

SECTION 2. Chapter 111 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to part III to be numbered accordingly and to read as follows:

"**Sec. 111-** . Notwithstanding any provisions of the law to the contrary, the director of transportation, subject to the approval of the governor, may dispose of easements within and access rights along the state highway rights-of-way under such terms and conditions which, in his opinion, are in the best interest of the public."

SECTION 3. This Act shall take effect upon its approval.

(Approved April 6, 1966.) **H.B. 210.**