

ACT 109

H.B. NO. 1932

A Bill for an Act Relating to the Department of Transportation.

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

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

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

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

(c) The department shall develop and promote ridesharing programs [which] that shall include but not be limited to[-] carpool and vanpool programs, and may assist organizations interested in promoting similar programs, arrange for contracts with private organizations to manage and operate these programs, and assist in the formulation of ridesharing arrangements. Ridesharing programs include informal arrangements in which two or more persons ride together in a motor vehicle.

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

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

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

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

(A) Climate mitigation and adaptation;

(B) Noise and visual buffer zones and barriers;

(C) Transportation projects pursuant to section 264-142;

(D) This section; or

(E) Title 15;

(2) Own, hold, improve, and rehabilitate any real, personal, or mixed property acquired pursuant to this subsection; and

(3) Sell, assign, exchange, transfer, convey, lease or otherwise dispose of, or encumber any real, personal, or mixed property acquired pursuant to this subsection. Upon making a finding that it is necessary to acquire any real property for immediate or future use for the purposes of this section or title 15, the department of transportation may acquire the property by condemnation pursuant to chapter 101; provided that the property shall not thereafter be acquired for any other public use without the consent of the department of transportation;

provided that for the purposes of this subsection, the director of transportation shall be authorized to exercise all the powers vested in the board of land and natural resources for functions subject to chapter 171; provided further that if state lands, other than public lands, under the control and management of another department or agency are required by the department of transportation for the purposes of this section or title 15, the department or agency having control and management of the required lands shall, upon a request by the department of transportation and with the approval of the governor, transfer title to or lease those lands to the department of transportation under terms and conditions as may be agreed to by the parties.”

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

“§171-2 **Definition of public lands.** “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including lands accreted after May 20,

2003, and not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act before the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Non-ceded lands set aside by the governor to the Hawaii housing finance and development corporation or lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- (8) Lands set aside by the governor to the Hawaii public housing authority or lands to which the Hawaii public housing authority in its corporate capacity holds title;
- (9) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- (10) Lands that are set aside by the governor to the Aloha Tower development corporation, lands leased to the Aloha Tower development corporation by any department or agency of the State, or lands to which the Aloha Tower development corporation holds title in its corporate capacity;
- (11) Lands that are set aside by the governor to the agribusiness development corporation, lands leased to the agribusiness development corporation by any department or agency of the State, or lands to which the agribusiness development corporation in its corporate capacity holds title;
- (12) Lands to which the Hawaii technology development corporation in its corporate capacity holds title;
- (13) Lands to which the department of education holds title;
- (14) Lands to which the stadium authority holds title; ~~and~~
- (15) Lands to which the school facilities authority holds title; and
- (16) Lands that are set aside by the governor to the department of transportation, lands leased to the department of transportation by any department or agency of the State, or lands to which the department of transportation holds title;

provided that, except as otherwise limited under federal law and except for state land used as an airport as defined in section 262-1, public lands shall include the air rights over any portion of state land upon which a county mass transit project is developed after July 11, 2005; provided further that if the lands pursuant to paragraph (6) are no longer needed for housing finance and development purposes, the lands shall be returned to the agency from which they were obtained; provided further that if the lands pursuant to paragraph (14) are no longer need-

ed for the stadium development district or related purposes, the lands shall be returned to the public land trust administered by the department.”

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

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

- (1) All real property or any interest therein and the improvements thereon, if any, required by the State for public purposes, including real property together with improvements, if any, in excess of that needed for ~~[such]~~ the public use in cases where small remnants would otherwise be left or where other justifiable cause necessitates the acquisition to protect and preserve the contemplated improvements, or public policy demands the acquisition in connection with ~~[such]~~ the improvements~~[-]; and~~
- (2) Encumbrances, in the form of leases, licenses, or otherwise on public lands, needed by any state department or agency for public purposes or for the disposition for houselots or for economic development.

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

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

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

“**§264-15 Highway advance acquisition; source of funds.** The director may, with the approval of the governor, expend moneys appropriated by the legislature as may be necessary for the acquisition of real property when the director determines:

- (1) The acquisition of the real property is necessary for a state highway project authorized by the legislature;
- (2) Funds previously authorized by the legislature are inadequate; ~~and~~
- (3) That any delay in the acquisition of such property would unnecessarily increase the cost of the highway project; and
- (4) The acquisition, management, or maintenance of the real property as necessary for projects relating to climate mitigation and adaptation and visual and noise buffer zones and barriers;

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

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

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

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

(Approved June 27, 2024.)