
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 crisis necessitates an abolition of duplicative state and
3 county functions. The state department of transportation and
4 the county departments of public works share overlapping
5 maintenance functions for the maintenance of highways.

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

12 SECTION 2. **Pilot project established.** There is
13 established a pilot project to transfer all applicable state
14 highway maintenance functions to counties with populations that
15 are divided among at least three islands, and to transfer
16 applicable funding for maintenance of those state highways in
17 accordance with this Act.

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



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

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

17 "State highways" means every highway that is in any county
18 with a population that is divided among at least three islands
19 and that is under the jurisdiction of the state department of
20 transportation, highways division, as of December 30, 2010,
21 including but not limited to:



- 1 (1) Route 30, Honoapiilani Highway, Intersection with
- 2 Kaahumanu Avenue (Route 32) in Wailuku to Keawalua;
- 3 (2) Route 31, Piilani Highway, Intersection with Mokulele
- 4 Highway (Route 311) to Wailea;
- 5 (3) Route 32, Kaahumanu Avenue, Intersection with Hana
- 6 Highway (Route 36) near Kahului Harbor to Wailuku;
- 7 (4) Route 36, Hana Highway, Kahului Harbor to Intersection
- 8 with Kaupakulua Road;
- 9 (5) Route 37, Haleakala Highway, Kahului Airport to
- 10 Intersection with Route 377 in Kula then continues on
- 11 as Kula Highway;
- 12 (6) Route 310, North Kihei Road, Intersection with
- 13 Honoapiilani Highway (Route 30) to Intersection with
- 14 Mokulele Highway (Route 311) and Piilani Highway
- 15 (Route 31);
- 16 (7) Route 311, Mokulele Highway, Intersection with
- 17 Kuihelani Highway (Route 380) to Intersection with
- 18 North Kihei Road (Route 310);
- 19 (8) Route 340, Kahekili Highway, Intersection with Waiehu
- 20 Beach Road to Camp Maluhia;
- 21 (9) Route 360, Hana Highway, Continuation of Hana Highway
- 22 Route 36 at Intersection with Kaupakulua Road to Hana;



- 1 (10) Route 377, Haleakala Highway, Junction of Kula Highway
2 (Route 37) to Junction with Kekaulike Avenue;
- 3 (11) Route 378, Haleakala Crater Road, Junction with
4 Kekaulike Avenue to Haleakala National Park;
- 5 (12) Route 380, Kuihelani Highway, Intersection with
6 Honoapiilani Highway (Route 30) to Intersection with
7 Mokulele Highway (Route 311);
- 8 (13) Route 450, Kamehameha V Highway, Kaunakakai to Halawa
9 Valley;
- 10 (14) Route 460, Maunaloa Highway, Maunaloa Village to
11 Kaunakakai;
- 12 (15) Route 465, Airport Loop off of Maunaloa Highway (Route
13 460);
- 14 (16) Route 470, Kalae Highway, Intersection with Maunaloa
15 Highway (Route 460) to Kalaupapa Lookout;
- 16 (17) Route 480, Puupeelua Avenue, Intersection with
17 Maunaloa Highway to Intersection with Farrington
18 Avenue; and
- 19 (18) Route 440, Kaumalapau Highway, Kaumalapau Harbor to
20 intersection with Manele Road in Lanai City continuing
21 on Manele Road to Hulopoe Beach Park.



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

3 SECTION 4. **Memorandum of agreement.** The memorandum of
4 agreement between the department of transportation and the
5 department of public works in any county with a population that
6 is divided among at least three islands shall provide, at
7 minimum, for the following:

- 8 (1) Defined county responsibilities;
- 9 (2) Potential county liability;
- 10 (3) The amount of state funding that will be allocated for
11 county expenditure to maintain the state highways;
- 12 (4) Priority to maintenance of federal-aid highways;
- 13 (5) Prohibitions against the use of state resources to
14 subsidize "catch-up" or deferred maintenance of county
15 highways or facilities; and
- 16 (6) State retention of operational control and regulatory
17 authority over state highway access and permitted work
18 within the state highway right-of-way.

19 SECTION 5. **Transfer of highway maintenance functions.** No
20 later than January 1, 2012, the jurisdiction, functions, powers,
21 duties, and authority heretofore exercised by the state
22 department of transportation relating to the maintenance of



1 state highways in counties with populations that are divided
2 among at least three islands shall be transferred to and
3 conferred upon the county department of public works in those
4 counties.

5 All rules, policies, procedures, guidelines, and other
6 material adopted or developed by the state department of
7 transportation relating to the highway maintenance functions
8 shall remain in full force and effect for the duration of the
9 pilot project under this Act, except as provided under
10 section 12 of this Act for a county administrative rule to
11 supersede a state administrative rule.

12 All deeds, leases, contracts, loans, agreements, permits,
13 or other document executed or entered into by or on behalf of
14 the state department of transportation highways division
15 pursuant to the provisions of the Hawaii Revised Statutes, shall
16 remain in full force and effect for the duration of the pilot
17 project under this Act.

18 SECTION 6. **Ownership of state highways.** Notwithstanding
19 section 264-2, Hawaii Revised Statutes, the ownership of all
20 state highways shall remain with the State for the duration of
21 the pilot project under this Act.

1 SECTION 7. **Transfer of statutory state highway maintenance**
2 **functions.** For purposes of this Act, specific provisions
3 relating to state highway functions under chapter 264, Hawaii
4 Revised Statutes, that relate to the maintenance of state
5 highways transferred to the county department of public works in
6 counties with populations that are divided among at least three
7 islands shall be deemed to be transferred to the county
8 department of public works for the duration of the pilot project
9 under this Act.

10 SECTION 8. **Transfer of department functions, officers, and**
11 **employees.** Concurrent with the transfer of the highway
12 maintenance functions, all rights, powers, functions, and duties
13 of the state department of transportation with respect to the
14 transferred highway maintenance functions shall be transferred
15 to the county department of public works in counties with
16 populations that are divided among at least three islands until
17 this Act is repealed, at which time the rights, powers,
18 functions, and duties shall revert to the state department of
19 transportation.

20 All officers and employees whose functions are transferred
21 by this Act shall be transferred with their functions and shall
22 continue to perform their regular duties upon their transfer,



1 subject to the state personnel laws and this Act, until this Act
2 is repealed, at which time the officers and employees shall be
3 transferred back to the state department of transportation.

4 No officer or employee of the State having tenure shall
5 suffer any loss of salary, seniority, prior service credit,
6 vacation, sick leave, or other employee benefit or privilege as
7 a consequence of this Act, and such officer or employee may be
8 transferred or appointed to a civil service position without the
9 necessity of examination; provided that the officer or employee
10 possesses the minimum qualifications for the position to which
11 transferred or appointed; and provided that subsequent changes
12 in status may be made pursuant to applicable civil service and
13 compensation laws.

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



1 If an office or position held by an officer or employee
2 having tenure is abolished, the officer or employee shall not
3 thereby be separated from public employment, but shall remain in
4 the employment of the State with the same pay and classification
5 and shall be transferred to some other office or position for
6 which the officer or employee is eligible under the personnel
7 laws of the State as determined by the state director of
8 transportation or the governor.

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

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



1 SECTION 10. Federal funds, administration and transfer.

2 (a) The highways division, or similar administrative division,
3 of the state department of transportation shall continue to
4 receive, transfer, or expend federal funds for state highways,
5 including during the duration of the pilot project established
6 under this Act.

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

17 SECTION 11. Equitable proportionate funding formula. By
18 no later than January 1, 2012, the department of transportation
19 shall develop and apply an equitable proportionate formula of
20 distribution of tax revenue, general fund appropriations, and
21 federal grant moneys to counties with populations that are



1 divided among at least three islands for purposes of highway
2 maintenance functions.

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

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



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

5 SECTION 14. **Reports to legislature.** The state department
6 of transportation and the department of public works in counties
7 with populations that are divided among at least three islands
8 shall each report separately to the legislature on the progress,
9 problems, implementation, and other relevant issues concerning
10 the transfer of highway maintenance functions to the county.
11 The reports shall be filed not later than twenty days prior to
12 the convening of the regular session of 2016.

13 SECTION 15. **Reversion to State on sunset.** On December 31,
14 2016, the highway maintenance functions transferred by this Act
15 to the department of public works in counties with populations
16 that are divided among at least three islands shall revert back
17 forthwith to the state department of transportation, including
18 transfer of officers and employees, records and appropriations,
19 and federal funds transfers, on the same terms and conditions as
20 specified in this Act for the transfer from the state department
21 of transportation to the department of public works.



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

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

14 (c) The state and county transportation working group
15 shall report to the legislature, no later than twenty days prior
16 to the convening of the regular session of 2011, on a plan of
17 implementation of this Act, including but not limited to a
18 timetable of transfer of maintenance functions and proposed
19 legislation.

20 (d) The state and county transportation working group
21 shall cease to exist upon the filing of its report to the
22 legislature.



1 SECTION 17. This Act shall take effect on July 1, 2050;
2 provided that this Act shall be repealed on December 31, 2016.



Report Title:

State Highways; Transfer

Description:

Creates a pilot project to transfer maintenance 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. Effective 7/1/2050. Sunsets 12/31/2016.

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

