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# HOUSE CONCURRENT RESOLUTION

REQUESTING THE CONVENING OF A WORKING GROUP TO ADDRESS THE  
JURISDICTIONAL DISPUTES BETWEEN THE STATE AND THE COUNTIES  
REGARDING OWNERSHIP AND RESPONSIBILITY FOR MAINTENANCE AND  
IMPROVEMENT OF ROADWAYS.

1           WHEREAS, the quality of roadway maintenance throughout the  
2 State has a direct impact on the safety of individuals operating  
3 motor vehicles; and  
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5           WHEREAS, there have been long standing jurisdictional  
6 disputes between the counties and the State regarding roadway  
7 ownership and responsibility for maintenance and improvement of  
8 roadways, and many citizens of this State, as a result, have  
9 experienced considerable frustration in obtaining necessary  
10 repairs and maintenance for public roads; and  
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12           WHEREAS, the origins of this problem apparently arose from  
13 the 1963 amendment to section 142-1, Hawaii Revised Statutes,  
14 since redesignated as section 264-1, Hawaii Revised Statutes,  
15 which created two categories of public highways - State  
16 highways, under the jurisdiction of the Department of  
17 Transportation, and county highways which comprise all remaining  
18 highways; and  
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20           WHEREAS, the State claims that under this law all non-state  
21 roadways were transferred from the State to the various counties  
22 and are now the responsibility of the counties, while the  
23 counties maintain that a highway does not become a county  
24 highway unless it is accepted or adopted as such by the county  
25 council and therefore accepts no responsibility for roadways  
26 they have not accepted in this fashion; and



1           WHEREAS, this dispute over roadway jurisdiction has been a  
2 long standing one, with the State and county governments  
3 staunchly maintaining their respective positions and showing no  
4 interest in modifying them to facilitate a negotiated settlement  
5 of this issue; and  
6

7           WHEREAS, the cost of improving and maintaining the roadways  
8 in question appears to be a significant impediment to the  
9 Concurrent Resolution of this problem, with the counties on the  
10 one hand not wanting to incur the expense of making the  
11 improvements necessary to bring the disputed roadways into  
12 conformity with county codes, especially without any financial  
13 assistance from the State, and the State on the other hand  
14 hoping to avoid considerable additional burden in personnel,  
15 equipment, and funds that the responsibility for these roads  
16 would entail; now, therefore,  
17

18           BE IT RESOLVED by the House of Representatives of the  
19 Twenty-sixth Legislature of the State of Hawaii, Regular Session  
20 of 2011, the Senate concurring, that a working group be convened  
21 by the Department of Transportation to address the  
22 jurisdictional disputes between the State and counties regarding  
23 ownership and responsibility for maintenance and improvement of  
24 disputed roadways; and  
25

26           BE IT FURTHER RESOLVED that this working group shall  
27 include but not be limited to:  
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- 29           (1) The Director of the State Department of Transportation  
30           or a designee of the Director with decision making  
31           authority;
- 32           (2) The Director of Public Works, or a designee of the  
33           Director with decision making authority, for the  
34           County of Maui;
- 35           (3) The Director of the Department of Transportation  
36           Services, or a designee of the Director with decision  
37           making authority, for the City and County of Honolulu;
- 38           (4) The Chair of the Board of Land and Natural Resources  
39           or a designee of the Chair with decision making  
40           authority;
- 41           (4) The Chair of the Board of Land and Natural Resources  
42           or a designee of the Chair with decision making  
43           authority;



- 1 (5) The Chair of the Hawaiian Homes Commission or a  
2 designee of the Chair with decision making authority;  
3  
4 (6) The State Attorney General or a designee of the  
5 Attorney General with decision making authority;  
6  
7 (7) The Corporation Counsel from the counties of Honolulu  
8 and Maui, or a designee from the respective  
9 Corporation Counsels with decision making authority;  
10  
11 (8) A professional impartial facilitator chosen by the  
12 Governor whose sole purpose is to ensure that the  
13 group reaches consensus;  
14

15 and  
16

17 BE IT FURTHER RESOLVED that the working group shall solicit  
18 input from all appropriate State and county departments and  
19 agencies, and that these aforementioned departments and agencies  
20 cooperate with the working group in its research; and  
21

22 BE IT FURTHER RESOLVED that the working group is requested  
23 to address, but not be limited by the following areas:  
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- 25 (1) The primary concern of funding;  
26  
27 (2) Agreement on how each roadway description shall be  
28 done;  
29  
30 (3) Agreement on what indicia of title, if any, will be  
31 used to indicate county ownership of the disputed  
32 roads;  
33  
34 (4) Determination of some type of temporary liability  
35 shield for the counties to allow the counties to bring  
36 disputed roads, if not up to county standard, then at  
37 least to a non-dangerous condition; and  
38  
39 (5) Development of a high level committee of officials  
40 from the offices of the Department of Transportation,  
41 Attorney General, County Corporation Council, County  
42 Attorney, Department of Land and Natural Resources and  
43 other State and county agencies responsible for public  
44 works for the purpose of:



- 1 (A) Developing a complete list of all public roads in
- 2 the State;
- 3
- 4 (B) Categorizing all public roads and their ownership
- 5 on a functional basis so that a fairer
- 6 distribution or jurisdiction can be accomplished,
- 7 identifying all specific roads in dispute; and
- 8
- 9 (C) Meeting on a regular basis and being responsible
- 10 for implementing the acceptance of new roads by
- 11 the county;
- 12

13 and

14

15 BE IT FURTHER RESOLVED that the working group report its

16 findings and recommendations, along with suggested legislation,

17 to the Legislature no later than twenty days prior to the

18 convening of the Regular Session of 2012; and

19

20 BE IT FURTHER RESOLVED that certified copies of this

21 Concurrent Resolution be transmitted to the Governor, the

22 Director of Transportation, the Attorney General, the Mayor of

23 the City and County of Honolulu, the Mayor of Maui County, the

24 Chairperson of the Board of Land and Natural Resources, and the

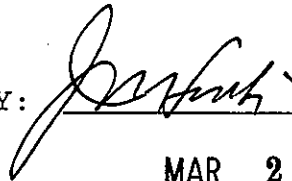
25 Chairperson of the Hawaiian Homes Commission.

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OFFERED BY: \_\_\_\_\_



MAR 2 2011

