

JAN 19 2007

A BILL FOR AN ACT

RELATING TO THE TRANSFER OF JURISDICTION OVER HIGHWAYS TO THE
COUNTIES.

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

1 SECTION 1. The purpose of this Act is to provide for the
2 transfer of all state highway functions to the counties, make
3 each county responsible for highways that are located in that
4 county, and transfer funding for state highways to the counties.
5 It is the intent of the legislature that jurisdiction over
6 highways on Oahu and in the county of Maui shall be transferred
7 as soon as possible, while highways in the other counties shall
8 be transferred over a five-year phase-in period.

9 SECTION 2. **County highways task force.** (a) There is
10 established a task force within the state department of
11 transportation for administrative purposes to provide for the
12 orderly transfer of functions and funds with respect to state
13 highways to the counties. The governor shall convene the task
14 force within thirty days after the effective date of this
15 section.

16 (b) The task force shall be composed of:



- 1 (1) One member of the United States Congress from Hawaii
2 or a designee;
- 3 (2) The state director of transportation, or a designee,
4 who shall serve as the chairperson of the task force;
- 5 (3) The four county directors having jurisdiction over
6 transportation services, or their designees;
- 7 (4) One person appointed by the governor;
- 8 (5) One member to be appointed by the governor from a list
9 of three nominees submitted by the speaker of the
10 house of representatives; and
- 11 (6) One member to be appointed by the governor from a list
12 of three nominees submitted by the president of the
13 senate.
- 14 (c) In carrying out its duties under this section, the
15 task force may request staff assistance from the state
16 department of transportation and other appropriate state and
17 county executive agencies.
- 18 (d) The members of the task force shall serve without
19 compensation, but shall be reimbursed for expenses, including
20 travel expenses, necessary for the performance of their duties.
- 21 (e) The task force shall have the following functions and
22 duties:



- 1 (1) Oversee the process of transferring functions and
2 funding relating to the state highways to the
3 counties;
- 4 (2) Establish a timetable for the transfer of functions,
5 which shall include provisions for transferring
6 jurisdiction over highways on Oahu and in the county
7 of Maui as soon as possible, and transferring
8 jurisdiction over highways in other counties over a
9 five-year phase-in period;
- 10 (3) Monitor compliance with the timetable;
- 11 (4) Ensure that appropriations for specific highway
12 projects are transferred to the counties;
- 13 (5) Provide for the transfer of all contracts relating to
14 state highways to the counties;
- 15 (6) Ensure that all federal and state funds are fully
16 allocated in the course of the transfer;
- 17 (7) Ensure that all unexpended and unencumbered balances
18 appropriated out of the state highway fund, or out of
19 the proceeds of general obligation bonds and issued
20 for highway-related capital improvement projects, are
21 transferred to each of the counties and do not lapse;



- 1 (8) Review all relevant county ordinances and state
2 statutes, including the following provisions of the
3 Hawaii Revised Statutes, for possible amendment:
4 sections 27-31, 28-9, 36-28, 36-31(b), 39-94,
5 171-52(d), 205A-26(3)(D), 248-8, 248-9, 248-10,
6 248-12, 249-31, 249-33(b), 251-5, 279A-2(1),
7 279A-7(1), 279E-1, 286-5, 286-6, 286-111(b),
8 286-209(c), 286-216, 291-35, 291-37(a), 291C-104(c),
9 291C-149(b), 291C-163(b), and all of chapter 264,
10 consisting of sections 264-1 to 264-127; and
- 11 (9) Resolve all other issues relating to the transfer of
12 functions and funding to the counties to ensure the
13 timely and efficient transfer of responsibility of the
14 state highway system.
- 15 (f) The state director of transportation shall submit a
16 report of the activities of the task force, including
17 recommendations and proposed legislation, to the legislature no
18 later than twenty days prior to the convening of the 2009
19 regular session. The legislative reference bureau shall assist
20 the task force in drafting legislation to implement the task
21 force's recommendations. The task force shall be dissolved on
22 June 30, 2010.



1 SECTION 3. The highways division, or similar
2 administrative division, of the state department of
3 transportation shall be retained for purposes of receiving,
4 transferring, or expending federal funds.

5 SECTION 4. **Transfer of functions, officers, and employees.**
6 Concurrent with the transfer of jurisdiction over highways to a
7 county, all rights, powers, functions, and duties of the state
8 department of transportation with respect to the transferred
9 state highways shall be transferred to the county departments
10 having jurisdiction over transportation services.

11 All officers and employees whose functions are transferred
12 by this Act shall be transferred with their functions and shall
13 continue to perform their regular duties upon their transfer,
14 subject to the state personnel laws and this Act.

15 No officer or employee of the State having tenure shall
16 suffer any loss of salary, seniority, prior service credit,
17 vacation, sick leave, or other employee benefit or privilege as
18 a consequence of this Act, and such officer or employee may be
19 transferred or appointed to a civil service position without the
20 necessity of examination; provided that the officer or employee
21 possesses the minimum qualifications for the position to which
22 transferred or appointed; and provided that subsequent changes



1 in status may be made pursuant to applicable civil service and
2 compensation laws.

3 An officer or employee of the State who does not have
4 tenure and who may be transferred or appointed to a civil
5 service position as a consequence of this Act shall become a
6 civil service employee without the loss of salary, seniority,
7 prior service credit, vacation, sick leave, or other employee
8 benefits or privileges and without the necessity of examination;
9 provided that such officer or employee possesses the minimum
10 qualifications for the position to which transferred or
11 appointed.

12 If an office or position held by an officer or employee
13 having tenure is abolished, the officer or employee shall not
14 thereby be separated from public employment, but shall remain in
15 the employment of the State with the same pay and classification
16 and shall be transferred to some other office or position for
17 which the officer or employee is eligible under the personnel
18 laws of the State as determined by the head of the department or
19 the governor.

20 **SECTION 5. Transfer of records and appropriations.**

21 Concurrent with the transfer of jurisdiction over highways to a
22 county, all appropriations, records, equipment, machines, files,



1 supplies, contracts, books, papers, documents, maps, and other
2 personal property heretofore made, used, acquired, or held by
3 the state department of transportation relating to the functions
4 transferred to the county departments having jurisdiction over
5 transportation services shall be transferred with the functions
6 to which they relate.

7 SECTION 6. **Federal funds.** (a) Concurrent with the
8 transfer of jurisdiction over highways to a county, the state
9 director of transportation shall transfer to the county all
10 federal aid to the State that is to be used for highway
11 maintenance, operation, repair, construction, or other uses, and
12 shall apportion the federal moneys among the counties in a fair
13 and equitable manner, taking into consideration the population
14 of each county, the levels of existing and needed highway
15 infrastructure, and related factors. The state department of
16 transportation shall do all things necessary to ensure that
17 federal aid to the State is transferred to the counties and
18 maximized for the use of county highways, and that no federal
19 funds are lost or jeopardized for this use.

20 (b) It is the intent of this Act not to jeopardize the
21 receipt of any federal aid nor to impair the obligation of the
22 State or any agency thereof to the holders of any bond issued by



1 the State or by any such agency, and to the extent, and only to
 2 the extent, necessary to effectuate this intent, the governor
 3 may modify the strict provisions of this Act, but shall promptly
 4 report any such modification with reasons therefor to the
 5 legislature at its next session thereafter for review by the
 6 legislature.

7 SECTION 7. This Act shall take effect on July 1, 2007.

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Report Title:

State Highways; Transfer to Counties; Task Force

Description:

Creates a county highways task force to oversee transfer to counties. Transfers all state highways functions and funding to the counties over a five-year period. Gives each county jurisdiction over all state highways in that county.

