

JAN 28 2015

A BILL FOR AN ACT

RELATING TO HIGHWAYS.

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

1 SECTION 1. Section 264-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§264-1 Public highways and trails. (a) All roads,
4 alleys, streets, ways, lanes, bikeways, bridges, and all other
5 real property highway related interests in the State, opened,
6 laid out, subdivided, consolidated, and acquired and built by
7 the government are declared to be public highways. Public
8 highways are of two types:

9 (1) State highways, which are those lands, interests, or
10 other real property rights, as defined above, having
11 an alignment or possession of a real property highway
12 related interest as established by law, subdivided and
13 acquired in accordance with policies and procedures of
14 the department of transportation, separate and exempt
15 from any county subdivision ordinances, and all those
16 under the jurisdiction of the department of
17 transportation; and



1 (2) County highways, which are all other public highways.

2 (b) All trails, and other nonvehicular rights-of-way in
3 the State declared to be public rights-of-ways by the Highways
4 Act of 1892, or opened, laid out, or built by the government or
5 otherwise created or vested as nonvehicular public rights-of-way
6 at any time thereafter, or in the future, are declared to be
7 public trails. A public trail is under the jurisdiction of the
8 state board of land and natural resources unless it was created
9 by or dedicated to a particular county, in which case it shall
10 be under the jurisdiction of that county.

11 (c) All roads, alleys, streets, ways, lanes, trails,
12 bikeways, and bridges in the State, opened, laid out, or built
13 by private parties and dedicated or surrendered to the public
14 use, are declared to be public highways or public trails as
15 follows:

16 (1) Dedication of public highways or trails shall be by
17 deed of conveyance naming the State as grantee in the
18 case of a state highway or trail and naming the county
19 as grantee in the case of a county highway or trail.
20 The deed of conveyance shall be delivered to and
21 accepted by the director of transportation in the case



1 of a state highway or the board of land and natural
2 resources in the case of a state trail. In the case
3 of a county highway or county trail, the deed shall be
4 delivered to and accepted by the legislative body of a
5 county.

6 (2) Surrender of public highways or trails shall be deemed
7 to have taken place if no act of ownership by the
8 owner of the road, alley, street, bikeway, way, lane,
9 trail, or bridge has been exercised for five years and
10 when, in the case of a state or county highway, [~~in~~
11 ~~addition thereto,~~] the legislature, by concurrent
12 resolution in the case of a state highway, and the
13 legislative body of the county [~~has, thereafter~~], by a
14 resolution[~~7~~] in the case of a county highway, has
15 adopted the same as a state or county highway [~~or~~
16 ~~trail~~].

17 In every case where the road, alley, street, bikeway, way, lane,
18 trail, bridge, or highway is constructed and completed as
19 required by any ordinance of the county or any rule, regulation,
20 or resolution thereof having the effect of law, the legislative



1 body of the county shall accept the dedication or surrender of
2 the same without exercise of discretion.

3 (d) If a privately owned highway is deemed to have been
4 surrendered to the State or county pursuant to subsection
5 (c)(2), the State or county shall be exempt from any state laws
6 or rules adopted pursuant thereto that would require the State
7 or county to perform construction, reconstruction, preservation,
8 resurfacing, restoration, or rehabilitation upon the highway.
9 The State or county shall be immune from liability for personal
10 injury, death, or property damage in any accident arising out of
11 the use of a surrendered highway until the State or county
12 performs construction, reconstruction, preservation,
13 resurfacing, restoration, or rehabilitation upon the highway.
14 The State or county also shall be immune from liability caused
15 by negligent or wrongful acts or omissions that occurred prior
16 to the surrender of the highway.

17 ~~(d)~~ (e) All county public highways and trails once
18 established shall continue until vacated, closed, abandoned, or
19 discontinued by a resolution of the legislative body of the
20 county wherein the county highway or trail lies. All state

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1 trails once established shall continue until lawfully disposed
2 of pursuant to the requirements of chapter 171."

3 SECTION 2. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

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

6

INTRODUCED BY: *Shirley Ann Cleveland*



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Report Title:

Highways; Private Streets; Surrender; Improvements

Description:

Exempts the State and counties from laws or rules that require the performance of construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation upon a private highway if it had been surrendered to the State or a county and the legislature or county council adopts a legislative measure accepting the surrender.

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

