

JAN 23 2015

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 certain roadways and
2 streets located in the city and county of Honolulu, whether
3 State, city and county, or privately owned, have been in
4 disrepair for decades due to a jurisdictional dispute between
5 the State and city and county over ownership of these roads,
6 often referred to as "roads in limbo". In general, because of
7 jurisdictional disputes between the counties and the State
8 regarding ownership and responsibility for maintenance and
9 improvement of roadways and easements, many taxpaying citizens
10 throughout the State have experienced considerable frustration
11 in obtaining necessary repairs to and maintenance of public
12 roads and easements bordering their property.

13 The origins of this problem apparently arose from a 1963
14 amendment to section 264-1, Hawaii Revised Statutes, which
15 created two categories of public highways: State highways,
16 under the jurisdiction of the department of transportation, and
17 county highways, which comprise all remaining highways. The



1 State claims that under this law all non-state roadways were
2 transferred from the State to the various counties and are now
3 the responsibility of the counties. However, the counties
4 maintain that a highway does not become a county highway unless
5 it is accepted or adopted as such by the appropriate county
6 council and therefore the counties accept no responsibility for
7 roadways they have not accepted in this fashion.

8 According to a legislative reference bureau report on roads
9 in limbo (Report No. 11, 1989), the real roots of the problem
10 reach back much further than 1963. Confusion over who owns
11 roads in Hawaii stems from several sources. First, there is no
12 complete and accurate list of roads in the State. Second,
13 ownership of government roads is complicated by the varied ways
14 that a road can become public, such as dedication by a developer
15 to the county upon completion of development and consistent use
16 of a private road by the public so as to effectively create a de
17 facto public easement. Third, some public roads are not
18 formally recorded, so that their existence or exact location may
19 not be known by the government because of a lack of recording of
20 metes and bounds description.



1 The legislature further finds that the disrepair of these
2 roadways and streets pose public health and safety issues for
3 the State. The safety of residents traveling over roadways and
4 streets whose ownership and jurisdiction are in dispute between
5 the State and the counties is affected by the lack of any
6 maintenance to these roads. A major impediment to repairs,
7 other than costs, is that government agencies are unwilling to
8 maintain these roads because the maintenance activities may be
9 construed as assuming ownership and jurisdiction over the
10 disputed roadways and streets due to the maintenance activities.

11 In addition, there are some privately-owned public roads
12 that the city and county of Honolulu has attempted to repair
13 under the authority of section 265A-1, Hawaii Revised Statutes,
14 which authorizes the counties to "do any construction work upon
15 private streets, ways, pavement, water lines, street lighting
16 systems, or sewer repairs." The costs of resurfacing of these
17 roads has also been a hindrance for the city and county of
18 Honolulu.

19 The purpose of this Act is to establish a five-year joint
20 city-state roads-in-limbo pilot project to fund the upgrading of
21 certain roadways and streets by making a matching appropriation



1 to the city and county of Honolulu for road repairs and
2 resurfacing.

3 SECTION 2. As used in this Act, the term "roads-in-limbo"
4 refers to State or county roadways or streets whose ownership
5 and jurisdiction are in dispute between the State and a county.
6 The term "roads-in-limbo" includes privately owned public roads
7 that are:

- 8 (1) Not within the state highway system, as described in
9 part III of chapter 264, Hawaii Revised Statutes; and
10 (2) Any privately-owned public road which is intended for
11 dedication to the public use as provided in section
12 264-1(b), Hawaii Revised Statutes, and is open for
13 public travel but has not yet been accepted by a
14 county or not compliant with county standards and so
15 is not considered a county road.

16 SECTION 3. There is established a five-year joint city-
17 state roads-in-limbo pilot project between the city and county
18 of Honolulu and the State for roadway and street repairs and
19 resurfacing. The project shall be under the joint jurisdiction
20 of the state department of transportation and the department of
21 transportation services of the city and county of Honolulu. The



1 purpose of the joint pilot project shall be to provide joint
2 funding for upgrades to certain roads-in-limbo within the
3 geographical boundaries of the city and county of Honolulu. At
4 a minimum, the following roadways and streets shall be deemed
5 roads-in-limbo for purposes of this Act and shall be eligible
6 for funding under this Act:

- 7 (1) Lanakila Avenue;
- 8 (2) Emmeluth Lane;
- 9 (3) Laki Road;
- 10 (4) Simon Road;
- 11 (5) Keola Street;
- 12 (6) Luka Street;
- 13 (7) Puna Street;
- 14 (8) Aulii Street;
- 15 (9) Kula Street;
- 16 (10) Lolena Street;
- 17 (11) Lolena Place;
- 18 (12) Malanai Lane;
- 19 (13) Hiram Lane;
- 20 (14) Liliha Court Lane;
- 21 (15) Holokahana Lane;



- 1 (16) Kellett Lane;
- 2 (17) Elena Street;
- 3 (18) Dayton Lane;
- 4 (19) Kunawai Lane;
- 5 (20) Mapu Lane;
- 6 (21) The Street;
- 7 (22) Panui Street;
- 8 (23) Pala Street;
- 9 (24) Judd Street;
- 10 (25) Analu Street;
- 11 (26) Nu Place;
- 12 (27) Nanaina Place; and
- 13 (28) Kauila Street.

14 SECTION 4. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so
16 much thereof as may be necessary for fiscal year 2015-2016 and
17 the same sum or so much thereof as may be necessary for fiscal
18 year 2016-2017 for repair and resurfacing of roadways and
19 streets in the city and county of Honolulu as enumerated under
20 section 3 of this Act; provided that no funds shall be made
21 available under this Act unless the city and county of Honolulu



1 provides matching funds for the purpose for which this sum is
2 appropriated.

3 The sums appropriated shall be expended by the department
4 of transportation for the purposes of this Act.

5 SECTION 5. (a) Any state funds appropriated under this
6 Act shall not be construed to impose liability on the State for
7 damages for personal injuries, death, or property damage arising
8 from or claimed to have arisen from the repairs and resurfacing
9 of a roadway or street pursuant to this Act.

10 (b) Any city and county of Honolulu funds appropriated by
11 the city and county of Honolulu to match state funds
12 appropriated pursuant to this Act shall not be construed to
13 impose liability on the city and county of Honolulu for damages
14 for personal injuries, death, or property damage arising from or
15 claimed to have arisen from the repairs and resurfacing of a
16 roadway or street pursuant to this Act.

17 (c) Any repairs and resurfacing of a roadway or street
18 pursuant to this Act shall not be construed to infer ownership
19 or control of the roadway or street by the State or the city and
20 county of Honolulu.



S.B. NO. 487

1 SECTION 6. This Act shall take effect on July 1, 2015, and
2 shall be repealed on June 30, 2020.

3

INTRODUCED BY: *Suzanne Chun Clark*



S.B. NO. 487

Report Title:

Transportation; Appropriation; Road Repairs; City and County of Honolulu; Roads-in-limbo

Description:

Establishes a five-year joint city-state roads-in-limbo pilot project for roadway and street repairs and resurfacing to specified roadways and streets. Places the project under the joint jurisdiction of the state department of transportation and the department of transportation services of the city and county of Honolulu. Makes a matching appropriation to the city and county of Honolulu. Clarifies that no liability attaches to the State or city and county of Honolulu for repairs and resurfacing. Clarifies that no ownership or control by the State or city and county of Honolulu is to be inferred from the making of repairs and maintenance. Repeals 6/30/20.

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