

JAN 17 2020

A BILL FOR AN ACT

RELATING TO HIGHWAYS.

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

1 SECTION 1. The legislature finds that there is a
2 considerable and uncatalogued number of public highways in the
3 State whose ownership, as between the State and the counties, is
4 in dispute. Many disputed roads are not maintained on a regular
5 basis, and a great expense will be involved in upgrading,
6 repairing, and maintaining them, as well as performing full
7 metes and bounds surveys of them.

8 The legislature further finds that between 1892 and 1947,
9 all public roads were owned by the Kingdom of Hawaii (later, the
10 Territory of Hawaii) and were labeled "public highways." By
11 1913, the counties were maintaining all of these public
12 highways. In 1941, the obligation to maintain the Hawaiian home
13 lands roads was given to the counties through the State
14 Constitution. In 1947, the category of "public highways" was
15 divided into two: one was territorial or federal-aid highways,
16 which were all the highways under the jurisdiction of the
17 territorial highway engineer or the superintendent of public



1 works (later, the department of transportation); and the other
2 was county highways. And the counties' duty to maintain all
3 public highways was reduced to maintaining only the county
4 highways and the department of Hawaiian home lands roads.
5 However, although certain roads were now denominated county
6 roads, ownership of all public highways remained with the
7 Territory (later, the State).

8 The legislature further finds that in 1963, the legislature
9 gave the counties ownership of all county roads obtained by
10 eminent domain, purchase, dedication, or surrender. In 1965,
11 the legislature amended the 1963 statute to attempt to transfer
12 to the counties ownership of all county roads. In 1966, the
13 legislature enacted an urgency measure allowing the governor to
14 force ownership of a road on a county through an executive
15 order. However, the counties refused to cooperate with this
16 series of statutes.

17 The legislature further finds that as recently as September
18 2019, the proper jurisdiction over the Maunakea access road fell
19 under question when a state senator argued that the department
20 of Hawaiian home lands may not have properly transferred
21 jurisdiction over the road to the department of transportation.



1 The purpose of this Act is to establish the old government
2 roads commission to assist in resolving disputes between the
3 State and the counties relating to jurisdiction over old
4 government roads by, among other things, drafting memoranda of
5 agreement between the State and the counties to provide for the
6 repair of old government roads, bring them up to county
7 standards, and transfer their ownership to the counties.

8 SECTION 2. (a) The old government roads commission is
9 established within the department of transportation for
10 administrative purposes. The commission shall have the
11 following duties:

- 12 (1) Identify and develop an inventory of all disputed
13 government roads;
- 14 (2) Create a priority list of roads that require more
15 immediate attention than other roads based upon the
16 condition of the roads and the volume of traffic on
17 the roads;
- 18 (3) Draft and execute memoranda of agreement between the
19 State and each county that requires the State to
20 transfer title of ownership of a disputed road to the



1 county once the State repairs the road and brings it
2 up to county standards;

3 (4) Establish a system for repairing disputed roads, which
4 includes creating a new budget line item for the
5 department of transportation to design, plan, and
6 construct a particular road that the commission deems
7 a priority under paragraph (2); and

8 (5) Explore the possibility of accessing federal funds to
9 alleviate the costs of repairing roads of which
10 ownership is disputed.

11 (b) The old government roads commission shall consist of
12 the following persons or their designee:

13 (1) The director of transportation who shall serve as co-
14 chairperson;

15 (2) The chairperson of the senate committee on ways and
16 means;

17 (3) The chairperson of the house of representatives
18 committee on finance;

19 (4) The chairperson of the senate committee on
20 transportation;



(5) The chairperson of the house of representatives
committee on transportation;

(6) The attorney general;

(7) The mayor of each county who shall serve as a co-
chairperson for any item on a meeting agenda relating
to a road situated in that mayor's county;

(8) The corporation counsel or county attorney of each
county; and

(9) The director or county engineer of public works or
design and construction of each county.

(c) No commission member designated in subsection (b)(7),
(8), or (9) may vote on a matter that does not relate to a road
located in the county represented by the member.

(d) A commission member designated in subsection (b)(7),
(8), or (9) may be excused from attending any meeting or portion
of a meeting for which the agenda does not relate to a road
located in the county represented by the member. For the
purpose of calculating a quorum, the number of members excused
from attending a meeting or portion thereof pursuant to this
subsection shall be subtracted from the total committee
membership.



1 (e) The director of transportation shall determine the
2 location and frequency of old government roads commission
3 meetings; provided that the commission shall meet no less than
4 twice a year.

5 (f) Members of the old government roads commission shall
6 serve without compensation but shall be reimbursed for
7 reasonable expenses incurred, including travel expenses. No
8 member of the commission shall be made subject to chapter 84,
9 Hawaii Revised Statutes, solely because of that member's
10 participation as a member of the commission.

11 (g) The old government roads commission shall submit an
12 annual report, including findings, recommendations, and any
13 proposed legislation, to the legislature no later than twenty
14 days prior to the convening of each regular session.

15 (h) The department of transportation shall provide
16 administrative and clerical support required by the commission.

17 SECTION 3. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so
19 much thereof as may be necessary for fiscal year 2020-2021 for
20 the purposes of this Act.



1 The sum appropriated shall be expended by the department of
2 transportation for the purposes of this Act.

3 SECTION 4. This Act shall take effect on July 1, 2020, and
4 shall be repealed on June 30, 2025.

5

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S.B. NO. *2332*

Report Title:

Highways; Jurisdiction; Commission; Appropriation

Description:

Establishes an old government roads commission to address the issue of jurisdiction between the State and the counties over disputed roads. Appropriates funds.

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

