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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF TRANSPORTATION.

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

1 SECTION 1. Section 26-19, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§26-19 Department of transportation.** (a) The department  
4 of transportation shall be headed by a single executive to be  
5 known as the director of transportation. The department shall  
6 establish, maintain, and operate transportation facilities of  
7 the State, including highways, airports, harbors, and ~~such~~ any  
8 other transportation facilities and activities as may be  
9 authorized by law.

10 (b) The department shall plan, develop, promote, and  
11 coordinate various transportation systems management programs  
12 that shall include~~[ ]~~ but not be limited to~~[ ]~~ alternate work  
13 and school hours programs, bicycling programs, and ridesharing  
14 programs.

15 (c) The department shall develop and promote ridesharing  
16 programs ~~[which]~~ that shall include but not be limited to~~[ ]~~  
17 carpool and vanpool programs, and may assist organizations



1 interested in promoting similar programs, arrange for contracts  
2 with private organizations to manage and operate these programs,  
3 and assist in the formulation of ridesharing arrangements.

4 Ridesharing programs include informal arrangements in which two  
5 or more persons ride together in a motor vehicle.

6 (d) The functions and authority heretofore exercised by  
7 the department of public works with respect to highways are  
8 transferred to the department of transportation established by  
9 this chapter.

10 (e) On July 1, 1961, the Hawaii aeronautics commission,  
11 the board of harbor commissioners and the highway commission  
12 shall be abolished and their remaining functions, duties, and  
13 powers shall be transferred to the department of transportation.

14 (f) Notwithstanding any law to the contrary, the  
15 department of transportation may:

16 (1) Acquire, or contract to acquire, by grant or purchase  
17 any real, personal, or mixed property or any interest  
18 therein for immediate or future use for the purposes

19 of:

20 (A) Climate mitigation and adaptation;

21 (B) Noise and visual buffer zones and barriers;



1           (C) Transportation projects pursuant to section 264-  
2                           142;

3           (D) This section; or

4           (E) Title 15;

5           (2) Own, hold, improve, and rehabilitate any real,  
6                           personal, or mixed property acquired pursuant to this  
7                           subsection; and

8           (3) Sell, assign, exchange, transfer, convey, lease or  
9                           otherwise dispose of, or encumber any real, personal,  
10                          or mixed property acquired pursuant to this  
11                          subsection. Upon making a finding that it is  
12                          necessary to acquire any real property for immediate  
13                          or future use for the purposes of this section or  
14                          title 15, the department of transportation may acquire  
15                          the property by condemnation pursuant to chapter 101;  
16                          provided that the property shall not thereafter be  
17                          acquired for any other public use without the consent  
18                          of the department of transportation; provided further  
19                          that any disposition of property by the department of  
20                          transportation shall be subject to the same



1           requirements as dispositions of submerged or reclaimed  
2           lands pursuant to section 171-53."

3           SECTION 2. Section 171-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "**§171-2 Definition of public lands.** "Public lands" means  
6 all lands or interest therein in the State classed as government  
7 or crown lands previous to August 15, 1895, or acquired or  
8 reserved by the government upon or subsequent to that date by  
9 purchase, exchange, escheat, or the exercise of the right of  
10 eminent domain, or in any other manner; including lands accreted  
11 after May 20, 2003, and not otherwise awarded, submerged lands,  
12 and lands beneath tidal waters that are suitable for  
13 reclamation, together with reclaimed lands that have been given  
14 the status of public lands under this chapter, except:

- 15           (1) Lands designated in section 203 of the Hawaiian Homes  
16           Commission Act, 1920, as amended;
- 17           (2) Lands set aside pursuant to law for the use of the  
18           United States;
- 19           (3) Lands being used for roads and streets;
- 20           (4) Lands to which the United States relinquished the  
21           absolute fee and ownership under section 91 of the



1 Hawaiian Organic Act before the admission of Hawaii as  
2 a state of the United States unless subsequently  
3 placed under the control of the board of land and  
4 natural resources and given the status of public lands  
5 in accordance with the state constitution, the  
6 Hawaiian Homes Commission Act, 1920, as amended, or  
7 other laws;

8 (5) Lands to which the University of Hawaii holds title;

9 (6) Non-ceded lands set aside by the governor to the  
10 Hawaii housing finance and development corporation or  
11 lands to which the Hawaii housing finance and  
12 development corporation in its corporate capacity  
13 holds title;

14 (7) Lands to which the Hawaii community development  
15 authority in its corporate capacity holds title;

16 (8) Lands set aside by the governor to the Hawaii public  
17 housing authority or lands to which the Hawaii public  
18 housing authority in its corporate capacity holds  
19 title;

20 (9) Lands to which the department of agriculture holds  
21 title by way of foreclosure, voluntary surrender, or



- 1 otherwise, to recover moneys loaned or to recover  
2 debts otherwise owed the department under chapter 167;
- 3 (10) Lands that are set aside by the governor to the Aloha  
4 Tower development corporation, lands leased to the  
5 Aloha Tower development corporation by any department  
6 or agency of the State, or lands to which the Aloha  
7 Tower development corporation holds title in its  
8 corporate capacity;
- 9 (11) Lands that are set aside by the governor to the  
10 agribusiness development corporation, lands leased to  
11 the agribusiness development corporation by any  
12 department or agency of the State, or lands to which  
13 the agribusiness development corporation in its  
14 corporate capacity holds title;
- 15 (12) Lands to which the Hawaii technology development  
16 corporation in its corporate capacity holds title;
- 17 (13) Lands to which the department of education holds  
18 title;
- 19 (14) Lands to which the stadium authority holds title;
- 20 [and]



1 (15) Lands to which the school facilities authority holds  
2 title; and

3 (16) Lands to which the department of transportation holds  
4 title;

5 provided that, except as otherwise limited under federal law and  
6 except for state land used as an airport as defined in section  
7 262-1, public lands shall include the air rights over any  
8 portion of state land upon which a county mass transit project  
9 is developed after July 11, 2005; provided further that if the  
10 lands pursuant to paragraph (6) are no longer needed for housing  
11 finance and development purposes, the lands shall be returned to  
12 the agency from which they were obtained; provided further that  
13 if the lands pursuant to paragraph (14) are no longer needed for  
14 the stadium development district or related purposes, the lands  
15 shall be returned to the public land trust administered by the  
16 department."

17 SECTION 3. Section 171-30, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§171-30 Acquisition of real property; general.** (a) The  
20 board [~~of land and natural resources~~] shall have the exclusive



1 responsibility, except as provided herein, of acquiring,  
2 including by way of dedications:

3 (1) All real property or any interest therein and the  
4 improvements thereon, if any, required by the State  
5 for public purposes, including real property together  
6 with improvements, if any, in excess of that needed  
7 for [~~such~~] the public use in cases where small  
8 remnants would otherwise be left or where other  
9 justifiable cause necessitates the acquisition to  
10 protect and preserve the contemplated improvements, or  
11 public policy demands the acquisition in connection  
12 with [~~such~~] the improvements[~~+~~]; and

13 (2) Encumbrances, in the form of leases, licenses, or  
14 otherwise on public lands, needed by any state  
15 department or agency for public purposes or for the  
16 disposition for houselots or for economic development.

17 The board shall upon the request of and with the funds from  
18 the state department or agency effectuate all acquisitions as  
19 provided under this section.

20 The acceptance by the territorial legislature or the  
21 legislature of a dedication of land in the Kakaako community



1 development district by a private owner is sufficient to convey  
2 title to the State.

3 (b) Except as provided in subsection (c), the department  
4 of accounting and general services shall be responsible for the  
5 acquisition of any office space in a nonstate owned building for  
6 use by a state department or agency.

7 (c) A state department or agency may directly acquire  
8 [~~such~~] any real property for its purposes whenever the  
9 acquisition by the department or agency is required to conform  
10 to mandatory requirements of the United States in the case where  
11 federal funds are furnished to the department or agency.

12 (d) Property [~~which~~] that may be acquired under this  
13 section includes all real property together with all structures  
14 and improvements thereon, franchises or appurtenances thereunto  
15 belonging, water, water rights, easements, and interests in land  
16 of every nature.

17 (e) The appraisal of private property to be acquired by  
18 the State may be performed by [~~not~~] no more than three  
19 disinterested appraisers whose services shall be contracted for  
20 by the State, and no land shall be purchased for a sum greater  
21 than the highest value fixed by the appraiser or appraisals;



1 provided that the State, after review of the appraisals by the  
 2 appraiser or appraisers or the attorney general, may purchase  
 3 the property at a value greater than the highest value if the  
 4 higher value is determined by the appraiser or appraisers or the  
 5 attorney general to be justified and within the range of market  
 6 value; provided further that this limitation shall not apply  
 7 where acquisition is by condemnation. After the private  
 8 property has been acquired or the State abandons the  
 9 acquisition, these appraisal reports shall be available for  
 10 inspection and copying by the public.

11 (f) Notwithstanding subsection (a), the department of  
 12 transportation may directly acquire any real property for the  
 13 purposes of section 26-19 or title 15."

14 SECTION 4. Section 264-15, Hawaii Revised Statutes, is  
 15 amended to read as follows:

16 **"§264-15 Highway advance acquisition; source of funds.**

17 The director may, with the approval of the governor, expend  
 18 moneys appropriated by the legislature as may be necessary for  
 19 the acquisition of real property when the director determines:

- 20 (1) The acquisition of the real property is necessary for
- 21 a state highway project authorized by the legislature;



1 (2) Funds previously authorized by the legislature are  
2 inadequate; ~~and~~

3 (3) That any delay in the acquisition of such property  
4 would unnecessarily increase the cost of the highway  
5 project; and

6 (4) The acquisition, management, or maintenance of the  
7 real property as necessary for projects relating to  
8 climate mitigation and adaptation and visual and noise  
9 buffer zones and barriers;

10 provided that the selected corridor and alignment of the project  
11 shall have been approved by the governor.

12 All moneys received from the rental, sale, or lease of any  
13 property acquired under this section shall be paid into the  
14 state general fund; provided that whenever federal funds are  
15 involved in the acquisition of the property, any money received  
16 from the sale, lease, or rental of such property shall be  
17 expended toward the project for which the property was  
18 acquired."

19 SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 6. This Act shall take effect on July 1, 3000.



**Report Title:**

DOT; Public Lands; Real Property; Acquisition; Disposition

**Description:**

Authorizes the Department of Transportation to acquire, including by condemnation, any real, personal, or mixed property for immediate or future use and own, hold, improve, rehabilitate, sell, assign, exchange, transfer, convey, lease, or dispose of the property acquired. Amends the definition of "public lands" to exclude lands to which the Department of Transportation holds title. Authorizes the Department of Transportation to directly acquire any real property for its purposes. Authorizes the Director of Transportation to expend funds for the acquisition, management, or maintenance of property for projects relating to climate mitigation and adaptation and visual and noise buffer zones and barriers. Takes effect 7/1/3000. (SD1)

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