DEPARTMENT OF TRANSPORTATION’S

REPORT TO THE LEGISLATURE

OF

THE STATE OF HAWAII

REQUIRED UNDER

SENATE CONCURRENT RESOLUTION 49, SENATE DRAFT 1, HOUSE DRAFT 1

2012 LEGISLATIVE SESSION

**REPORT:**

**FINDINGS AND RECOMMENDATIONS FROM THE “ROADS IN LIMBO” WORKING GROUP**

STATE OF HAWAII

DEPARTMENT OF TRANSPORTATION

DECEMBER 2012

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SENATE CONCURRENT RESOLUTION NO. 49, SENATE DRAFT 1, HOUSE DRAFT 1

TWENTY-SIXTH LEGISLATURE, 2012

**FINDINGS AND RECOMMENDATIONS FROM THE “ROADS IN LIMBO” WORKING GROUP**

Introduction:

Senate Concurrent Resolution No. 49, Senate Draft 1, House Draft 1, Twenty-Sixth Legislature, 2012, directed:

1. The Department of Transportation (DOT) to form a working group to expeditiously resolve the issue of roads in limbo statewide for the greater good of the residents. The working group was composed of the following:
2. The Director of Transportation, or designee;
3. The Chairperson of the Board of Land and Natural Resources or designee;
4. The Mayor of each county, or their designees; and
5. The Director of each county department or division of public works or facilities maintenance, or their designees; and
6. The Department of Transportation submit to the Legislature, no later than twenty days prior to the convening of the Regular Session of 2013, a report of the findings and recommendations of the working group, including any proposed legislation.

Report:

On Wednesday, November 21, 2012, representatives of the counties met with the DOT and had a brief discussion regarding the “Roads in Limbo” issues and everyone was asked to submit their current rules, ordinances, policies or laws related to this issue in preparation for a formal meeting of the working group.

On Wednesday, December 19, 2012, the working group consisting of the Director of Transportation and staff members along with representatives of the counties and the Administrator of the Land Management Division, Department of Land and Natural Resources as the designee of the Chairperson, met to discuss their respective positions regarding the “Roads in Limbo” issues which are:

1. Identifying all the roads or creating a list of the roads that fall into the category of “Roads in Limbo.” A current list does not exist for all counties.
2. Priority for repairs to those roads that for decades have not been regularly maintained.
3. Funding issues for the state and the counties are a concern considering the large task of bringing the many roads in conformance with safe engineering guidelines as set forth by each jurisdiction’s law.
4. Liability issues are a concern while bringing the substandard roads in conformance with safe engineering guidelines as set forth by each jurisdiction’s law.

1. Title issues exist when the roads are to be conveyed from the county to a private party. The title must be conveyed from the State to the county and may include survey and mapping as well as deeding the land. The process may be time consuming as well as costly.

The meeting ended with all parties agreeing to consult legal counsel regarding the possibilities of having the ownership or jurisdiction issues settled by Judicial-Administrative Ruling. The working group agreed to meet again towards the middle of January 2013.

Recommendations:

Regarding the funding issues, the DOT recommends that Chapter 264-3, HRS, for counties having a population in excess of 500,000 persons shall be exempt from remitting proceeds from the sale of any public highway that was formerly a State Highway to the State, be revised to include all counties. Shortly after this exemption was passed, the City and County of Honolulu passed an ordinance accepting all disputed roads where the ownership was said to be in the name of the State, thus ending the dispute regarding jurisdiction over the majority of such disputed roads. The other counties seemed amenable to this as a means of some of the funding for maintenance.

It was also requested that the Legislature pass legislation to protect the State and the counties from Tort Liability Actions arising from the subject roads until the matter is fully resolved. As soon as one of the entities performs maintenance on a “Road in Limbo” it is feared that it will be construed to have jurisdiction and shall be liable before the road can be brought to a government standard. The DOT agrees with this issue.