

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

**Thursday, February 11, 2021
1:30 PM
State Capitol, Via Videoconference**

**In consideration of
SENATE BILL 648
RELATING TO TRANSPORTATION**

Senate Bill 648 proposes to address the issue of lack of maintenance of “roads in limbo” by providing that no action by a government agency to maintain or repair a public road shall be used to establish the agency’s ownership of, or jurisdiction over, the public road, and the agency shall not be deemed to have assumed ownership of, or jurisdiction over, the public road solely because of action to maintain or repair it. The measure proposes amendments to Chapters 27 and 46, Hawaii Revised Statutes (HRS), to effectuate its intent. **The Department of Land and Natural Resources (Department) opposes this measure.**

The Department believes the wording of SECTION 2 of the measure is vague and subject to differing interpretations, one of which is that inaction by the State or a county to maintain a road can result in ownership of the road in the State or a County by virtue of such inaction. This is inconsistent with the intent of the bill as set forth in the preamble. The Department therefore recommends SECTION 2 be amended as follows (amendments highlighted in gray shading):

SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

"§27- Maintenance or repair of disputed public streets, roads, or highways; quitclaim. (a) Whenever ownership of a public street, road, or highway remains in dispute between the

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

State and a county, ~~no~~ any action by a government agency to maintain or repair a public street, road, or highway shall not be used to establish the agency's ownership of, or jurisdiction over, the public street, road, or highway and the agency shall not be deemed to have assumed ownership of, or jurisdiction over, the public street, road, or highway solely because of action to maintain or repair a public street, road, or highway.

(b) If a county requests or requires title to a disputed public street, road, or highway, the State may transfer by quitclaim any interest it has in the public street, road, or highway to the county."

Furthermore, the Department believes this bill is unnecessary because there is no such thing as a "road in limbo" – only roads the counties have refused to accept responsibility over for purposes of maintenance or liability. “[L]ands being used for roads and streets” are excluded from the definition of public lands over which the Board of Land and Natural Resources and Department have jurisdiction under Section 171-2(3), HRS. Moreover, Section 264-1, HRS, is clear that all public roads in the State are either State highways under the jurisdiction of the Department of Transportation, or county roads under the jurisdiction of the respective counties. The provision of the bill authorizing the State to quitclaim a road to a county is likewise unnecessary because existing law (Act 288 Session Laws of Hawaii 1993) already provides for the quitclaim conveyance of a road from the State to a county when required for purpose of disposal.

Thank you for the opportunity to comment on this measure.

SB-648

Submitted on: 2/10/2021 1:13:56 PM

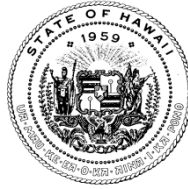
Testimony for PSM on 2/11/2021 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Moore	Testifying for DLNR	Oppose	No

Comments:

I am available for questions. Please allow me Zoom access. Thank you.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
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February 11, 2021
1:30 P.M.
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S.B. 648
RELATING TO TRANSPORTATION

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

The Department of Transportation (DOT) **supports** S.B. 648 that resolves issues of ownership and jurisdiction. The DOT agrees that performing repair and maintenance activities on a street, in and of itself, shall not confer ownership or jurisdiction of the street to the agency performing such activities. Additionally, this bill allows the State to transfer by quitclaim any disputed road if the county requests title to the disputed road.

Thank you for the opportunity to provide testimony.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE SENATE COMMITTEE ON
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
HAWAII STATE CAPITOL, VIA VIDEOCONFERENCE
THURSDAY, FEBRUARY 11, 2021 AT 1:30 P.M.**

To The Honorable Clarence K. Nishihara, Chair;
The Honorable J. Kalani English, Vice Chair; and
Members of the Committee on Public Safety, Intergovernmental & Military Affairs,

SUPPORT SB648 RELATING TO TRANSPORTATION

Aloha, my name is Pamela Tumpap. I am the President of the Maui Chamber of Commerce, in the county most impacted by the COVID-19 pandemic in terms of our dependence on the visitor industry and corresponding rate of unemployment. I am writing share our support of SB648.

Oftentimes the counties need to step in and address road issues such as maintenance and repairs, especially in an emergency situation where time is of the essence to ensure residents have access to critical roads. This is especially important on Maui with Hana Highway and Honoapiilani Highway. We support that this bill allows them to address immediate needs or longstanding issues without that constituting acceptance of ownership.

We also appreciate that this bill allows for the State to transfer ownership to the county if it is requested by the county.

Mahalo for your consideration of our testimony and ask that you please pass this bill.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

SB-648

Submitted on: 2/8/2021 12:47:33 PM

Testimony for PSM on 2/11/2021 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Philip T. Rapoza	Individual	Support	No

Comments:

I support