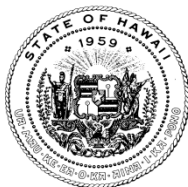


DAVID Y. IGE  
GOVERNOR



Testimony of  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
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STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
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IN REPLY REFER TO:

February 9, 2015  
10:00 a.m.  
State Capitol, Room 309

**H.B. 1171  
RELATING TO TRANSPORTATION**

House Committee on Transportation

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The Department of Transportation (DOT) **supports** the intent of this bill to continue the efforts that Act 288, Session Laws of 1993 started in addressing the 1989 Legislative Reference Bureau Report, "Roads in Limbo: An Analysis of the State-County Jurisdictional Dispute." Pursuant to Senate Concurrent Resolution 49 of the 2012 Session, the current "Roads in Limbo" Working Group discussed the Roads in Limbo issue and made findings and recommendations in its report to the Legislature, which included the recommendation that the Legislature pass legislation to protect government agencies maintaining disputed roads pending resolution of the dispute.

Government agencies have been reluctant to assume maintenance of "Roads in Limbo" because the agency's maintenance activities may be characterized as evidencing ownership or jurisdiction of a disputed road, subjecting the agency to liability for the entire road. As this bill provides, the maintenance and repairs to a disputed road will not in itself determine ownership, may encourage government agencies to maintain disputed roads, which are in dire need of repair and maintenance.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of  
**CARTY S. CHANG**  
Interim Chairperson

Before the House Committee on  
**TRANSPORTATION**

Monday, February 9, 2015  
10:00 A.M.  
State Capitol, Conference Room 309

In consideration of  
**HOUSE BILL 1171**  
**RELATING TO TRANSPORTATION**

House Bill 1171 proposes that a government agency will not assume ownership or jurisdiction over a road whose ownership is disputed between the State and county solely through maintenance or repair activities, and authorizes the State to quitclaim ownership of roads in favor of the counties. **The Department of Land and Natural Resources offers the comments and amendments below.**

In the bill's present form, state and county agencies, through repair and maintenance actions, may be liable for a person's injury or damage sustained when using such disputed road. If the intent of this measure is to provide an incentive to state and county agencies to undertake repair and maintenance of disputed roads, then the bill should contain language that relieves state and county agencies of any accompanying liability. We recommend the following replacement for Section 2 of the bill:

*SECTION 2. Chapter 662, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:*

**"§662- No liability for maintenance or repair of disputed roads. (a) A state agency maintaining or repairing a road whose ownership is in dispute between the state and a county shall not be liable to any person for injury or damage sustained when using that road and shall not be deemed to have assumed ownership or jurisdiction over the disputed road.**

**CARTY S. CHANG**  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**DANIEL S. QUINN**  
INTERIM FIRST DEPUTY

**W. ROY HARDY**  
ACTING 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

(b) If a county requests or requires title to a disputed road, the state may quitclaim whatever interest it has in the road to the county."

Under Section 3 of the bill, we recommend amending the title to section 46-15.9, Hawaii Revised Statutes, as follows:

**"§46-15.9 Traffic regulation; repair and maintenance; public right to use public streets, roads, or highways whose ownership is in dispute[-]; county liability."**

Also under Section 3 of the bill, we recommend that the proposed subsection (b) of section 46-15.9 be replaced with the following:

"(b) [~~Any provision of the law to the contrary notwithstanding, any county and its authorized personnel may repair or maintain, in whole or in part, public streets, roads, or highways whose ownership is in dispute between the State and the county.~~] A county agency maintaining or repairing a road whose ownership is in dispute between the State and the county shall not be liable to any person for injury or damage sustained when using that road."