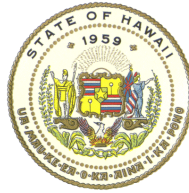


DAVID Y. IGE  
GOVERNOR OF HAWAII



**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 Committees on  
GOVERNMENT OPERATIONS  
and  
WATER and LAND**

**Monday, February 14, 2022  
1:10 PM**

**State Capitol, Conference Room 229, Via Videoconference**

**In consideration of  
SENATE BILL 2366  
RELATING TO TRANSPORTATION**

Senate Bill 2366 proposes to address the issue of lack of maintenance of “roads in limbo” by providing that any action by a government agency to maintain or repair a public road shall not 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) provides the following comments on this measure.**

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. Quitclaim conveyances to the Counties as permitted in this measure are unnecessary because legislation leading to Chapter 264, HRS, already transferred roads by operation of law. Furthermore, Act 288 Session Laws of Hawaii 1993 allows the State to quitclaim its interest in a road when the county intends to dispose of the road (i.e., sell, exchange, or lease).

The Department understands the bill may encourage the counties to accept responsibility for repair and maintenance of roads more readily, notwithstanding their existing ownership of or jurisdiction over them under current law. Accordingly, the Department does not oppose the measure.

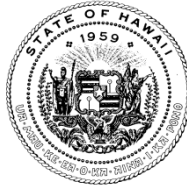
Thank you for the opportunity to comment on this measure.

**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 OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097**

February 14, 2022  
1:10 P.M.  
State Capitol, Teleconference

**S.B. 2366  
RELATING TO TRANSPORTATION**

Senate Committee(s) on Water and Land & on Government Operations

The Department of Transportation (DOT) **supports** the intent of S.B. 2366, that resolves issues of ownership and jurisdiction. 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.

However, DOT recommends that the proposed language be added to §264-1, Hawaii Revised Statutes instead of Chapter 27 or Chapter 46 to clearly provide for the state's authority to convey its interest to the county requesting title.

DOT also recommends that the state and county be immune from joint and several liability for maintaining or repairing a disputed public street, road, or highway when the state or county has no interest and neither owns nor has jurisdiction over that disputed public street, road, or highway.

Thank you for the opportunity to provide testimony.

# OFFICE OF THE MAYOR

DEREK S.K. KAWAKAMI, MAYOR

MICHAEL A. DAHILIG, MANAGING DIRECTOR

---



Testimony of

**Michael A. Dahilig**

Managing Director, County of Kaua'i

Before the

**Senate Committee on Government Operations and**

**Senate Committee on Water and Land**

February 14, 2022 at 1:10 p.m.

Room 229 and Via Videoconference

In consideration of

**SB 2366**

**Relating to Transportation**

Honorable Chair Moriwaki, Vice Chair Dela Cruz, Chair Inouye, Vice Chair Keith-Agaran, and Members of the Committees:

The County of Kauai **supports** the intent of this measure. The bill addresses long standing issues relating to upkeep and maintenance of roads in limbo across the state. This measure would work toward giving Counties the option to assist communities with health and safety issues with access without fear of constructively taking possession of a road in limbo.

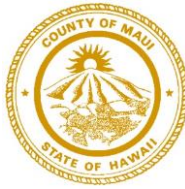
We would also suggest the following language be considered for addition as a subparagraph to the measure:

"Where a county conducts an action to repair or maintain a disputed road, the county and the state shall be immune from civil liability provided the work is conducted in good faith and with the appropriate standard of care."

Thank you for the opportunity to testify on this measure.

Michael P. Victorino  
Mayor

Sananda K. Baz  
Managing Director



**OFFICE OF THE MAYOR**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov](http://www.mauicounty.gov)

February 14, 2022

TESTIMONY OF MICHAEL P. VICTORINO  
MAYOR  
COUNTY OF MAUI

BEFORE THE SENATE COMMITTEE ON WATER AND LAND AND THE SENATE  
COMMITTEE ON GOVERNMENT OPERATIONS  
Tuesday, February 14, 2022, 1:10 P.M.  
House Conference Room via Videoconference

**SB2366, RELATING TO TRANSPORTATION**

Honorable Lorraine R. Inuoye, Chair (WAL)  
Honorable Sharon Y. Moriwaki, Chair (GVO)  
Honorable Gilbert S.C. Keith-Agaran, Vice Chair (WAL)  
Honorable Donovan M. Dela Cruz, Vice Chair (GVO)  
Honorable Members of the Senate Committee on Water and Land and the Senate  
Committee on Government Operations

-----  
Thank you for this opportunity to testify in **SUPPORT** of **SB2366**, relating to  
transportation.

This bill addresses the issues relating to maintenance of roads in limbo across  
the state and would allow Counties the option to assist communities, with health  
and safety issues, without being forced to take possession of a road in limbo.

I urge you to consider language that would give immunity to the state and county  
for maintaining or repairing a disputed road where work is conducted in good  
faith and with the appropriate standard of care.

Thank you for the opportunity to testify in **SUPPORT** of **SB2366**.