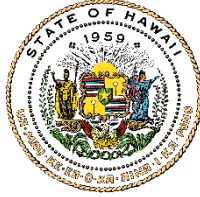


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
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

LATE

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
WATER AND LAND
and
TRANSPORTATION AND CULTURE AND THE ARTS

Tuesday, February 13, 2024
3:00 PM
State Capitol, Conference Room 224 & Videoconference

In consideration of
SENATE BILL 2226
RELATING TO TRAFFIC REGULATION

Senate Bill 2226 proposes to grant counties enhanced authority to impose restrictions on the manner of use of certain streets, highways, thoroughfares, or roadways. **The Department supports this measure and offers the following comments.**

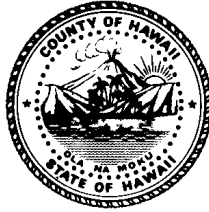
This measure will provide the counties enhanced ability to restrict access to streets, highways, and thoroughfares in their respective counties when necessary to protect the public from hazardous conditions or potentially impact sensitive natural or cultural resources. The measure provides mechanisms, via the conducting of public hearings, to ensure necessary public input is solicited prior to actions taken.

For vehicular purposes, the counties should have the flexibility to regulate their own roads, and we appreciate the commitment to consult DLNR and conduct public hearings prior to approval.

We further offer that pedestrian access across such roads should be exempt from this legislation. Pedestrian access is a constitutional right to public lands/waters/resources (as well as to Kuleana parcels) in addition to being a customary and traditional practice. Pedestrian access, such as on any other public lands, are conducted at the users' own risk. If there is some extreme danger, a temporary closure/restriction can be implemented through emergency proclamation, as the law currently allows.

Mahalo for the opportunity to testify on this measure.

HEATHER L. KIMBALL
COUNCIL CHAIR
Council District 1 (North Hilo,
Hāmākua, and portion of Waimea)



Phone: (808) 961-8828
Fax: (808) 961-8912
Email: Heather.Kimball@hawaiicounty.gov

HAWAI‘I COUNTY COUNCIL

25 Aupuni Street, Ste. 1402.
Hilo, Hawai‘i 96720

February 9, 2024

Senate Committee on Water and Land
Honorable Senator Lorraine R. Inouye, Chair
Honorable Senator Brandon J.C. Elefante, Vice Chair

Senate Committee on Transportation and Culture and the Arts
Honorable Senator Chris Lee, Chair
Honorable Senator Lorraine R. Inouye, Vice Chair

RE: **Support of SB 2226**

Dear Chair Inouye, Vice Chair Elefante, Chair Lee, Vice Chair Inouye, and Members of the Committee on Water and Land and the Committee on Transportation and Culture and the Arts:

As the Chair of the Hawai‘i County Council, I thank you for the opportunity to submit **testimony in SUPPORT of SB 2226**, relating to traffic regulation. This legislation would authorize the counties to adopt ordinances to managed access to certain streets, highways, thoroughfares, or roads in the best manner to protect health and safety, and environmentally and culturally sensitive areas for their unique and specific island communities.

Waipi‘o Vally Road in my district of Hawai‘i Island was originally a donkey trail. It was developed into a narrow, cliff hugging road by the sugar plantation. When the plantation went under, this sub-standard road was conveyed to the county and is now a public road. Waipi‘o Valley Road is said to be the steepest rural road in the country, with some area of grades approaching 45%, yet before the pandemic the number of vehicles per day using this road topped 500 and the number of pedestrians using the reached as high as 350. Many of these folks were visitors, who had no idea of the road’s dangers, nor did they understand that the bottom of the valley is all private land.

I bring up this specific example to illustrate the desperate need of the counties to be able to develop management plans for access of these types of roadways. In this particular case, the community has been working for decades on a way to manage access. When they saw the success of the Hanea model on Kaua‘i, they were hopeful for a similar program here. After several consultations with our legal advisors, we concluded that we needed the help of the legislature to enable the county to create such a program.

Hawai‘i County is an Equal Opportunity Provider and Employer.

Chair Inouye and Vice-Chair Elefante
Chair Lee and Vice-Chair Inouye
February 9, 2024
Page 2

I will say that I think this bill may still need some refinement. This is not an authority that we in the counties plan to use widely, so we are supportive of any amendments that would limit the scope of the authority as the legislature deems necessary to protect the interests of the public.

There may also be the need to define some of the terms included in the current draft of the bill. We are more than willing to work on those amendments with the legislature as well.

I do urge that this committee continue to improve and move SB2226 through the legislative process. I am certain we can come to a final bill that will be amenable to all involved. Thank you for the opportunity to submit this testimony. If you would like to discuss my knowledge of this matter further, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Heather Kimball".

HEATHER L. KIMBALL

Council Chair
Alice L. Lee

Vice-Chair
Yuki Lei K. Sugimura

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Tom Cook
Gabe Johnson
Tamara Paltin
Keani N.W. Rawlins-Fernandez
Shane M. Sinenci
Nohelani U'u-Hodgins



Director of Council Services
David M. Raatz, Jr., Esq.


Deputy Director of Council Services
Richelle K. Kawasaki, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 12, 2024

TO: The Honorable Senator Chris Lee, Chair, and
Members of the Senate Committee on Transportation and Culture and the
Arts

The Honorable Senator Lorraine R. Inouye, Chair, and
Members of the Senate Committee on Water and Land

FROM: Alice L. Lee
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 13, 2024; TESTIMONY IN SUPPORT OF
SB2226, RELATING TO TRAFFIC REGULATION**

The Maui County Council **supports** this measure to authorize each county to adopt ordinances restricting the use of streets, roads, thoroughfares and highways that are hazardous or may impact sensitive areas.

This measure is in the Hawai'i State Association of Counties' 2024 Legislative Package, which the Maui County Council voted to support; therefore, I offer this testimony on the Council's behalf.

The County Council supports this measure for the following reasons:

1. Empowering counties to regulate or restrict access to hazardous streets will promote public safety.
2. Empowering counties to regulate or restrict access to private streets when necessary to protect sensitive areas, such as endangered species' habitat, cultural, and archaeological sites will further the State's environmental goals.

Thank you for your consideration.

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Ross Kagawa



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 9, 2024

TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
SB 2226, RELATING TO TRAFFIC REGULATION
Senate Committee on Water and Land
Senate Committee on Transportation and Culture and the Arts
Tuesday, February 13, 2024
3:00 p.m.
Conference Room 224
Via Videoconference

Dear Chair Inouye, Chair Lee, and Members of the Committees:

Thank you for this opportunity to provide testimony in SUPPORT of SB 2226, Relating to Traffic Regulation. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of SB 2226, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of SB 2226. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

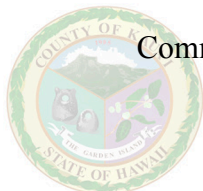
ADDISON BULOSAN
Councilmember, Kaua'i County Council

AAO:ss



**Testimony of the
Hawai'i State Association of Counties
S.B. No. 2226**

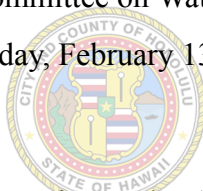
Relating to Traffic Regulation



Committee on Transportation and Culture and the Arts

Committee on Water and Land

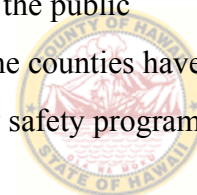
Tuesday, February 13, 2024, 3 p.m.



The Hawai'i State Association of Counties (HSAC) supports S.B. 2226, which authorizes the counties by ordinance to regulate or restrict access to a street, highway or roadway that is known to be hazardous or hazardous under certain conditions; or which may have a negative impact on a sensitive area such as the critical habitat for a threatened or endangered species or lands containing cultural or archaeological resources.

Although chapter 286 authorizes the governor to determine when it is in the public interest to delegate highway safety programs to the counties, we maintain that the counties have the highway safety and knowledge of local conditions to determine the highway safety programs that should be implemented.

For these reasons, the Hawai'i State Association of Counties strongly supports S.B. 2226 and requests your favorable consideration of this measure.



Aloha Chairs and Members of the Senate Transportation and Culture and the Arts and Water and Land Committees:

SUBJECT: Objections to SB 2226 Relating to Traffic Regulation

SB 2226 is part of the HI State Association of Counties' legislative package, and seeks to give all counties, statewide, the authority to restrict and regulate county-owned streets, highways, thoroughfares and roadways in the interests of public safety, and of protecting lands deemed sensitive due to the presence of critical habitat for threatened or endangered species, or lands containing cultural or archaeological sites or resources.

As written, the bill is too-broad, all-encompassing, and utilizes poorly defined terms. Even Hawai'i County's letter of support correctly points out that "the bill may still need refinement" and there may be a "need to define some of the terms included" in the draft bill. While potentially beneficial for management of roads like the problematic and hazardous Waipi'o Valley Road, the bill's provisions would apply to county-owned roads, statewide. I have major concerns and questions about the way the bill is worded:

- Do the "streets, highways, thoroughfares, or roads" include the so-called "Roads in Limbo" and "Paper Roads" which are numerous, publicly owned strips of land that the counties often do not accept responsibility for and are allowing private parties to lock up?
- When the bill says "Relating to Traffic Regulation," what modes of traffic does that include? Pedestrian?
- What kinds of liability concerns by the counties will justify closures to pedestrian traffic in the interest of public safety?
- What kinds of environmental, cultural or archaeological sites or resources would rise to the level of justifying control or closure under this law?
- Would a single public hearing and a single consultation with specified government agencies be sufficient to understand and reveal all relevant concerns?

To be clear, I'm not questioning the counties' need to manage their streets, highways, thoroughfares, and roads in the interests of public safety and to protect sensitive resources. However, what should be the burden of proof that conditions/resources exist to justify restrictions, i.e., how are "hazardous or hazardous under certain conditions" and "cultural or archaeological sites or resources" defined?

My experience as a long-time advocate of pedestrian public access is that the county and state have no difficulty regulating and closing certain public paths, lanes, and paper roads to pedestrian use with minimal justification. Here are just two recent examples from my district:

- Botelho Lane in Honoka'a town was granted to and accepted by the county in 1934. It is little more than 500-feet in length and largely on level ground. Although a community group offered to maintain the lane in 2018, the county has used "liability" as justification

for not working with the community to open what appears to be a non-hazardous public path.

- In 2022 a community group requested meetings in writing with the county and state to discuss the potential of opening a network of “paper roads” in Hāmākua District to pedestrian use. No response was received from either public agency.

I strongly oppose SB 2226 in its present form, as it supports counties statewide in their current practice of using vaguely defined liability and cultural and environmental concerns to justify continued closure of publicly owned pathways that could be considered for pedestrian purposes.

Mahalo for considering my testimony,

Deborah L. Chang

Resident of Pa‘auilo, Island of Hawai‘i