



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 1361, S.D. 2, H.D. 1, RELATING TO BANYAN DRIVE.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Monday, April 1, 2013

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): David M. Louie, Attorney General, or
Donna H. Kalama, Deputy Attorney General

Chair Luke and Members of the Committee:

The Attorney General provides the following comments.

This bill establishes the Banyan Drive Community Development Board (Board) as a policy-making board to advise the Department of Land and Natural Resources on issues regarding the restoration and management of the Banyan Drive area of Hilo, Hawaii. The powers and duties of the Board include recommending legislation and policies to prevent deterioration of existing facilities in the Banyan Drive area and preparing recommendations for a development plan for the area.

The bill does not define "Banyan Drive area." Thus, the scope of the Banyan Drive Development Board's powers and duties is not clear. This could lead to difficulty and confusion in the implementation of the bill.

Moreover, even if the term "Banyan Drive area" were defined, the defined area would likely extend beyond the confines of Banyan Drive itself. This raises the concern of whether any amendment to this bill to define "Banyan Drive area" would meet the requirements of article III, section 14, of the Hawaii Constitution, which provides that "[e]ach law shall embrace but one subject, which shall be expressed in its title." The title of this bill is "Banyan Drive." The subject of this bill is the establishment of a development board for the "Banyan Drive area." Based on this bill and prior versions of this bill, we understand that the intent of this bill is to reach beyond Banyan Drive itself to other areas near or adjacent to Banyan Drive, including certain leased State lands. Thus, part of the content of this bill probably is not within the

generally understood meaning of the subject expressed in its title and may violate article III, section 14, of the Hawaii Constitution.

We recommend that this bill be amended to address the above comments.