

# SB 1361

## SB1361

Measure Title: RELATING TO BANYAN DRIVE.

Report Title: Banyan Drive; County of Hawaii; Transfer

Description: Requires, upon execution of an executive order by the governor, Banyan Drive in Hilo to be turned over by the department of land and natural resources to the county of Hawaii on 1/1/14.

Companion:

Package: None

Current Referral: WTL/PSM, WAM

Introducer(s): SOLOMON, Dela Cruz

<u>Sort by Date</u>		Status Text
1/24/2013	S	Introduced.
1/28/2013	S	Passed First Reading.
1/28/2013	S	Referred to WTL/PSM, WAM.
2/1/2013	S	The committee(s) on WTL/PSM has scheduled a public hearing on 02-05-13 1:45PM in conference room 225.

**S** = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment  
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committees on  
WATER AND LAND  
and  
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**

**Tuesday, February 5, 2013  
1:45 PM  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 1361  
RELATING TO BANYAN DRIVE**

Senate Bill 1361 proposes to require, upon execution of an executive order by the Governor, that Banyan Drive in Hilo be turned over by the Department of Land and Natural Resources (Department) to the County of Hawaii. The Department offers the following comments.

The Department notes that the bill is vague in that it does not specify the location of the Banyan Drive to be turned over to the County. If the bill is referring to Banyan Drive passing through Hilo's waterfront hotel area and connecting Lihwai Street to Hawaii Belt Road (Banyan Drive 1), then this Banyan Drive 1 was conveyed to the County of Hawaii by the State of Hawaii on July 16, 1969 under Land Office Deed No. S-25,838.

If, on the other hand, the bill refers to the Banyan Drive abutting the Ocean View Lease Lots and shown on the map on page 2 of this testimony, which is a portion of Tax Map Key: (3) 2-1-07: (Banyan Drive 2), then the Department believes that this road is already under the County's jurisdiction to the extent the road is used as a public highway. Pursuant to Chapter 264, Hawaii Revised Statutes (HRS), Highways, all public highways in the State are either state highways or county highways. The Department does not maintain public highways, and lands "being used as roads and streets" are expressly excluded from the definition of public lands that the Department manages. See Section 171-2(3), HRS. To the Department's knowledge, Banyan Drive 2 is not on the inventory of state highways for Hawaii Island. Furthermore, for any road whose ownership is disputed, Act 288, Session Laws of Hawaii 1993, resolved the ownership issue. Act 288 states in relevant part:

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ESTHER KIA'AINA**  
FIRST DEPUTY

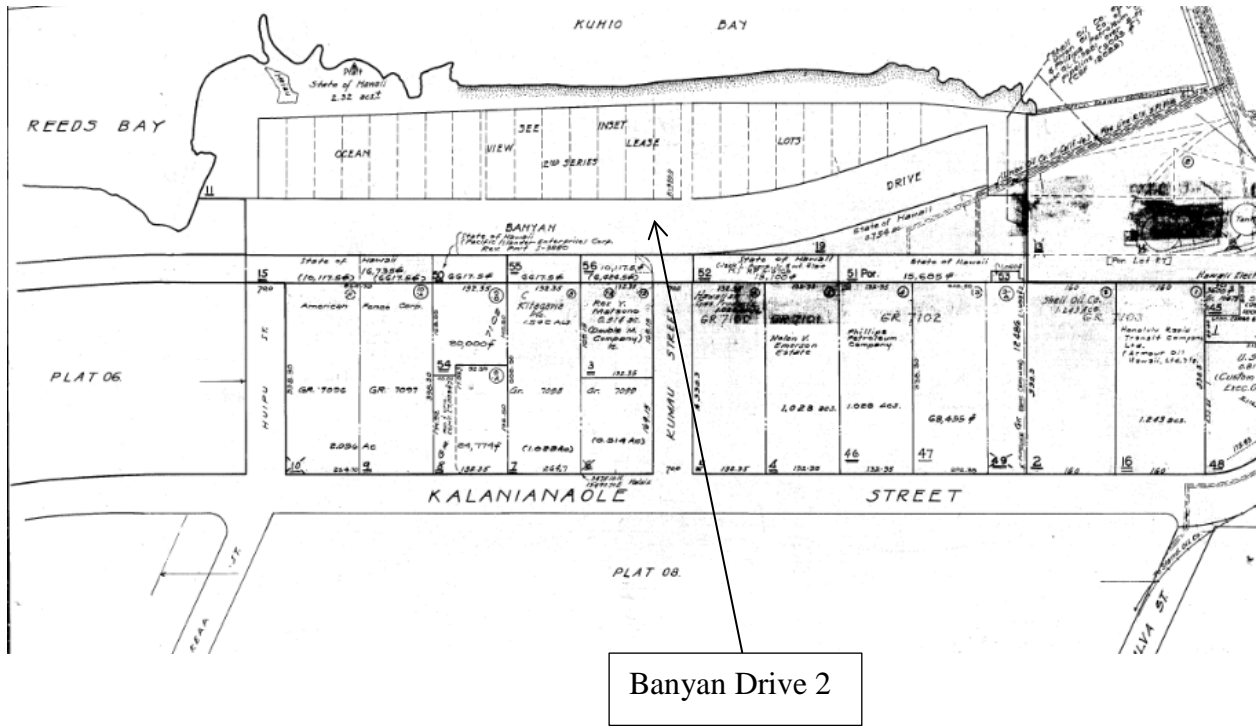
**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

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

In consideration of the State waiving its rights to have the proceeds from the sale of county public highways remitted to the State, the counties shall acknowledge ownership and jurisdiction of all disputed public highways within their respective counties, as defined in section 264-1, Hawaii Revised Statutes, without the necessity of conveyancing documents transferring title from the State to the respective counties, except when required for the purpose of the disposal.

“Disposal” as used in Act 288 contemplates the further conveyance of a road from a county to a private party, such as in the sale of a road remnant. In light of the passage of Act 288, the Department respectfully submits that there is no need for any conveyance, by executive order or otherwise, of Banyan Drive 2 to the County of Hawaii.

Thank you for the opportunity to testify.



# HAWAIIAN AFFAIRS CAUCUS

## DEMOCRATIC PARTY OF HAWAII

1050 ALA MOANA BLVD D-2150, HONOLULU, HI 96814

### LEGISLATIVE TESTIMONY

SENATE COMMITTEES ON WATER/LAND &  
PUBLIC SAFETY/MILITARY AFFAIRS

HEARING: Rm.225 2/05/2013 1:45 PM

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#### **SB1361 – RELATING TO BANYAN DRIVE POSITION: OPPOSITION**

The Hawaiian Affairs Caucus of the Democratic Party of Hawaii is submitting testimony in **STRONG OPPOSITION to SB1361** that requires upon execution of an Executive Order of the Governor of the State of Hawaii, Banyan Drive in Hilo to be turned over by the Department of Land and Natural Resources to the County of Hawaii on 1/1/14.

The Native Hawaiian Community of this state as well as other residents of Hawaii have voiced opposition currently and in the past to any law circumventing legislative approval of any public or ceded land transfer or sale.

**SB1361 Relating to Banyan Drive** takes land currently under title of the Department of Land and Natural Resources and gives it to the County of Hawaii (Island) without compensation or exchange to the State of Hawaii, thus reducing the inventory of state public lands. Though the intent of this bill is to provide for home rule of the County of Hawaii as to determine the future of this area in Hilo, other municipalities may feel this to be their right as well and may encourage other counties in the State of Hawaii to follow suit.

With this said, it is our opinion that this law is not good for Hawaii, and undermines the intent of prohibiting any further unlawful taking or selling of state lands.

For these reasons, we the Hawaiian Affairs Caucus of the Democratic Party of Hawaii stand in **strong opposition** to this bill.

‘O ia iholā nō me ke aloha.