

SB 2728

Clarifies that the legislature has the authority
to determine a public trail.

Date - Time:
2/4-08:32

NEIL ABERCROMBIE
GOVERNOR



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

February 6, 2014
1:16 pm
State Capitol, Room 224

S.B. 2728
RELATING TO HIGHWAYS

Testimony of
GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:
(808) 586-2165

Senate Committee on Transportation and International Affairs

The Department of Transportation (DOT) **supports** this bill with reservations, as it will specifically give the legislature the authority to determine what are public trails and amending Section 264-1, Hawaii Revised Statutes.

We are concerned with the liability and maintenance consequences of certain roads that may be dispute in terms of jurisdiction, ownership and how trails and other non-vehicular rights-of-way in the State would be determined to be public rights-of-way pursuant to the Highway Act of 1982.

Thank you for the opportunity to provide testimony.

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 Committee on
TRANSPORTATION AND INTERNATIONAL AFFAIRS

Thursday, February 6, 2014
1:16 PM
State Capitol, Conference Room 224

In consideration of
SENATE BILL 2728
RELATING TO HIGHWAYS

Senate Bill 2728 proposes to amend Section 264-1, Hawaii Revised Statutes (HRS), to grant the Legislature the authority to determine a public trail. **The Department supports the intent of this bill and recommends the following amendments.**

HRS Section 264-1 places public trails under the jurisdiction of the Board of Land and Natural Resources ("BLNR"). Currently, public trails are declared by deed of conveyance naming the State as grantee that is subject to acceptance by the BLNR pursuant to HRS Section 264-1(c)(1). This measure as currently drafted would serve to deprive the BLNR of its discretion and authority to declare a public trail while still leaving the BLNR with jurisdictional responsibility over the public trail. Pursuant to Chapter 171, HRS, the BLNR has the management authority over all public lands, including the authority to approve acquisitions, dispositions, exchanges, sales and set asides to other government agencies. To remain consistent with Chapter 171, HRS, the Department respectfully suggests that the measure be revised to amend HRS Section 264-1 subsections (b) and (c)(2) to require acceptance by the BLNR as similarly already required in subsection (c)(1).

"(b) All trails, and other nonvehicular rights-of-way in the State declared to be public rights-of-ways by the Highways Act of 1892, or opened, laid out, or built by the government or otherwise created or vested as nonvehicular public rights-of-way at any time thereafter, or in the future, are declared to be public trails[-], and subject to being accepted by the board of land and natural resources. A public trail is under the jurisdiction of the state board of land and natural resources unless it was created by or dedicated to a particular county, in which case it shall be under the jurisdiction of that county.

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
KAIHOO LAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

(c) All roads, alleys, streets, ways, lanes, trails, bikeways, and bridges in the State, opened, laid out, or built by private parties and dedicated or surrendered to the public use, are declared to be public highways or public trails as follows:

- (1) Dedication of public highways or trails shall be by deed of conveyance naming the State as grantee in the case of a state highway or trail and naming the county as grantee in the case of a county highway or trail. The deed of conveyance shall be delivered to and accepted by the director of transportation in the case of a state highway or the board of land and natural resources in the case of a state trail. In the case of a county highway or county trail, the deed shall be delivered to and accepted by the legislative body of a county.*
- (2) Surrender of public highways or trails shall be deemed to have taken place if no act of ownership by the owner of the road, alley, street, bikeway, way, lane, trail, or bridge has been exercised for five years and when, in the case of a county highway, in addition thereto, the legislative body of the county has, thereafter, by a resolution, adopted the same as a county highway or trail. The deed of conveyance shall be delivered to and subject to being accepted by the director of transportation in the case of a state highway or the board of land and natural resources in the case of a state trail.*

In every case where the road, alley, street, bikeway, way, lane, trail, bridge, or highway is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law, the legislative body of the county shall accept the dedication or surrender of the same without exercise of discretion."



SB2728
RELATING TO HIGHWAYS

Senate Committee on Transportation and International Affairs

February 6, 2014

1:16 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2728, which seeks to require legislative approval before lands established as public trails pursuant to the Highways Act of 1892 are recognized as public trails.

Public trails established under the Highways Act of 1892 are “ceded” lands, which must be maintained by the state pending the resolution of Native Hawaiian claims to these lands. As recognized by the Legislature on numerous occasions, including most recently via House Concurrent Resolution No. 6 of the 2013 Regular Session, “ceded” lands are those “one million eight hundred thousand acres of crown and government lands . . . ceded to the United States without the consent or compensation to the Native Hawaiian people or their sovereign government,” as a result of the 1893 illegal overthrow of the Hawaiian Kingdom and the subsequent annexation of Hawai‘i into the United States. Given the recognition that “the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land,” that “the Native Hawaiian people are determined to preserve, develop, and transmit to their descendants, both their ancestral lands and their cultural identity” and that “once any ceded lands are alienated, they will be gone forever,” the state has agreed to refrain from disposing of any such ceded lands or other public lands without a two-thirds supermajority approval by the legislature.¹ Public trails established as public lands with the enactment of the 1892 Highways Act, whether formally recognized at that time or on a subsequent date, were part of the land and property interests ceded to the United States as a result of the 1893 overthrow; accordingly, the state has a moral obligation to identify, protect and maintain these public trail lands as part of the ceded lands corpus.

Requiring legislative approval to recognize public trails automatically established as public trails under the 1892 Highways Act may result in confusion regarding the status of these ceded lands, and legal challenges resulting in the loss of such lands. By amending the statutory recognition of the 1892 Highways Act in HRS §264-1, this bill may result in confusion as to whether and how currently unrecognized public trails automatically established as public lands (and ceded lands) pursuant to the 1892 Highways Act may now be recognized as such. While OHA maintains that these public

¹ See House Concurrent Resolution No. 6 (Reg. Sess. 2013); Act 176 (Reg. Sess. 2009). Note that there is an exception to the supermajority approval requirement for the disposal “remnants,” as defined under section 171-52, HRS.

trail lands would remain part of the ceded lands corpus regardless of whether or not this bill passes, legal challenges brought by landowners encouraged by such a law may result in the state disclaiming ownership of what should be considered ceded lands, such as through legal settlements, without legislative approval or public transparency. Similarly, the state may choose to refrain from asserting its claims to what should be considered public trails, but which fail to receive the legislative recognition required under this measure. Such outcomes would be an abdication of the state of its responsibility to maintain the ceded lands corpus, without the accountability and transparency normally required in the disposal of ceded and other public lands.

In addition, OHA notes that any loss of the public character of trails that occur as a result of this bill may impact both Native Hawaiian cultural practitioners as well as the general public, who may wish to use these trails for cultural, subsistence or recreational purposes. Native Hawaiian cultural practitioners often rely on trails, both ancient and new, to access cultural sites and to otherwise engage in constitutionally-protected Native Hawaiian traditional and customary practices. Trails also provide substantial economic, subsistence and recreational benefit to the people of Hawai‘i generally, with countless residents and visitors using our trails for hunting, gathering and recreational purposes. The timeless significance of trails to Native Hawaiians and to the people of Hawai‘i is reflected in one of the first laws of the Hawaiian Kingdom, as pronounced by King Kamehameha the Great via the Kānāwai Māmalahoe (i.e. the Law of the Splintered Paddle, assuring safety for all who lie by the roadside), and in the 1892 Highways Act itself, which was one of the final acts of Queen Lili‘uokalani as the last reigning monarch of Hawai‘i. The fact that both of these pronouncements continue to be recognized in law today further emphasizes the need to recognize and protect all of our public trails, for the benefit of both Native Hawaiians and all the people of Hawai‘i nei.

Accordingly, OHA urges the committee to **HOLD** SB2728. Mahalo for the opportunity to testify on this important matter.

COUNTY COUNCIL

Jay Furfaro, Chair
Mason K. Chock, Sr., Vice Chair
Tim Bynum
Gary L. Hooser
Ross Kagawa
Mel Rapozo
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OFFICE OF THE COUNTY CLERK

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

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

February 5, 2014

**TESTIMONY OF TIM BYNUM
COUNCILMEMBER, KAUA'I COUNTY COUNCIL**

**ON
SB 2728, RELATING TO HIGHWAYS
Committee on Transportation and International Affairs
Thursday, February 6, 2014
1:16 p.m.
Conference Room 224**

Dear Chair English and Committee Members:


I would like to submit this testimony in **opposition to SB 2728**, relating to highways. My testimony is submitted in my capacity as a Councilmember of the Kaua'i County Council.

SB 2728 intends to give the legislature the authority to determine a public trail. However, the Highways Act of 1892 is a very important bedrock of the law in Hawai'i. It was one of the last acts of Queen Liliuokalani, and was meant to protect the public's right of access to Hawai'i's ancient trail system. If it were to be modified in the proposed manner, it would basically strip any protection that the Highways Act was intended to provide for the public. Ultimately, the state would potentially lose a vast amount of public lands, much of which will be claimed by large landowners, and never to be accessed by the public in the future.

In addition, I recommend that the Committee question and understand why this change would be an improvement, and why this measure applies retroactive to January 1, 2011.

For the reasons stated above, I respectfully request that the Committee defer this measure indefinitely. Again, thank you for this opportunity to submit my testimony.

Sincerely,


TIM BYNUM
Councilmember, Kaua'i County Council

AB:mn

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 4:11 PM
To: TIATestimony
Cc: davidhbrown@hawaiiantel.net
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
DAVID HENDERSON BROWN	PUBLIC ACCESS TRAILS HAWAII	Oppose	No

Comments: HI COMMITTEE, **SB 2728** MUST BE DEFEATED. 1. This bill gives the legislature the right to DETERMINE ALL TRAILS under the Highways Act of 1892. This takes the power from the executive and gives it to the legislative, WHICH BENEFITS one single land owner in the state of Hawaii which is Haleakala Ranch. 2. This bill is RETROACTIVE to 01 January 2011 which is eleven days BEFORE Public Access Trails Hawaii sued Haleakala Ranch to open up Haleakala Trail. 3. This lawsuit of PATH vs. Haleakala Ranch will be tried starting 17 March 2014. Haleakala Ranch must have this bill to stop the trial. 4. If you do pass this bill out of committee, please title it the "HELP HALEAKALA RANCH AND KILL HALEAKALA TRAIL BILL." I believe in truth in advertising. Responsible Adults will OPPOSE THIS BILL. For 50 Years American tobacco companies said smoking does not cause cancer. It does. For 25 years, the National Football League said that football does not cause brain injuries. It does. For 20 years, Haleakala Ranch has said that there is NO Haleakala Trail. THERE IS. HAPPY TRAILS, DAVE BROWN Executive Director Public Access Trails Hawaii

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TOM PIERCE
tom@maulandlaw.com

PETER N. MARTIN (Of Counsel)*
peter@maulandlaw.com

February 5, 2014

Committee on Transportation and
International Affairs

*Re: SB 2728 Opposition Testimony to Proposed Amendment to
Highways Act of 1892*

Dear Chairman English and Senators:

I represent Public Access Trails Hawai'i (PATH), a Hawai'i, 501(c)(3) nonprofit with the mission of building community ties by connecting people and places through trails, urban paths and bikeways.

Please do not pass Senate Bill 2728 out of the Committee on Transportation and International Affairs (TIA). The proposed amendment is unconstitutional, ambiguous and essentially throws into question 122 years of law and settled jurisprudence that protects Hawai'i's unique and culturally important historic trails and roads. As explained below, there are abundant reasons to reject this proposed amendment.

First, the wisdom of changing a law that has been virtually unchallenged for over 122 years is highly suspect. The Highways Act of 1892, which is currently codified as HRS § 264-1, was one of the last acts enacted by Queen Lili'uokalani before the overthrow of the Kingdom of Hawai'i in 1893. Since that time the Highways Act has created a legal framework for public roadways, and has become a bedrock principle of Hawai'i law. Under HRS § 264-1, ownership of roads and trails are vested in the State until disposed of in accordance with HRS Chapter 171.

Second, the Highways Act of 1892 and HRS § 264-1 unambiguously declare that roads, trails and other thoroughfares *are* public lands. Thus, having a later determination by the legislature, on a case-by-case basis of what already *are* public lands is legally incomprehensible. Among other things, it would violate the established legal

framework of HRS Chapter 171, which mandates how the State shall exchange, transfer, and cede existing public lands. It would also violate the State's public trust obligations set forth in Article, Section 1 of the Hawai'i Constitution. In essence then, this proposed amendment is tantamount to a repeal of the Highways Act of 1892 and 122 years of established Hawai'i legal precedent.

Third, the proposed amendment is unconstitutional under basic separation of powers principles. As drafted, the amendment contemplates vesting the legislative branch with the power of a court, the power of adjudicating on a case-by-case basis what is, or is not, a road or a trail under the Highways Act of 1892 and HRS § 264-1. The legislature does not have the authority to fulfill this kind of adjudicative function. See Article 3, Section of the Hawai'i Constitution. Moreover, even if such an adjudicative function were constitutional, the amendment is ambiguous and does not explain how, or on what authority, the legislative branch would perform its role as a judicial body. Would it hold hearings? Would it follow the rules of evidence and procedure? Would its decisions be appealable? Who could appear before it? Who could initiate adjudication of a trail? Which legislators would have the ability and obligation to serve as the judges?

Fourth, the proposed amendment is also unconstitutional under Article 11, section 5 of the Hawai'i Constitution. It is a "bill of attainder" because it is expressly retroactive to January 1, 2011. It is obvious that the only reason to make it retroactive to January 1, 2011 would be to nullify the class action lawsuit filed by my clients on January 11, 2011, styled as *Public Access Trails Hawai'i, et al. v. Haleakala Ranch Company, et al.*, Civil No. 11-1-0031, which is currently pending in the Second Circuit Court of the State of Hawaii, and is set for trial on March 17, 2014. As you are aware, the last time the legislature tried to help out another large corporation, the Supreme Court struck it down as a bill of attainder. See the Superferry case, *Sierra Club v. Dep't of Transp. of State of Hawai'i*, 120 Hawai'i 181, 206, 202 P.3d 1226, 1251 (2009) (explaining that the bill was "conceived, cut, [and] tailored" for the Superferry).

Fifth, to the extent legislators have concerns that HRS § 264-1 may allow "unfettered" public access to roadways and trails, these concerns are unfounded, and at any rate are not actually addressed by the proposed amendment. A number of very good laws are already in place that provide the State with sufficient power to regulate and restrict public access to public lands, including public roadways. As two examples: HRS Chapter 6E allows the State to take measures to protect and restrict access to historic and cultural sites; and, HRS § 198D-6 allows the State to regulate and restrict the use of public trails, including to protect public safety and to protect endangered habitats.

2/5/2014
PATH opposition to SB 2728
Page 3

TOM PIERCE
ATTORNEY AT LAW
A Limited Liability Law Company

Respectfully, Senate Bill 2728 is unconstitutional, poorly drafted, poorly conceived, and should be rejected.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Tom Pierce". The signature is fluid and cursive, with a large initial "T" and "P".

Tom Pierce
Peter N. Martin (of counsel)

cc: Client



February 4, 2014

Dear Senators:

KAHEA: The Hawaiian-Environmental Alliance is a Hawai'i community based nonprofit organization with over 12,000 supporters for our work to protect Hawai'i's public trust resources and the communities that thrive in them. We are writing to ask this committee **not to pass Senate Bill 2728**.

As you all no doubt know, Hawaii has an amazing legacy of ancient trails that criss-cross the islands. From Maui to Kauai, Mo'i created and protected trails that circumnavigated islands and that provided access and trade routes to all. The Highways Act of 1892 protects these trails and has been a valuable tool for community activists and cultural practitioners to preserve the continuation of open access to trails, including keeping them from being traded in private land exchanges. These trails are not only a vital part of Hawaii's history but key to many current cultural practices. While we respect the wisdom of the Legislature, we also know that interests who do not put the people and the culture first can have great sway. Lands that presently are considered protected by the Highways Act could quickly be removed from the public trust, potentially without any real opportunity for the community to present their opinions and concerns. As such, we ask that this Committee defeat this bill and preserve the trails that are currently protected by the Highways Act.

Thank you for the opportunity to submit this testimony. Should you have any questions, please do not hesitate to contact us.

Mahalo pumehana,

Julia Morgan
Executive Director

PROTECTING

NATIVE HAWAIIAN

CUSTOMARY &

TRADITIONAL RIGHTS

AND OUR FRAGILE

ENVIRONMENT

Mailing Address
P.O. Box 37368
Honolulu, HI 96837

toll-free phone/fax
877.585.2432

www.KAHEA.org
kahea-alliance@hawaii.rr.com

KAHEA: the Hawaiian-Environmental Alliance is a non-profit 501(c)3 working to protect the unique natural and cultural resources of the Hawaiian islands. KAHEA translates to english as "the call."

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 8:50 AM
To: TIATestimony
Cc: rangien2010@yahoo.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Puanani Rogers	Ho`okipa Network - Kauai	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 1:04 PM
To: TIATestimony
Cc: alan.takemoto@monsanto.com
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Takemoto	Monsanto	Support	No

Comments: As a member of the community and a landowner, clarification of the Highways Act of 1892 and the legislature's authority pertaining to the declaration of such trails is of high priority. Please support **SB2728**. Thank you.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:02 AM
To: TIATestimony
Cc: sheasdisc@me.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
shea	Individual	Comments Only	No

Comments: Losing access to historic trails will only impede the perpetuation of the Hawaiian culture. Please allow access on all historic trails that have been used as public travel for the past, the present, and the future. Thank you.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:07 AM
To: TIATestimony
Cc: bonniegoodell@hawaii.rr.com
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie Goodell	Individual	Comments Only	No

Comments: It is my understanding that the Highways Act of 1892 derives from the Mamalahoa of Kamehameha I, which is intended to prevent those in authority from abusing the rights of access of the common people. This is a "property right" of the common people entitling them to peaceful and unchallenged enjoyment of traditional public ways. If that is the case, then wouldn't giving the Legislature authority to determine what is a "traditional" public way contradict the original intent of the Mamalahoa? It may be that some clarification is needed, but if an authority is needed, making it reside in the campaign-fund-hungry legislative branch will make every decision subject to derision.

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Sharon Lum Ho

35

From: Bill Knowlton <bill@jim.nu>
Sent: Wednesday, February 05, 2014 12:14 PM
To: TIATestimony
Subject: Defeat Bill 2728

[Oppose]

Dear Chair English and Senators,

I am sending my testimony as an individual and am representing no one but myself.

1. Judging from Kalani English's past behavior on the Maui County Council in handling the item "Public Access In the Vicinity of Holokai Road Haiku, Maui" I can only begin to tell you how vigorously opposed I am to this Bill 2728.

Mr. English failed to preserve and protect Holokai Rd., a "significant archeological" feature in the Special Management Area.

Mr. English failed to protect Holokai Rd. as a Peahi Hui Partition Road belonging to the County of Maui or follow proper abandonment procedures as specified in Charles Jencks (Deputy Director Public Works) letter to the developer. Mr. English failed to provide "traditional beach fishing access" as required by County, State and Federal law. This road did have a metes and bounds description for it in the prior deeds before it was subdivided with authorization from Maui County. However the metes and bounds description was removed by the surveyor when making his "certified to be truthful" updated metes and bounds perimeter description recorded in the Bureau. (I wonder if this is failure to provide material facts and fraud.)

2. Regarding Mr. Gil Agaran's behavior in the past as Chair of DLNR in 2001 regarding the same road mentioned above I can only conclude that he as a legislator is not capable of understanding the situation and making the correct decision. This is based on the fact that he wrote 2 letters on my behalf to the County of Maui requesting clarification about the lack of ocean access in the vicinity of Holokai Rd. Even to this day there is no "dedicated" ocean access. But my point here is that Mr. Agaran also wrote that the road in question (Holokai) is not a County owned road because the County only accepted roads with metes and bounds descriptions. How convenient for him to write that considering that the metes and bounds description for the road had already been deleted (fraud ?) by the surveyor as explained above.

What Mr. Agaran didn't understand at the time is that the SMA Permit conditions recorded in the Bureau of Conveyances as Doc. No. 92-195727 recorded for the subdivision state in Exhibit A that the "property is subject to old roads and trails on 2 of Valera's maps. So despite Mr.

Agaran's conclusions it appears that all the buyers in that subdivision own clouded properties subject to those roads. And those roads still appear to be in the public domain because there is no such thing as adverse possession against the sovereign (government.) And why wasn't the Final Subdivision Plat ever recorded by the developer or County? The vicinity map on the plat also shows this road. Isn't the map a "material fact" that should be disclosed?

3. This bill appears to be fatally flawed because I don't see how you can impose conditions/laws retroactively. I don't see how this bill benefits the public. And I really don't think you can write a bill which benefits the Haleakala Ranch Co. which is currently in litigation over the ancient road from Makawao to Kaupo. (If this lame bill does pass how soon will it be before you make a determination in favor of the Ranch?) Stop interfering with the administrative and judicial branches of government. Stop writing stupid bills and start doing something good for the Native Tenants of this land, the general public, and start protecting the old roads and trails that the state is mandated to protect.

Don't you dare pass this illegal, irresponsible outrageous crap.
Bill.

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 11:10 AM
To: TIATestimony
Cc: tamei.cannon@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
T. Cannon	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no. Mahalo nui loa.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 1:22 PM
To: TIATestimony
Cc: jdm_kaitaiya@yahoo.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Jesse Sapp	Individual	Oppose	No

Comments: I do not feel this bill should be passed. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no. Think about our future generations not being able to access the places we grew to love.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 8:44 AM
To: TIATestimony
Cc: captainbill@hawaiianflash.net
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
William George	Individual	Oppose	No

Comments: What we do not need is further restriction of access to ancient trails. This bill puts the conditions of access in the hands of those who have the financial means to lobby against it. It is time to think of the people of Hawaii instead of catering to financial interests.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 10:52 AM
To: TIATestimony
Cc: jamonless@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Andres Gonzalo Alvo	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 10:32 AM
To: TIATestimony
Cc: krobbins@hawaii.edu
Subject: *Submitted testimony for SB2728 on Feb 6, 2014 13:16PM*

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Robbins	Individual	Oppose	No

Comments:

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:24 PM
To: TIATestimony
Cc: tmkeathley@me.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014
Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Toby Keathley	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 9:28 AM
To: TIATestimony
Cc: hedrickhneca@aol.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Hannah Hedrick	Individual	Oppose	No

Comments: Dear Senators: Please respect the wishes of citizens of the State of Hawaii by **not passing Senate Bill 2728** out of this committee. Why would the legislature wish to eliminate a basic principle of Hawaii law that reflects current thinking as expressed through various "community development" processes that give residents an opportunity to provide input to their elected officials? The plans resulting from this process emphasize the importance of respecting the tradition that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. I don't understand the impetus for or the logic behind the proposed amendment to the Highways Act of 1892, which has worked for 122 years. Why would legislators lead in efforts to dispose of vast amounts of public lands in a way that would eliminate Hawaii's ancient trail system? Please think about the motives behind this amendment and vote no. Respectfully, Hannah Hedrick
Fern Forest Hawaii Island

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 8:02 AM
To: TIATestimony
Cc: jeannine@hawaii.rr.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Johnson	Individual	Oppose	No

Comments: Please excuse me if I do not trust our legislators to do the right thing when it comes to the public's rights of way. But your track record of backroom dealings and self-promotion have made everyone, not just environmentalists, native Hawaiians and community activists, leery of political maneuvers such as this. Please vote no on SB2728 and keep decision making of our public rights of way with the DLNR. Mahalo.

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 7:04 AM
To: TIATestimony
Cc: uluching@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Moana Ching	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

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To: TIATestimony
Cc: tattouguy@gmail.com
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

[oppose]

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Nelsen	Individual	Comments Only	No

Comments: I oppose sb2728. It will lead to limiting access in many places. Only rich land owners can benefit from the passing of this bill.

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 6:40 AM
To: TIATestimony
Cc: phylispierce@hotmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Phylis Pierce	Individual	Oppose	No

Comments: PLEASE VOTE NO ON SENATE BILL 2728. Please do not vote to amend the Highway Act of 1892. To do so, would create great harm to the public by depriving them of valuable public resources. This is a blatant attempt by Haleakala Ranch and other large landowners to deprive the public of historic, often sacred, trails which are part of their heritage. Once turned over to private landowners (many are private corporations with no real ties to the islands), those resources will never again be available to the public who own them. People throughout the world visit Hawaii to see its natural, unspoiled scenery and walking these ancient trails is one of the important reasons they visit. Further, these trails are a birthright to the Hawaiian citizens and to legislate them into private hands would result in incomparable loss. I trust that all of you will see the wisdom of voting no on the legislation to amend the Highway Act of 1892. Thank you for your consideration of my remarks.

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 5:15 AM
To: TIATestimony
Cc: katlevan@me.com
Subject: *Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM*

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Katherine LeVan	Individual	Oppose	No

Comments:

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 9:15 AM
To: TIATestimony
Cc: lpc@lahainamaui.com
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Lawrence P. Carnicelli	Individual	Oppose	No

Comments: Dear Senators: I am writing to express my opposition to Senate Bill 2728 and that you not pass this bill out of your committee. The proposed amendment to the Highways Act of 1892 was (very obviously) written by big land owners and would eliminate a basic principle of Hawaii law—that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, has many unintended consequences and would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii’s ancient trail system would potentially be eliminated forever. Please vote no. Mahalo, Lawrence P. Carnicelli Pukalani, HI

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 9:15 AM
To: TIATestimony
Cc: kimberlyushermauirainbow@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Kimberly Usher	Individual	Oppose	No

Comments: I am too angry to make any comments that would make sense... REMEMBER these names...Introduced by: ENGLISH, ESPERO, GABBARD, KIDANI, RUDERMAN, Baker, Dela Cruz, Galuteria, Ige, Kahele, Keith-Agaran, Kouchi, Nishihara, Shimabukuro, Slom, Solomon, Taniguchi. Just like yesterday when we all had to show up in Oahu, call or email against a bill that would override #HOMERULE, and give the "state" power over each county, esp. the new bills we are making to control bio-tech pesticide and GMO experimentation that is destroying our reefs, causing illness and birth defects, destroying the A'ina. We stopped it, or rather it was so ridiculous we only had to guide it over a cliff. SNEAKY... DO NOT PASS THIS BILL, and YOU KNOW WHY!

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 9:06 AM
To: TIATestimony
Cc: bdiscoe@gmail.com
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Ben Discoe	Individual	Oppose	No

Comments: Please do not pass Senate Bill 2728 out of this committee. We desperately need legislation to strengthen, NOT weaken, the right of the public to mauka-makai trail access across Hawaii. As a Hawaii landowner, I would welcome public trail access on my land, and larger landowners should not be able to evade this basic right.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 9:10 AM
To: TIATestimony
Cc: dannygr@hawaiiintel.net
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Grantham	Individual	Oppose	No

Comments: Bad idea! A dangerous piece of legislation that will negatively impact public access rights of all. This bill only benefits private interests at the expense of the people. If this passes, will make a mockery out of the Highways Act of 1892. It is also tailor-made to nullify the Haleakala Trail case on Maui (note that it is retroactive to Jan. 1, 2011). The Highways Act is a very important bedrock of the law in Hawaii. It was one of the last acts of Queen Liliuokalani, and it was meant to protect the public's rights of access. If it were to be modified in the proposed manner, it would basically gut any protection that the Highways Act was intended to provide.

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 9:14 AM
To: TIATestimony
Cc: 2kimino@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
kimberly ino	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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SB2728

[oppose]

Aloha!

As a member of the Ahualoa Community Association, the ACA Path Committee, the Hamakua Agricultural Plan Mauka and Makai Access Committee (MAMA) and PATH, I strongly oppose the passage of SB2728. It is a transparent attempt by large landowners to influence the Legislature and steal from the People of Hawaii something that has been theirs by Queenly Decree for well over a hundred years, something that in most cases they don't even know they own.

I ask that at the very least this matter be postponed until the public is better informed of this, and I personally have more time in which to expand on my reasons that this SB2728 is not in the interests of Hawaii's people; I read the Honolulu and Hilo newspapers every day, and this is the first I have heard of SB2728.

Thank you, --Pete Sparks, ACA Path Committee

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 9:41 AM
To: TIATestimony
Cc: lisalilikoi@gmail.com
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Carter	Individual	Oppose	No

Comments: **Please do not pass Senate Bill 2728** out of this committee. It would work against the interests of the people of Hawaii to do so, by creating a loophole that allows public roads and trails to be taken away by private stakeholders. We don't want to lose Hawaii's ancient trail system, we want to preserve it for our great grandchildren to walk on. Please vote No.

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 9:48 AM
To: TIATestimony
Cc: laluz@maui.net
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
lucienne de naie	Individual	Oppose	No

Comments: I am a rural Maui resident. We have a section of Ke Ala Loa/"Old Government Road" serving our neighborhood. It is on maps from the 1880's and is a Kingdom road. From time to time various wealthy landowners try to block off sections of the old government road. Under this bill, it would appear that they can use their money and influence to go to the legislature and have the road determined to not be a road or trail subject to the Kingdom highways act. That would be convenient for them, privatizing our traditional access, but it leaves us ordinary people out of the loop. **Please do not pass this bill.** It goes against the interest of many rural communities. mahalo Lucienne de Naie Huelo

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Sent: Wednesday, February 05, 2014 10:08 AM
To: TIATestimony
Cc: ponosize@hotmail.com
Subject: *Submitted testimony for SB2728 on Feb 6, 2014 13:16PM*

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Pono Kealoha	Individual	Oppose	No

Comments:

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 12:37 PM
To: TIATestimony
Cc: lindaamenzies@gmail.com
Subject: *Submitted testimony for SB2728 on Feb 6, 2014 13:16PM*

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Linda	Individual	Oppose	No

Comments:

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 12:45 PM
To: TIATestimony
Cc: soshiro17@hawaii.rr.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Basil Oshiro	Individual	Oppose	No

Comments: I feel that the decision should be made by the people, for the people, not some special interest group (s)

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 12:45 PM
To: TIATestimony
Cc: scoleman@surfrider.org
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Stuart Coleman	Individual	Oppose	No

Comments: My name is Stuart Coleman, and I am writing to express my opposition to this bill, which would undermine the Highways Act. Mahalo.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 1:06 PM
To: TIATestimony
Cc: kahiwal@cs.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Clarence Ching	Individual	Oppose	No

Comments: I am in strong opposition to this SB2728. The Queen - in the Highways Act of 1892 intended all roads and trails to belong to the people. And the people have an ownership interest in those lands that make up all the roads and trails. The legislature does not have the power to "take" the dominion of roads and trails as an amendment to the act without fair compensation to those who have rights of "ownership" (or at least use rights) over those roads and trails. I am an active user (cultural practitioner) of those roads and trails as part of my cultural practice. By acting on this proposal - you - the legislature - is interfering with my right to use those roads and trails.

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Sharon Lum Ho

From: cj fay <seejfay@hotmail.com>
Sent: Wednesday, February 05, 2014 12:59 PM
To: TIATestimony
Subject: Amendment to SB2728

[oppose]

Dear Senators,

I understand that the amendment to SB2728 giving the legislature the power to determine the existence of roads jeopardizes the ability of citizens to use historic roads, trails and paths. These roads, trails and paths were established historically in the law Queen Liliuokalani signed. These roads, trails and paths have been identified for hundreds of years on historic maps.

We have been working for years on identifying and clearing paths in our community of Ahualoa so residents are able to walk through the community, avoiding the heavily traveled roads which are dangerous; they do not have shoulders and are traveled by heavy trucks and autos, often speeding.

This legislation would remove our ability to work at a local level to reclaim our paths, many of which are overgrown or claimed illegally by landowners. This would allow the legislature to give these roads, trails and paths to landowners. We are concerned that large landowners, with more money, would sway legislators, sometimes without the knowledge of citizens, to give them the roads, trails and paths adjacent to their lands.

Please oppose or withdraw this amendment.

Sincerely,
Constance Fay
President
Ahualoa Community Association

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:27 PM
To: TIATestimony
Cc: namaka@interpac.net
Subject: *Submitted testimony for SB2728 on Feb 6, 2014 13:16PM*

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Joan Lander	Individual	Oppose	No

Comments:

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Sharon Lum Ho

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Sent: Wednesday, February 05, 2014 11:56 AM
To: TIATestimony
Cc: lost_in_autumn@yahoo.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Allison Baird	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law—that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:02 PM
To: TIATestimony
Cc: pattio57@mac.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Osborne	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:12 PM
To: TIATestimony
Cc: sundownertoni@yahoo.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Toni Withington	Individual	Oppose	No

Comments: I strongly oppose this terrible bill. The legal rights of access, the history of government roads can not be tossed aside with a vote of the legislature. Please don't embarrass yourselves by voting for such a travesty. Kill it now.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 11:01 AM
To: TIATestimony
Cc: dancw@yahoo.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Sherlock	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no. we have enough Hawaiian lands falling into private hands to do as they please. Keep the ancient Hawaii trails in the public hands, not private hands. As a hiker, I love walking along these old trails to get back to nature and enjoy how old Hawaii used to be. If this bill passes, all the trails would fall into private hands which would soon end in fences up and no trespassing signs at the gates!

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 2:08 PM
To: TIATestimony
Cc: gentlewave@hawaii.rr.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
David Dinner	Individual	Oppose	No

Comments: This is a shortcut to do away with some of the important Hawaiian trail and should not be passed. We on Kauai have been struggling to prevent some of these trails from being taken over by overzealous developers. Please do not take away our last chance to honor these places and preserve them.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 10:29 AM
To: TIATestimony
Cc: NLTBOB@YAHOO.COM
Subject: Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Robert & Karen Heacock	Individual	Oppose	No

Comments: Dear Senators: **Please do not pass Senate Bill 2728** out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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THE SENATE, 27th LEGISLATURE, STATE OF HAWAI'I
COMMITTEE ON TECHNOLOGY AND THE ARTS
Senator English et al

Date: Thursday, February 6, 2014
Room: 224

Time: 1:16 p.m.
Copies: 30

OPPOSE SB 2728 "RELATING TO HIGHWAYS"

Aloha Senators:

PLEASE VOTE NO on SB 2728. As a kanaka maoli, I strongly urge you not to pass SB2728 out of committee.

Very simply,

The ancient trails of Hawai'i are an important legacy left to us by Queen Lili'uokalani. They are open to all of the people of Hawai'i currently.

If the amendment to the Highways Act passes, hundreds of miles of trails will be able to be eliminated, benefitting large landowners, retroactively to January 2011, "as determined by the legislature".

I and many other Hawaiians, as well as general citizens of Hawai'i, would lose a cultural and natural resource if you continue with this destructive bill.

Although I am unable to be present at the hearing, this is my testimony for you.

Mahalo,

Louise Keali'iloma King Lanzilotti, Kalikolehua – El Sistema Hawai'i
1735 Dole St. #110, Honolulu HI 96822
808-778-6081, kealiiloma@gmail.com

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 11:18 AM
To: TIATestimony
Cc: cesar@iliketoshoot.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
cesar bodden	Individual	Oppose	No

Comments: As an avid hiker, removing the rights of people to be able to walk on trails that were there even before these large land holders acquired the land is just wrong. what next, all public paths to the beaches get closed because of the people that own property adjacent to the trails ??

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:17 PM
To: TIATestimony
Cc: palmtree7@earthlink.net
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glenie	Individual	Oppose	No

Comments: Aloha, this bill is unbelievable, and Mr English has no excuse for introducing it. Please **Vote NO** on this dangerous bill that makes a mockery of the good will which the Constitution of this state attempts to protect now and into our keiki's keiki's future. mahalo for killing **SB 2728.**

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:21 PM
To: TIATestimony
Cc: ruth@2bolo.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
ruth bolomet	Individual	Oppose	No

Comments: The ramifications of this bill goes beyond its surface claims to give the legislature the right to approve the closure of trails that will be beneficial not for the benefit of the sacred sites, but rather to assist special interest developers or big land owners who are obligated by law to provide access and to follow the current law. This bill is one of many designed to divest kanaka maoli and others of what has been signed into law for the benefit of the public. Voting yes on this bill is to give one more tool to the special interest groups who do not take into consideration the rights of the kanaka maoli or public. Please vote "no" on this bill.

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5 FEB 2014

[oppose]

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Senator J. Kalani English, Chair

Senator Donovan M. Dela Cruz, Vice Chair and Members

Re. SB 2728, Relating to highways

Dear Senators,

I urge you to kill this bill, and any others like it. SB 2728 provides the pathway to take the trails and access ways of the past and deny them to the citizens of the future. It is unnecessary, and just allows another mechanism for those with money and influence to rob Hawaii of yet more of the unique elements of the Islands that have made Hawaii so special for its citizens. SB 2728 is unnecessary, as the HRS transcription of the old Highways Act plus the newer Na 'Ala Hele legislation provides a deliberate, well-researched administrative pathway to add and modify old trails and other access elements to the slowly growing inventory by the state. It is important to retain this process within the administrative process, not the legislative.

I would like to suggest that you replace the words of this bill with others that would provide specified funding directly to each county's Na 'Ala Hele program with the specific instructions to provide additional research necessary to add more trails into the state's (the public) inventory of trails.

Thank you,

Rick Warshauer

Volcano; 967-7476

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:21 AM
To: TIATestimony
Cc: mauibrad@hotmail.com
Subject: *Submitted testimony for SB2728 on Feb 6, 2014 13:16PM*

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Brad Parsons	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:43 AM
To: TIATestimony
Cc: judyw@direct.ca
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Judy Emily Williams	Individual	Comments Only	No

Oppose

Comments: Please honor Queen Liliuokalani's intent of providing for public access via highways and trails for all. To allow private parties to deny public access via trails and highways to Hawaii's beautiful forests and beaches would be a sacrilege. **Please vote against SB 2728.**

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 1:43 AM
To: TIATestimony
Cc: louvera@optonline.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Luis Vera	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law—that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii’s ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 3:13 AM
To: TIATestimony
Cc: jackazz31169@yahoo.com
Subject: *Submitted testimony for SB2728 on Feb 6, 2014 13:16PM*

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
rafael	Individual	Oppose	No

Comments:

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Sharon Lum Ho

From: kaleo paik <kaleopaik@yahoo.com>
Sent: Wednesday, February 05, 2014 9:12 AM
To: TIATestimony; WTLTestimony
Subject: Oppose SB2728

Aloha Members of the Transportation and International Affairs and the Ways and Means Committees,

The Ala Kahakai Trail Association, of which I am an officer, **strongly opposes SB2728**. Our organization is a direct partner to the Ala Kahakai National Historic Trail. Our Board is made up of individuals who have genealogical ties to portions of the 177 mile trail from Pololu Valley to Puna. We encounter many issues with our trail and also the trail systems due to the non enforcement of our right as given to us as Native people through the Road Act of 1892 to keep our trails from imminent harm, destruction or relocation.

The solution IS NOT amending the Road Act of 1892 but rather educating the agencies such as DLNR and SHPD on the spirit and intention of the Act so that better decisions can be made. The State looks for proof of a trail through survey maps and written documentation. These sources have been historically unreliable in ascertaining whether a trail is or is not a public trail before 1892. Using the same logic, the State often times does not have proof of when many trails in question were created.

The Road Act of 1892 gives the Hawaiian people a right to traverse through lands public and private for the purposes of traditional practices. Amending the Road Act to give the legislature authority to make determinations of trails opens the door to subjectivity. Does the legislature have the expertise to make determinations or will they seek the advise of professionals who may or may not have the familial knowledge of the use and purpose of trails? There does not exist today any person in a professional capacity who has such expertise.

I urge the committees to vote in opposition to this SB2728 which undermines the intention of the Road Act of 1892.

Kaleo Paik, Ala Kahakai Trail Association

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:49 PM
To: TIATestimony
Cc: shannonkona@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments: Strongly Oppose.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 9:37 AM
To: TIATestimony
Cc: jonthebru@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/5/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
John Bruce	Individual	Oppose	No

Comments: It is imperative that access to public trails throughout Hawaii be preserved. It seems that some large landowners, using their influence over elected representatives are impeding on the right of Hawaii's citizens and are working to amend a law created 122 years ago in order to cancel out the rights of the people. Don't let it happen. Don't let it happen. Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 8:55 PM
To: TIATestimony
Cc: j.tierney7@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM
Attachments: Keep Ancient Trail Law Intact.rtf

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
James Tierney	Individual	Oppose	No

Comments:

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Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Walking trails are essential for a healthy and connected community. Please vote no.

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:04 PM
To: TIATestimony
Cc: cernymatt@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Cerny	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law—that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:31 PM
To: TIATestimony
Cc: maui-martha@hawaiiantel.net
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Martha Lind	Individual	Oppose	No

Comments: Dear Senators: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no. Mahalo!

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:58 PM
To: TIATestimony
Cc: akamaimom@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Felicia Cowden	Individual	Oppose	No

Comments: Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever. Please vote no.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 11:03 PM
To: TIATestimony
Cc: donniemcgean@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
donnie mcgean	Individual	Comments Only	No

[oppose]

Comments: Please do not pass bill 2728 out of committee. This bill would undo a law which was enacted by Queen Liliuokalani to preserve trails and roads for access to the people of Hawaii. Changing this law gives large landowners the right to take public roads and trails away from the people. Please vote no.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 11:15 PM
To: TIATestimony
Cc: annmarie@hawaii.rr.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Marie Kirk	Individual	Comments Only	No

[oppose]

Comments: Feb. 4th, 2014 Committee on Transportation and International Affairs Chair: Sen. English V-Chair: Sen. Dela Cruz HEARING: Feb. 6th, 2014 Room 214 @ 1:16pm Re: Senate Bill 2728 Relating to Highways Aloha to the Committee on Transportation and International Affairs, I am writing to humbly ask you to **VOTE NO and OPPOSE SB 2728** relating to Highways. Public Rights of Way, all trails and non-vehicular rights of way in the State, that have been determined by laws set down by the State and by the Highways Act of 1892, and followed by the Department of Land and Natural Resources, should not be amended to allow the State Legislature to determine what is a Public Right of Way/Trail in Hawai'i. By taking the decision making of what is a Public Right of Way out of DLNR and putting it into the whim of legislative politics is extremely dangerous for the people of Hawai'i and our rights as citizens to access our trails and Public Rights of Way in Hawai'i, now and for future generations. Decisions made regarding Public Rights of Way and trail systems should be made by those who have knowledge of the trails, their history, usage, cultural significance, community significance - not by legislators who have limited knowledge of Public Rights of Way, trail systems, and their use in communities across Hawai'i to access the mountains, the flat land trails of Hawai'i, and to our beaches and ocean. Public Rights of Way / Trails should not be politicized. Legislative decision making becomes subjective rather than objective - what if a legislator owns lands that contain Public Rights of Way trails and they want those Rights of Way closed? OR what if their lands contain trails that are impacted by the Highways Act of 1892 and those trails should be recognized and recorded as Public Rights of Way - will they be looking out for what is best for the community in their determination of a Public Right of Way? What if developers seek to have Public Rights of Ways to the ocean closed in an area where they plan a development and they use lobbying and campaign donations to seek favor from legislators to have it closed? Is this a fair process? The numerous scenarios which can occur, the conflicts of interests, and the lack of transparency and objectivity on the determination of a Public Right of Way / Trail in Hawai'i by the legislature is a frightening path laid out for our statewide community if SB 2728 moves forward. SB 2728 needs to stop and stop now - it is headed down the wrong path. Please **VOTE NO** on **SB 2728**. Mahalo, Ann Marie Kirk Maunaloa, O'ahu

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 11:56 PM
To: TIATestimony
Cc: coryfoht@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Foht	Individual	Oppose	No

Comments: Dear Senators, I am urging you to not pass Senate Bill 2728 out of this committee. This is an issue that will affect access to historic public lands for future generations. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law—that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. Why change this law now when it has worked since 1892? I believe it is in the best interest of the people of Hawaii to keep the Highways Act of 1892 unchanged. Please make the just decision to oppose Senate Bill 2728. Mahalo, Cory W. Foht

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 5:30 PM
To: TIATestimony
Cc: rspacer@yahoo.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Spacer	Individual	Oppose	No

Comments: Aloha: Please OPPOSE SB 2728. The Highways Act of 1892 is a law that has been in effect now for 122 years. It was the will of the last queen of Hawaii and her legislature. The intent was clearly to maintain public access for her subjects in the context of increasing private property ownership by non-native residents. This law is a powerful tool for adding trail inventory for perpetual public access that all generations may enjoy. It is not the place for a small number of present legislators to amend or revoke this law to the betterment of private property interests. The legislature does not have a monopoly on the skills and resources needed to decide what trails are and are not public. This task best rests with archeologists, anthropologists, and our Native Hawaiian community members who usually know where our historic trails are. Recent events in the media concerning the attempt to privatize Haleakala Trail on Maui have uncovered the intent by some in the Senate and Capitol Executive Chambers to remove fee simple ownership of that trail and place it in the hands of a ranch. This attempt failed at a recent BLNR hearing, as well it should have. Our historic trails are PUBLIC TRUST and cannot be given up. It is for you the legislature and the Department of Land and Natural Resources to keep and maintain our trails for future generations. Please OPPOSE this bill. Mahalo, Richard Spacer Kauai

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 7:19 PM
To: TIATestimony
Cc: sylpartridge@yahoo.com
Subject: *Submitted testimony for **SB2728** on Feb 6, 2014 13:16PM*

SB2728

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Submitted By	Organization	Testifier Position	Present at Hearing
Sylvia Partridge	Individual	Oppose	No

Comments:

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 8:44 PM
To: TIATestimony
Cc: Karen@RedwoodGames.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

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Submitted By	Organization	Testifier Position	Present at Hearing
Karen Chun	Individual	Oppose	No

Comments: This bill, by adding "As determined by the Legislature" guts our public access roads law. Right now roads are determined by customary use, old documents and court cases. This will put a huge burden on the legislature to determine every little trail and road that is in contention.

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:01 PM
To: TIATestimony
Cc: djp@kona.net
Subject: *Submitted testimony for SB2728 on Feb 6, 2014 13:16PM*

SB2728

Submitted on: 2/4/2014

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Submitted By	Organization	Testifier Position	Present at Hearing
Doug Phillips	Individual	Oppose	No

Comments:

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2/4/14

Dear Senators:

We have worked so hard to preserve and protect our ancient trails especially those along the shoreline. Hawaii has a very unique cultural heritage that needs to be able to be passed down for the generations to come.

Please do not pass **Senate Bill 2728** out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law--that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii's ancient trail system would potentially be eliminated forever.

Please vote no. (oppose)

Mahalo Nui
Diane Kanealii
Kawaihae, HI

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 10:22 AM
To: TIATestimony
Cc: makani.christensen@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

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Submitted By	Organization	Testifier Position	Present at Hearing
makani	Aha Moku	Oppose	No

Comments: On the surface it looks like a positive for the legislature to advocate for trails to be made public but the mere fact that the trails are already public then would give the legislature lawful rights to make trails already public not public. DLNR has a tremendous difficulty in acknowledging our trails. This affects all of us as Hawaiians and our rights. Hidden within this bill is language that would mean the State would have to purchase an easement across private lands. Since many of our trails are already part of the Road Act of 1892, why would we have to purchase an easement? I do not think this matter should be decided by the legislature instead it should be resolved by the Aha Moku councils from each island.

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Senate Committee on Transportation and International Affairs
Hearing Scheduled for February 6, 2014 at 1:16 p.m.

Testimony in Opposition to SB 2728, "Relating to Highways"
From Deborah Chang, Resident of Hawai'i Island

Aloha Chair English, Vice-Chair Dela Cruz, and Members of the Senate Committee on
Transportation and International Affairs:

I am opposed to SB 2728 because:

- **SB 2728 is proposing unnecessary changes to existing law.**
The bill does not explain or justify why the proposed change to HRS §264-1 is needed. At a minimum, the bill should clarify why and how the proposed change would be an improvement over the current determination methods.
- **SB 2728's proposed change to the law will cause public trail determinations to become unnecessarily controversial and political.**
Determination of whether a trail is a public trail per the Highways Act of 1892 and/or the other legal tests listed in the statute requires extensive research and analysis of historic documents and maps, knowledge of Hawaiian language and the history of land tenure in Hawai'i, review of archaeological and cultural surveys and assessments, and knowledge of case law resulting from trail-related court rulings. This research should be as objectively accomplished as possible with informed, legal guidance and independent of outside influence by landowners, the public, and elected officials. Instead of a rational process based on objective research, public trail determination by a legislative process would open this decision to the court of public opinion. Everyone has an opinion. It is inappropriate and unnecessary to hold legislative hearings in order to arrive at what should be a fact-based determination.
- **The Highways Act of 1892 is a truly unique and special law that has withstood the test of time.**
The Highways Act of 1892 is a wise law passed under Queen Lili'uokalani and was intended to protect the people's ability to traverse ancient and traditional trails as private property rights were increasingly being exercised over Hawai'i's lands. SB 2728 would make it easier to extinguish the public's claim of ownership in many historic trails statewide.

I ask that your committee exercise ample caution by disapproving SB 2728 and "do no harm" by changing a law that has been working effectively in the public's interests. There is no reason to expect determination of public trails by the legislature to be an improvement over the current process.

Mahalo for your consideration of my testimony.

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:42 PM
To: TIATestimony
Cc: moikehajr@gmail.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

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Submitted By	Organization	Testifier Position	Present at Hearing
Roger Kanealii	Individual	Oppose	No

Comments: Queen Liliuokalani put in place the Highways Act of 1892. It remains on the books today in the form of Hawai'i Revised Statutes 264-1(b). Through the Highways Act, the legislature of the Kingdom of Hawai'i declared that any trail or other thoroughfare open, laid out or built by the government, or surrendered or abandoned by a land owner, was a public trail and owned by the government in fee simple. The ownership stays with the government forever!!! Vote NO and protect what the Queen put in place for the people of Hawaii

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Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 8:27 PM
To: TIATestimony
Cc: ilovecrystaljean@yahoo.com
Subject: Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

SB2728

Submitted on: 2/4/2014

Testimony for TIA on Feb 6, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Crystal	Individual	Comments Only	No

Comments: Dear Senators: ^(oppose) Please do not pass Senate Bill 2728 out of this committee. The proposed amendment to the Highways Act of 1892 would eliminate a basic principle of Hawaii law—that public roads and trails are vested in the State of Hawaii unless disposed of in accordance with due process of law. The Highways Act of 1892 has worked for 122 years. This proposed amendment, which is poorly drafted and poorly thought out, would be a disaster for the public. If it were to pass, the State of Hawaii would potentially lose a vast amount of public lands in a blink of an eye. Hawaii’s ancient trail system would potentially be eliminated forever. Please vote no. I would personally be heartbroken at the loss of valuable public resources.

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