

LATE



LAND USE RESEARCH  
FOUNDATION OF HAWAII

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February 6, 2014

Senator J. Kalani English, Chair  
Senator Donovan M. Dela Cruz, Vice-Chair  
Senate Committee on Transportation and International Affairs

**Comments regarding SB 2728, Relating to Highways (Clarifies that the legislature has the authority to determine a public trail.).**

**Thursday, February 6, 2014, 1:16 p.m., in Conference Room 224**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to provide testimony **in support of the intent** of SB 2728, and to offer comments regarding revision of the wording of the bill.

**SB 2728.** The purpose of this bill is to propose an amendment to Hawaii revised Statutes, Section 264-1, to clarify that the legislature has the authority to "determine a public trail."

**LURF's Position.** LURF supports the intent of this bill, but believes that the wording of the bill could be subject to varying interpretations, and should be further clarified to reflect what seems to be the intent and purpose of the bill, which is to clarify that as the legislative policy-making body of the State, that the legislature has the authority to **establish the standards and criteria for, and to designate public trails.**

LURF's members include private property owners, farmers and ranchers who own, maintain, and utilize trails, and who consider such resources critical to the State. As potential issues relating to safety, liability and security continue to be a significant concerns of the various stakeholders, LURF and its members appreciate this measure being taken to clarify the law.

For the reasons stated above, LURF is **in support of the intent of SB 2728, and respectfully offers to work further with your Committee and DLNR on clarifying language to prevent possible misinterpretation of the law.**

Thank you for the opportunity to present testimony regarding this matter.



SIERRA CLUB OF HAWAII  
MĀLAMA I KA HONUA. *Cherish the Earth.*

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MALAMA I KA HONUA  
*Cherish the Earth*

**SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS**

February 6, 2014, 1:16 P.M.  
*(Testimony is 1 page long)*

**TESTIMONY IN OPPOSITION TO SB 2728**

Aloha Chair English and Members of the Committee:

The Sierra Club of Hawai'i, with over 12,000 dues paying members and supporters statewide, *opposes* SB 2728. The measure grants the Legislature the power to declare what are and what are not public trails.

Public roads and trails that qualify under the Highways Act of 1892 *are* public lands. There is no need for the Legislature to vest itself with authority to decide factual matters and make legal conclusions, unless it is choosing to assume a judicial role. Such an approach is likely unconstitutional, particularly unless the Legislature creates a mechanism to protect due process and the public trust. Respectfully, this may not be the best role for the Legislature.

We respectfully ask that you hold this measure.

Mahalo for the opportunity to testify.

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# KAONOULU RANCH LLLP

A Limited Liability Limited Partnership

P. O. Box 390  
Kula, Hawaii 96790  
[Office] 808 876-0400 [Fax] 808 876-0422

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February 5, 2014

**SUBJECT: Support of Bill SB2728**

Regarding Highways-Public Trails

Kaonoulu Ranch LLLP, Maui, Hawaii supports SB2728 and the proposed amendment to the Highways Act of 1892.

Kaonoulu Ranch believes this amendment will provide better protection for landowners and the public, in regards to claims of a public trail according to the Highways Act of 1892. The proposed amendment SB 2728 would clarify that the legislature has the authority and jurisdiction to determine public trails. Bill SB 2728 would clarify that the legislature has the authority to make a determination on an individual trail basis and mitigate litigation from third party special interests.

Kaonoulu Ranch strongly supports bill SB2728.

Sincerely,

*Ken Miranda*

Ken Miranda  
General Manager Kaonoulu Ranch LLLP





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## Kona Hawaiian Civic Club

*"Serving the Kona community for 62 years"*

February 5, 2014

Re: Strong opposition to Senate Bill 2728, Relating to Highways

Aloha mai Mr. Chair and members of the state Senate Transportation and International Affairs Committee,

The Kona Hawaiian Civic Club is strongly opposed to the language being proposed to amend Hawai'i Revised Statutes 264-1(b), "as determined by the legislature."

SB2728 appears to have been written without regard to existing laws, rules, Supreme Court precedent, in other words, the existing regulatory environment in which public rights-of-way are determined under the Highways Act of 1892.

The determinations of such public rights-of-way are ministerial and, as such, should be under the purview of the Executive branch of government. If the Executive branch makes erroneous determinations, public and/or private parties have the Judicial branch to resolve misunderstandings and/or. These determinations should not be micro-managed by the Legislative branch.

Public trails in existence at the time of passage of the Highways Act of 1892 are, in general, public highways regardless of whether the properties upon which they exist are public or private. In addition, these trails/roads/public highways are also historic sites and are therefore expressly protected by the Hawai'i state constitution (Attachment "A" and Attachment "B").

While it appears the intent of SB2728 is a good one, passage of this bill will add unnecessary confusion and conflict to an already difficult issue (Attachment "C").

SB2728 creates concern the Committee is not familiar with Na Ala Hele and did not take this existing regulatory body into consideration (Attachment "D").

For the reasons provided above, please vote "no" on SB2728 and do not allow it out of Committee. Mahalo for this opportunity to testify as authorized by Kona Hawaiian Civic Club Board of Directors and membership,

A handwritten signature in black ink, appearing to read "Charles Flaherty, Jr.".

Charles Flaherty, Government Relations Committee, Chair



**Sharon Lum Ho**

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**From:** mailinglist@capitol.hawaii.gov  
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**To:** TIATestimony  
**Cc:** bay420@gmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
brooke yost	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**

Submitted on: 2/6/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Livit Callentine	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

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**Cc:** lpc@lahainamaui.com  
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**SB2728**

Submitted on: 2/6/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lawrence P. Carnicelli	Individual	Oppose	No

Comments: Aloha Senators, I am submitting additional testimony after I have heard from Senators thinking this will strengthen public access to our lands. I could see why you may think that this would strengthen the public's access. But there are unintended consequence of this bill that you may not recognize. As the law sits now all these trails are public domain... period! This bill allows the legislature to redefine trails and therefore open the debate as to what is public land and not. This gives big land owners a window to capture these public lands and block public access. Therefore, I will again state my opposition. Mahalo, Lawrence

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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Jay Franey	Individual	Oppose	No

Comments: This bill should not be supported as it undermines the land accesses that are traditionally marked and provided to the citizens of Hawaii. Over 18 years in Hawaii I have witnessed the slow erosion of the rights of citizens to access the land. As an educator, we are teaching e keiki of Hawaii to protect and preserve the aina, how do we encourage them to explore, defend, and advocate for the aina when their access is in jeopardy. Please protect citizens land access rights. Mahalo nui loa, Jay Franey

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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
c kong	Individual	Oppose	No

Comments: i strongly recommend NOT amending the highway act. Keep our trail free and not let politics get involved.

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**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM  
**Attachments:** SB2728regardingtrails.pdf

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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Rita Husted Ryan	Individual	Oppose	No

Comments:

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**SB2728**

Submitted on: 2/6/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathleen Johnson	Kona Hiking Club	Oppose	No

Comments: Dear Senators: As a representative of the Kona Hiking Club I am strongly opposed to any legislation that would further jeopardize access to hiking trails. Large landowners already deny access to ancient trails and with their deep pockets will lobby for more restrictions. What you do need to pass is legislation that does not hold landowners liable if a hiker is injured on the landowner's property thereby taking away the landowner's reason (excuse) to deny trail access. 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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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



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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.

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



**Sharon Lum Ho**

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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
penny s	Individual	Oppose	No

Comments: BAD bill!

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**To:** TIATestimony  
**Cc:** tjsimms2000@hotmail.com  
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Submitted on: 2/6/2014

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

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Submitted By	Organization	Testifier Position	Present at Hearing
tj simms	Individual	Oppose	No

Comments: Protect public access. We oppose this bill.

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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Kirbin	Individual	Oppose	No

Comments:

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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Louise Butler	Individual	Oppose	No

Comments:

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**SB2728**

Submitted on: 2/7/2014

Testimony for TIA on Feb 11, 2014 13:17PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. komara, Jr.	Individual	Oppose	No

Comments:

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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Donna Willard	Individual	Oppose	No

Comments: it would not upload my testimony so I am submitting it here... Aloha Chairman Yamane and Committee; I am writing to remind you that you do not have legal authority or moral authority to discuss, recommend, suggest or implement any changes to the Highway Act of 1892. That is an Act by the Hawaiian Kingdom. As the State of Hawaii Legislative body stated in its last two session (2012 and 2013), under oath, the Hawaiian Kingdom is "in continuity" and that the State has no right to force itself in anyway upon the Kanaka Maoli or those of us who identify ourselves as subjects/citizens/Nationals of the Hawaiian Kingdom. It clearly confirms what we have been saying for more than 100 years, we are not residents of the State of Hawaii nor are we citizens of the United States of America. It makes clear that nothing was transferred to from the Hawaiian Kingdom to any other entity. For you to continue to discuss, hear any matters, alter the laws of the Hawaiian Kingdom or encroach upon the affairs, business or resources of the Hawaiian Kingdom is a war crime. Your work in the 2012 and 2013 sessions makes it obvious that the State of Hawaii and its law makers are aware of this fact. In both of these years two measure were created and discussed in the House of Representatives titles "Recognizing Hawaiian Nationals as a Population Residing Lawfully Within the Hawaiian Islands". The language in Senate Bill No 233 confirms that the Hawaiian Kingdom still is in existence and you have no authority over us, our nation or our laws. Now we know the first thing you will say is none of the four measures passed the House. Well that's ok. What they do though is present facts and truth that the Legislative body is aware of, acknowledges and see to be truth. In reviewing the history of these measures not one representative said the facts were not true, incorrect, false or misrepresented. These measures were created by the law makers of the State of Hawaii under oath, therefore we can assume they are true statements and the facts are true. Especially since they did it at least four times! The Highway Act of 1892 is not any of your business nor do you have any right, legally or morally to be talking about it. It is our business, business of the Hawaiian Kingdom and we are telling you to leave it alone. You cannot alter it to fit your desires and agenda nor can you do that for your citizens. You see since the lands never belonged to the State of Hawaii nor the United States of America but continue to belong to the Hawaiian Kingdom you have no authority or jurisdiction over these lands. If you wish to continue to say that the Department of Land and Natural Resources has control then you are admitting one of two things: 1. The Department of Land and Natural Resources is still under the Kingdom and subject to the Government of the Hawaiian Kingdom and not the State of Hawaii; Or 2. That you lied under oath in 2012 and 2013 The choice is yours today to continue this tug of war that you will lose or to move forward on ending the



tyranny in a manner that is positive and reflective of the principal of aloha. No matter what you decide to do the Hawaiian Kingdom and the Kanaka Maoli will prevail and you know this because you continue to struggle with how can the State of Hawaii extinguish our rights and claims forever. Well you will never be able because Akua put us here and we are the rightful caretakers of this place and we will do our job. Do be afraid of that, help that and leave a your children and grandchildren with something to be proud of. Being charged with committing wars crimes and violating international laws and conventions is a very sad legacy to leave your name on. E'o Donna Lanakila Willard Hale O Na Ali'i Kingdom of Hawaii

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**SB2728**

Submitted on: 2/6/2014

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

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

Comments: The comments submitted by me earlier were addressed incorrectly. I am including here the correct testimony addressed to Senator Kalani English in his capacity as chairperson of the transportation committee..

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**SB2728**

Submitted on: 2/6/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
brooke yost	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 6:31 PM  
**To:** TIATestimony  
**Cc:** gabes94@yahoo.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

**Categories:** Yellow Category

**LATE**

**SB2728**

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Darrin Gabriel	Individual	Comments Only	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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**Sent:** Wednesday, February 05, 2014 8:38 PM  
**To:** TIATestimony  
**Cc:** kalani.math@gmail.com  
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**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
Duc Ong	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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**To:** TIATestimony  
**Cc:** gar@lisi.org  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**Categories:** Yellow Category

**SB2728**

Submitted on: 2/5/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Antony Garrett Lisi	Individual	Comments Only	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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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 12:27 AM  
**To:** TIATestimony  
**Cc:** paulakomarajr@yahoo.com  
**Subject:** \*Submitted testimony for SB2728 on Feb 6, 2014 13:16PM\*

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**Categories:** Yellow Category

**SB2728**

Submitted on: 2/6/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul A. komara, Jr.	Individual	Oppose	No

**Comments:**

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**Sent:** Thursday, February 06, 2014 12:27 AM  
**To:** TIATestimony  
**Cc:** paulakomarajr@yahoo.com  
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**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. komara, Jr.	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 5:40 AM  
**To:** TIATestimony  
**Cc:** begoniabarry@gmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**Categories:** Yellow Category

**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry	Individual	Oppose	No

Comments: Please do NOT gut the Highways Act of 1892. Preserve public access for the next 500 years! Please Respect the Law of the Land. Thank you, Barbara Barry

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**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**Categories:** Yellow Category

**SB2728**

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry	Individual	Oppose	No

Comments: Please do NOT gut the Highways Act of 1892. Preserve public access for the next 500 years! Please Respect the Law of the Land. Thank you, Barbara Barry

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**Sent:** Wednesday, February 05, 2014 2:35 PM  
**To:** TIATestimony  
**Cc:** rittew@hotmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**SB2728**

Submitted on: 2/5/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Walter Ritte	Individual	Oppose	No

Comments: My name is Walter Ritte from the island of Molokai, I oppose this bill. Access and trails are protected under Art. 12 Sec. 7 of our State Constitution and Safty on these trails was protected by the first law punishable by death under Kamehameha I called Mamalahoe Kanawai. Access on these trails are an intregal part of subsistence activities on the island of Molokai. This bill endangers the inherent rights to use these trails passed down from our Kupuna. Allowing simple legislation to be able to end our use or the existence of trails threatens our cultural practice and access rights to the natural resources for subsistence use.

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**Cc:** rittew@hotmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**SB2728**

Submitted on: 2/5/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Walter Ritte	Individual	Oppose	No

Comments: My name is Walter Ritte from the island of Molokai, I oppose this bill. Access and trails are protected under Art. 12 Sec. 7 of our State Constitution and Safty on these trails was protected by the first law punishable by death under Kamehameha I called Mamalahoe Kanawai. Access on these trails are an intregal part of subsistence activities on the island of Molokai. This bill endangers the inherent rights to use these trails passed down from our Kupuna. Allowing simple legislation to be able to end our use or the existence of trails threatens our cultural practice and access rights to the natural resources for subsistence use.

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**Sent:** Wednesday, February 05, 2014 2:52 PM  
**To:** TIATestimony  
**Cc:** peterwaldau@yahoo.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**Categories:** Yellow Category

**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
Peter Waldau	Individual	Oppose	No

Comments: I oppose SB No 2728 HRS 264-1 states trails in existence since 1892 are public . HRS 264-1 is the legislative law courts base this public trust upon. Would every existing public trail in the state have to go before a legislative "court" of sorts under proposed SB 2728? To me this is absurd. Please do not gut the public trust ownership of public trails protected under HRS 264-1 I oppose SB 2728.

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**Sent:** Wednesday, February 05, 2014 3:56 PM  
**To:** TIATestimony  
**Cc:** thomas.Engle@hp.com  
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**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
Thomas Engle	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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**Sent:** Wednesday, February 05, 2014 4:35 PM  
**To:** TIATestimony  
**Cc:** mloftin21@hotmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**Categories:** Yellow Category

**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
Michael	Individual	Oppose	No

Comments: I am strongly opposed to SB2728. Its simple language hides the underlying nature of the bill. In effect, it will put public access to our mountains in a more perilous state than it is already. It is inconsistent that we have permanent laws in place that allow public beach access with numerous access points, yet the State treats the mountains as forbidden. There is no straightforward logic to that notion. The momentum should be in the other direction, allowing more public access points to areas such as Mariner's Ridge, Haiku Stairs, and numerous other hikes that people used to enjoy. I strongly oppose SB2728 and I hope lawmakers will instead pursue legislation that opens more access to the public.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 2:09 PM  
**To:** TIATestimony  
**Cc:** lovena.harwood@gmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

**Categories:** Yellow Category

**LATE**

**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
Lovena Harwood	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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**Sent:** Wednesday, February 05, 2014 2:09 PM  
**To:** TIATestimony  
**Cc:** morgan.e.davis@hawaii.gov  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM  
**Attachments:** Testimony in Opposition of SB 2728.docx  
  
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**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
Morgan Davis	Individual	Oppose	No

Comments: Please contact me if you have trouble opening this document.

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

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**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
James Frazier	Individual	Oppose	No

Comments: I oppose this bill because it is aimed directly at taking the historic Haleakala Trail away from the public. The Legislature should be protecting the public's right of access by leaving the Highways Act INTACT as it stands, not tinkering with it on behalf of special interests which stand to gain by this bill. LEGISLATORS, OPPOSE THIS BILL.

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**To:** TIATestimony  
**Cc:** justin@hothikers.com  
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**SB2728**

Submitted on: 2/5/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Justin Stevens	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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**To:** TIATestimony  
**Cc:** lovena.harwood@gmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**SB2728**

Submitted on: 2/5/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lovena Harwood	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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**To:** TIATestimony  
**Cc:** lovena.harwood@gmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**Categories:** Yellow Category

**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
Lovena Harwood	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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**From:** Denise <laurenstdenise@gmail.com>  
**Sent:** Wednesday, February 05, 2014 1:54 PM  
**To:** TIATestimony  
**Subject:** Fwd: Amendment to SB2728

LATE

**Categories:** Yellow Category

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. I am ranch manager for AK ranch in Ahualoa and frequently have either green horses and or inexperienced riders to deal with and would be directly affected on the use or closure of the "paper roads".

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,  
Denise Johnsen  
Member of Ahualoa Community Association

**Sharon Lum Ho**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 1:46 PM  
**To:** TIATestimony  
**Cc:** ja@malu-aina.org  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

**LATE**

**Categories:** Yellow Category

**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
Jim Albertini	Individual	Oppose	No

Comments: Dear Senators: This bill is a travesty to benefit big land owners at the expenses of the public. 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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**Sent:** Wednesday, February 05, 2014 1:31 PM  
**To:** TIATestimony  
**Cc:** rfreitasjr@hotmail.com  
**Subject:** Submitted testimony for SB2728 on Feb 6, 2014 13:16PM

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**SB2728**

Submitted on: 2/5/2014

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robert Freitas Jr.	Individual	Oppose	No

Comments: I am against SB 2728 and totally against the legislature taking control of our trails. The trails are protected under the Hawaiian Kingdom and there it should remain.

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**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
Michael	Individual	Oppose	No

Comments: I am strongly opposed to SB2728. Its simple language hides the underlying nature of the bill. In effect, it will put public access to our mountains in a more perilous state than it is already. It is inconsistent that we have permanent laws in place that allow public beach access with numerous access points, yet the State treats the mountains as forbidden. There is no straightforward logic to that notion. The momentum should be in the other direction, allowing more public access points to areas such as Mariner's Ridge, Haiku Stairs, and numerous other hikes that people used to enjoy. I strongly oppose SB2728 and I hope lawmakers will instead pursue legislation that opens more access to the public.

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**

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**Sent:** Wednesday, February 05, 2014 4:54 PM  
**To:** TIATestimony  
**Cc:** maliadawn@yahoo.com  
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**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
ricci keltz	Individual	Comments Only	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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**Categories:** Yellow Category

**SB2728**

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kristine Oyama	Individual	Oppose	No

Comments: I feel strongly that the legislature does not have the right to designate what is a public trail. If there is question in that regard, that is a decision that lies in the hands of the courts. The legislature can not arbitrarily give up, by their lack of designation, an historic public right of use.

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**Sharon Lum Ho**

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**To:** TIATestimony  
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**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
Chuck Flaherty	Kona Hawaiian Civic Club	Oppose	No

Comments:

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