

Honolulu, Hawaii
February 19, 2016

RE: H.B. No. 2049
H.D. 2

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2049, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSPORTATION,"

begs leave to report as follows:

The purpose of this measure is to address questions regarding responsibility for the repair and maintenance of privately owned highways. Specifically, this measure:

- (1) Requires the counties to accept the surrender of a private road if there has been no act of private ownership for five years or if the State or county initiates condemnation proceedings to acquire the road; and
- (2) Exempts the State and counties from maintaining surrendered roads and from liability for lack of maintenance or for maintenance performed prior to assuming ownership.

The Bank of Hawaii, Hawaii Association of REALTORS, Chamber of Commerce Hawaii, and NuWayve Unlimited testified in support of this measure. The Department of Land and Natural Resources, City and County of Honolulu Department of Facility Maintenance, County of Maui Department of Public Works, and Hawaii Association for Justice testified in opposition to this measure. The Department of Transportation provided comments.



Your Committee finds that there are many roads throughout the State that, while used by the public and considered a "public" road, are in fact privately owned by an unknown or unascertainable owner and not receiving necessary maintenance and repair. This has been an ongoing challenge for the State and the counties, as well as neighboring residents and landowners. This measure will provide a process for the State or a county to obtain ownership over the road by use of the State's condemnation process and not require the government entity to improve the road to today's standards.

Your Committee has amended this measure by:

- (1) Removing the statutory framework allowing for the surrender of public roads;
- (2) Removing provisions granting the State and counties immunity from liability, under certain conditions, from harm resulting from the use of a surrendered road;
- (3) Expanding upon the State and counties' authority to condemn public roads; and
- (4) Removing State or county obligations pursuant to any law or rule to improve or maintain a condemned road.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2049, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as H.B. No. 2049, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



