



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 120, H.D. 1, RELATING TO HAWAIIAN AFFAIRS.

BEFORE THE:

HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

DATE: Tuesday, February 14, 2017 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 312

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Amanda J. Weston, Deputy Attorney General

Chair Ing and Members of the Committee:

The Department of the Attorney General provides the following comments on this measure.

The purpose of the bill is to direct the Department of Land and Natural Resources to “recognize the entire Ala Loa trail on Kauai as a state trail.” We presume that the basis for recognition would be the Highways Act of 1892, now codified in chapter 264, Hawaii Revised Statutes.

This bill could be subject to challenge on the basis that the title, “relating to Hawaiian affairs” does not necessarily contain or express the subject matter of the bill. This could be challenged as violating Article III, section 14 of the Hawai‘i Constitution, which provides, “No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title.”

Therefore, to avoid a potential challenge, we recommend that the bill be replaced by another bill with the appropriate title.

We also note that “recognition” by the Department of Land and Natural Resources is unlikely to effect any particular result. The department is already generally aware that an Ala Loa historically existed. The difficulty lies in identifying the exact location of the trail or its components.

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS**

**Tuesday, February 14, 2017
8:30 AM
State Capitol, Conference Room 312**

**In consideration, of
HOUSE BILL 120, HOUSE DRAFT 1
RELATING TO HAWAIIAN AFFAIRS.**

House Bill 120, House Draft 1 proposes to require the Department of Land and Natural Resources (Department) to recognize the entire Ala Loa Trail on Kauai as a state trail. **The Department appreciates the intent of this bill to provide enhanced public access to historic Ala Loa trails, and offers comments.**

The Department manages the State of Hawai'i's "Na Ala Hele" Statewide Trail and Access Program, established in 1988 and codified as Section 198-D, Hawai'i Revised Statutes (HRS), in response to public concern about the loss of public access to certain trails and the threat to historic trails from development pressure. Among its responsibilities is the identification and inventory of historic trails, including nā alaloa.

Alaloha or "long trail" is a term used by the earliest Hawaiian historians to refer to major prehistoric and early historic routes that were used by the general population. These trails were important in transportation, religious rites, and political control in old Hawai'i. Nā alaloa are often located along shorelines and at times are mid-elevation or cross-island trails. Such trails are frequently associated with nearby historic sites such as habitation complexes, shrines, and petroglyph fields.¹

Establishment of the existence and actual location of an alaloha on the ground is a matter of extensive and careful review of evidence in historical documents and other records and sources.

The Department cannot currently recognize the entire Ala Loa Trail on Kauai as a state trail because the existence and location of the entire alaloha trail has not been confirmed.

¹ Nā Ala Hele Program Plan, p. IV-16 (1991) <http://dlnr.hawaii.gov/recreation/files/2013/09/NAH-Program-Plan-1991.pdf>

The Department is aware that a number of individuals wish to have the Department assert ownership of a coastal trail claimed to be an alaloa in the area of “Larsen’s Beach” on north Kaua‘i. The Department has previously determined that the historic trail identified on registered maps is owned by the State pursuant to Section 264-1, HRS. However, the exact location on the ground must be identified. To date the Department has not been able to confirm the location of this historic trail; indeed evidence indicates it may have been located further mauka away from the coast near the main highway.

Research is ongoing on the history of this alaloa, and the Department is reviewing all available information to continue to try to determine the location of this trail, and is in continuing discussion with aha moku representatives and community members.

The Department remains committed to continued dialogue with stakeholders on the location of specific portions of the Ala Loa Trail on Kaua‘i.

The Department respectfully requests that this bill be deferred so that research can continue.

Thank you for the opportunity to comment on this measure.



**HB120 HD1
RELATING TO HAWAIIAN AFFAIRS**

House Committee on Ocean, Marine Resources & Hawaiian Affairs

February 14, 2017

8:30 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **SUPPORT** HB120 HD1, which would require the Department of Land and Natural Resources (DLNR) to recognize the entire Ala Loa trail on Kaua'i as a state trail.

DLNR's recognition of Kaua'i's Ala Loa would better ensure continued Native Hawaiian access through a major trail system that is critical to Native Hawaiian cultural perpetuation. For centuries, the Ala Loa has served as a highway for Native Hawaiian socio-political-economic development and cultural continuity – linking Native Hawaiians of ka wā ma mua (the time before) and Native Hawaiians of ka wā ma hope (the time after). Native Hawaiian cultural practitioners today continue to depend on the Ala Loa as an essential access route for the exercise of their constitutionally protected traditional and customary rights. However, despite an 1892 declaration recognizing all trails and highways as public lands, and notwithstanding the constitutional right of Native Hawaiians to reasonably engage in traditional and customary practices, practitioner access to the Ala Loa has not been consistently upheld. **DLNR's recognition of Kaua'i's Ala Loa would better ensure access to and preservation of this critical cultural pathway.**

There is information to identify the location of the Ala Loa, and for the Ko'olau district of Kaua'i, the information is more than sufficient. OHA understands that the state's hesitancy to recognize the Ala Loa in the Ko'olau district may stem from a perceived lack of information on its precise location. Accordingly, since before 2011, community members, the Native Hawaiian Legal Corporation, and OHA staff, have worked on the issue of Ala Loa access in the various ahupua'a that comprise Kaua'i's Ko'olau district. Through this work and the great work of the community, OHA believes that the specific scope and location of the Ala Loa extending through the Ko'olau district has in fact been thoroughly documented. The historic major trail appears on maps from as early as the year 1833 through 1900 and is recognized in māhele documents like land commission awards. Ancient coastal settlements in the Ko'olau district such as Moloa'a, Pāpa'a, and 'Aliomanu were interconnected by the Ala Loa and illustrative accounts of the use of this historic trail have been documented in publications from 1829 to 1895. **Taking into consideration the entire scope of historic resources involving the Ala Loa, OHA believes there is more than enough sufficient information to determine the location of the Ala Loa in the Ko'olau district of Kaua'i.**

Therefore, OHA urges the Committee to **PASS** HB120 HD1. Mahalo for the opportunity to testify.

COUNTY COUNCIL

Mel Rapozo, Chair
Ross Kagawa, Vice Chair
Arthur Brun
Mason K. Chock
Arryl Kaneshiro
Derek S.K. Kawakami
JoAnn A. Yukimura



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

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

February 10, 2017

TESTIMONY OF MASON K. CHOCK
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
HB 120, HD 1, RELATING TO HAWAIIAN AFFAIRS
House Committee on Ocean, Marine Resources & Hawaiian Affairs
Tuesday, February 14, 2017
8:30 a.m.
Auditorium

Dear Chair Ing and Members of the Committee:

Thank you for this opportunity to provide testimony in strong support of HB 120, HD 1, Relating to Hawaiian Affairs. My testimony is submitted in my individual capacity as a Councilmember on the Kaua'i County Council.

This Bill proposes to require the Department of Land and Natural Resources to recognizing the entire Ala Loa trail on Kaua'i as a state trail. The clear identification and recognition of the entire Ala Loa trail on Kaua'i is an important step in securing the public access, hunting, and gathering rights for many Native Hawaiians. The proper identification of the Ala Loa will also help to end the longstanding and escalating tension between Native Hawaiians, private landowners, and residents on Kaua'i with regards to its location.

For the reasons stated above, I urge the House Committee on Ocean, Marine Resources & Hawaiian Affairs to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

MASON K. CHOCK
Councilmember, Kaua'i County Council

SS:dmc

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 4:03 PM
To: omhtestimony
Cc: waialealekauai@yahoo.com
Subject: Submitted testimony for HB120 on Feb 14, 2017 08:30AM

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
kuulei	Aha Moku O Koolau_Moloaa_Kauai	Support	No

Comments: I strongly support this HB 120 measure to Require the DLNR to recognize the entire Ala Loa trail on Kauai as a state trail. Mahalo Nui loa ... Kuulei

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: Carol Lovell <anahola.lovell@hotmail.com>
Sent: Monday, February 13, 2017 3:37 PM
To: omhtestimony
Subject: HB 120

Aloha Kakou,
I am Carol Lovell of the Ahupua`a of Anahola, Ko`olau Moku, Kaua`i.

I am in support of HB 120 that asks for the restoration of the Ala Loa here on Kaua`i.

I ask that you allow the voices of our Kupuna to be heard through their testimonies and the ancient maps from the 1800's. These will provide you with the details of this ancient pathway here on our island.

I humbly ask that you continue to respect and honor our culture through the passing of HB 120.

Na`u me ke aloha,
Carol Lovell
Council of Konohiki, Ahupua`a Anahola

Sent from [Mail](#) for Windows 10

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 2:10 PM
To: omhtestimony
Cc: 3242keao@gmail.com
Subject: Submitted testimony for HB120 on Feb 14, 2017 08:30AM

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Aggie Marti-Kini	Aha Moku Koolau	Support	No

Comments: Aloha, my name is Agnes Keaolani Marti-Kini, on behalf of myself and our Council of Konohiki in the moku Ko`olau on the island of Kauai and our numerous supporters, I would like to encourage you to support and pass HB120 regarding the restoration of the Ala Loa on Kauai based on the Highways Act of 1892, Ancient maps from the 1800's, letters of support from OHA, Kupuna testimonies, and many other local agencies. This would mean so much to the people of Kauai who wish to traverse this "Long Path" that circles our island of Kauai to preserve and perpetuate our history. Mahalo nui loa, Aunty Aggie, Po`o Koolau, Mano Kalani Po/Kauai

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 9:22 PM
To: omhtestimony
Cc: sstarenko@gmail.com
Subject: *Submitted testimony for HB120 on Feb 14, 2017 08:30AM*

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Starenko	Individual	Support	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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 8:56 PM
To: omhtestimony
Cc: wendyvijay@gmail.com
Subject: Submitted testimony for HB120 on Feb 14, 2017 08:30AM

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

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

Comments: Please support Bill HB120 and ALL such bills that protect the land and the right of the people to have access to beaches and all other beautiful traditional places of importance and significance that should be accesible to all. The historical "public footpath" system of Great Britain might be a possible model or spark ideas to learn from (?) to protect the land and people from being "bought off" by private landowners.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 7:19 PM
To: omhtestimony
Cc: rspacer@yahoo.com
Subject: *Submitted testimony for HB120 on Feb 14, 2017 08:30AM*

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Spacer	Individual	Support	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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 6:13 PM
To: omhtestimony
Cc: anaholabon@gmail.com
Subject: Submitted testimony for HB120 on Feb 14, 2017 08:30AM

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
bonnie morris	Individual	Support	No

Comments: Please support the restoration of the Ala Loa on Kauai. This is important as the island continues to be bought up by individuals and partnerships that have no interest in retains our rich cultural heritage. I have listened to many kupuna over the years, this is important. Stand up for Kaua'i, and Hawaii Don't allow a privileged few to fence off a cultural legacy

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 5:54 PM
To: omhtestimony
Cc: kauaimuse@gmail.com
Subject: Submitted testimony for HB120 on Feb 14, 2017 08:30AM

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

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

Comments: I am totally in favor of saving and restoring the Ala Loa on Kauai. I would go a long way towards raising the morale of the people here, while honoring the sacredness of our island heritage and historic legacy. Thank you!

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 5:40 PM
To: omhtestimony
Cc: margaretsturdevant@yahoo.com
Subject: Submitted testimony for HB120 on Feb 14, 2017 08:30AM

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
margaret sturdevant	Individual	Support	Yes

Comments: Kauai will be a better place for visitors and locals alike when Hawaiian heritage is made known and shared. It is Hawaiian History. Just as crucial as any history

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 2:37 PM
To: omhtestimony
Cc: hawaiiansharkus@mac.com
Subject: Submitted testimony for HB120 on Feb 14, 2017 08:30AM
Attachments: IMG_1005.PNG

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Sal Marti	Individual	Support	No

Comments: Aloha! I am in complete support of saving KAUAI's Ala Loa, Saving the ala loa would be saving our Hawaiian Legacy and the Historic sacred sites that can be seen from the Ala Loa! Please Kokua and support this House Bill 120. Mahalo, Sal

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

gates2 - Thomas

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 1:47 PM
To: omhtestimony
Cc: keao@me.com
Subject: Submitted testimony for HB120 on Feb 14, 2017 08:30AM

HB120

Submitted on: 2/13/2017

Testimony for OMH on Feb 14, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Agnes Marti Kini	KAFarmers Hui	Support	No

Comments: Aloha Legislators, On Behalf of our organization of Farmers on the East side of Kauai, the KAF HUI, comprised of 50 plus members and supporters are totally IN FAVOR of HB 120 to recognize, restore, mark and designate clearly the Ala Loa on Kaua. This is the ancient foot Highway of our ancestors and is our precious history and has great significance to the people of Kauai who wish to use this "Long Path" to gather food and medicine, to fish and pull limu, to enjoy the kilo and to perpetuate our traditions. Mahalo for your Support Agnes Marti Kini President.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov