



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2019**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 327, RELATING TO PRIVATE ROADS.

**BEFORE THE:**

SENATE COMMITTEES ON TRANSPORTATION AND ON JUDICIARY

**DATE:** Friday, February 8, 2019 **TIME:** 10:30 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Amanda J. Weston, Deputy Attorney General

---

Chair Inouye and Rhoads and Members of the Committee:

The Department of Attorney General provides the following comments:

The bill directs the Attorney General to condemn eight roads on Oahu, which are presumably privately owned. We appreciate the intent of the bill, but request the following amendments:

- (1) As required by section 101-16, Hawaii Revised Statutes (HRS), the bill should contain: (a) a statement of the use to which the land sought to be condemned is to be put; (b) a description of each and every piece of land sought to be condemned; and (c) whether the same includes the whole or only a part of an entire tract or parcel.
- (2) The bill should appropriate funding for the condemnations. The condemnations require significant resources both for due diligence costs and court costs, including compensation to property owners as required by chapter 101, HRS, and title reports and surveys. We recommend including wording to provide for an appropriation of \$\_\_\_\_\_ for these costs. The specific appropriation must be included once the value is known.
- (3) The bill should also designate which department will operate and manage the roads once condemned. Lands being used for roads and streets are

excluded from the definition of public lands over which the Department of Land and Natural Resources has jurisdiction under Section 171-2(3), Hawaii Revised Statutes. The Department of Transportation manages state-owned highways and may be the appropriate department to handle the condemnations and to later manage the roads.

We respectfully ask the Committee to pass the bill with the recommended amendments.

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 Senate Committees on  
TRANSPORTATION  
and  
JUDICIARY**

**Friday, February 8, 2019  
10:30 AM  
State Capitol, Conference Room 016**

**In consideration of  
SENATE BILL 327  
RELATING TO PRIVATE ROADS**

Senate Bill 327 proposes to require the Attorney General to condemn certain private roads on the island of Oahu. **The Department of Land and Natural Resources (Department) offers the following comments.**

Lands being used for roads and streets are excluded from the definition of public lands over which the Board of Land and Natural Resources (Board) and Department have jurisdiction under Section 171-2(3), Hawaii Revised Statutes (HRS). Moreover, Section 264-1, HRS, is clear that all public roads in the State are either state highways under the jurisdiction of the Department of Transportation, or county roads. Therefore, the Department cannot take any action or expend any funds to repair or maintain any roads that may be acquired by this condemnation action. Furthermore, the condemnation of private property is subject to providing just compensation to the private owner. The Department notes that this measure does not appropriate any funds for that purpose.

Thank you for the opportunity to comment on this measure.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

DAVID Y. IGE  
GOVERNOR OF HAWAII



BRUCE S. ANDERSON, Ph.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

WRITTEN  
TESTIMONY ONLY

**Testimony COMMENTING on SB0327  
RELATING TO PRIVATE ROADS**

SENATOR LORRAINE R. INOUE, CHAIR  
SENATOR BREENE HARIMOTO, VICE CHAIR  
COMMITTEE ON TRANSPORTATION

SENATOR KARL RHOADS, CHAIR  
SENATOR GLENN WAKAI, VICE CHAIR  
COMMITTEE ON JUDICIARY

Hearing Date: February 8, 2019

Room Number: 016

1 **Fiscal Implications:** No funding is provided to implement this measure and the Department  
2 defers to the Governor's Supplemental Budget Request for appropriation priorities.

3 **Department Testimony:** The Department of Health (Department) offers comments on this  
4 measure as the lack of ownership and maintenance of roads in former industrial areas may pose a hazard  
5 to children's health when the pavement is in disrepair and contaminated soils under roadways become  
6 exposed.

7 DOH investigates sources of contamination and works with land owners to prevent exposures under  
8 HRS 128D. Properly maintained road surfaces provide a protective barrier to prevent direct contact with  
9 potentially contaminated soils. In 2017, while investigating potential childhood lead exposures, DOH  
10 identified lead contamination in subsurface soils at Factory Street in Kalihi and took an emergency action  
11 to provide temporary patching to potholes in the road surface to limit incidental contact by small children  
12 in the adjacent housing. Because this road is designated as abandoned, neither the City nor the property  
13 owners are currently maintaining the road surface. Establishing ownership of Factory Street will  
14 re-institute routine maintenance of the roadway surface, creating a protective barrier that will protect the  
15 community into the future.

- 1 **Offered Amendments:** The Department requests the following amendment:
- 2 (9) Factory Street, from North King Street to Waterhouse Street;
- 3 Thank your for the opportunity to testify on this measure.

**TESTIMONY BEFORE THE JOINT SENATE  
COMMITTEE ON TRANSPORTATION  
AND  
COMMITTEE ON JUDICIARY**

**S.B. 327**

**Relating to Private Roads**

Friday, February 8, 2019

10:30 a.m.

State Capitol, Conference Room 016

Dave Nagata  
Land Agent  
Hawaiian Electric Company, Inc.

Chair Inouye and Chair Rhoads, Vice Chair Harimoto and Vice Chair Wakai, and  
Members of the Committees,

My name is Dave Nagata and I represent Hawaiian Electric Company and its  
subsidiary utilities Maui Electric Company and Hawaii Electric Light Company  
(collectively, the "Companies") and we are writing with concerns and suggested  
amendments regarding S.B. 327, Relating to Private Roads. Last week the House  
Committee on Water, Land and Hawaiian Affairs deferred the companion to this bill,  
H.B. 94.

S.B. 327 attempts to condemn certain roads on the island of Oahu. We have  
concerns with this bill as currently drafted because Hawaiian Electric facilities (poles,  
wirelines and associated equipment) are located within all of the eight roads implicated  
and the bill makes no legal provision for the continued presence of these facilities.

To the extent that the presence of such facilities is not otherwise permitted by  
Hawaiian Electric's franchise concerning facilities within public rights of way, Hawaiian

Electric requests that the language of S.B. 327 be amended to require the attorney general to grant perpetual easements covering all of Hawaiian Electric's facilities within the roads implicated in the bill.

Accordingly, we respectfully request that you consider the language on page 2, lines 1-12 to be amended to state:

"The attorney general shall take all action necessary to condemn the following roads on the island of Oahu:

1. Auld Lane, from Olomea Street to North King Street;
2. Iao Lane, from Olomea Street to Auld Lane;
3. Rawlins Lane, from Auld Lane to its terminus;
4. Akau Lane, from Hikina Lane to its terminus;
5. Colburn Street, from Puuhale Road to Kalihi Street;
6. Kalani Street, from Puuhale Road to Mokauea Street;
7. Hau Street, from Puuhale Road to Kalihi Street;
8. Hart Street, from Puuhale Road to Kalihi Street;

provided that condemnation proceedings shall be initiated no later than January 1, 2020; and provided further that perpetual easements for access and utility purposes be granted to Hawaiian Electric for all Hawaiian Electric facilities located within the roads that are subject to condemnation proceedings required by this Act and not otherwise permitted by existing law."

Accordingly, Hawaiian Electric has concerns with the bill as written and offers amendments for the committee's consideration. Thank you for this opportunity to testify.

**SB-327**

Submitted on: 2/6/2019 4:13:47 AM

Testimony for TRS on 2/8/2019 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
De MONT R. D. CONNER	Testifying for Ho'omanapono Political Action Committee (HPAC)	Oppose	Yes

Comments:

**WE STRONGLY OPPOSE THIS BILL ON THE BASIS THAT THERE HAS BEEN NO DEMONSTRATION THAT A COMPLETE TITLE SEARCH HAS BEEN COMPLETED TO VERIFY THAT, IN FACT, THE HEIRS AND ASSIGNS OF THE LANDS(upon which the roads are situated) have been located & will be justly compensated for the taking of their property interests.**

**WE FURTHER BELIEVE THAT OHA IS REQUIRED BY LAW TO BE NAMED AS A DEFENDANT IN KULEANA LAND CLAIMS WHERE THERE ARE NO TAKERS. See HRS 669. THEREFORE, OHA SHOULD BE WEIGHING IN ON THIS BILL. PLEASE DEFER OR HOLD THIS BILL.**



**SB-327**

Submitted on: 2/4/2019 5:20:26 PM

Testimony for TRS on 2/8/2019 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Golojuch	Individual	Support	No

Comments:

Although I submit my support as an individual, as an OMPO/CAC member I know this is required.

Mike Golojuch, Sr.

**SB-327**

Submitted on: 2/4/2019 6:57:30 PM

Testimony for TRS on 2/8/2019 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Santiago	Individual	Support	No

Comments:

TO: The Honorable Lorraine Inouye, Chair, the Honorable Karl Rhoads, Chair and Members of the Senate Committee on Transportation, and Senate Committee on Judiciary

DATE: Friday, February 8, 2019 – 10:30 a.m., Room 016

RE: SB 327 – RELATING TO PRIVATE ROADS



STRONG SUPPORT

Thank you for this opportunity to testify in strong support of SB 327, which would condemn Rawlins Lane, and would hopefully lead to its future repair.

My name is Hwa Ja Park, and my family and I have been living at 1009 Rawlins Lane for over 80 years, and throughout that time, the road condition has deteriorated greatly. Over the years, our family has tried to be good neighbors and we have filled in the more damaged areas with blacktop patch. More recently, with my husband and son no longer with me, I hired someone to fill in some of the bigger holes near the entrance of Rawlins Lane with concrete, but due to the enormous cost, I could not fill the entire lane. We have tried to get abutting land owners to contribute to repave Rawlins Lane, but they are uninterested or do not have the monetary resources to do so. Rawlins Lane floods after heavy rainfall making it dangerous and sometimes impossible for the elderly like me and the young children to pass safely. We have also asked the City for assistance, but they refused to maintain this roadway because it is considered a private road.

Please help us to improve this serious condition where we live by supporting and passing SB 327.

Sincerely,

Hwa Ja Park

**LATE**

**SB-327**

Submitted on: 2/8/2019 9:41:44 AM

Testimony for TRS on 2/8/2019 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Arvid Tadao Youngquist	Individual	Oppose	No

Comments:

I oppose this measure even though I understand the underlining issue over parking and maintenance. In addition to islandwide concern over the Ala Wai Canal watershed remediation and the private landowners being concerned about flooding as well as possibility of a eminent domain action or condemnation, there is the ongoing issue of HART rail route land condemnation to make way for the route.

This street in question is in the vicinity of the TOD as well. Doing condemnation can actually impact the businesses on either side of the street, even if it were turned into a parking lot. The latter will not remedy the concerns of the businesses who have an existing complaint with the private road/street. In addition, there are many additional private roads and streets, even in my district. Here the neighbors are more amicable and fortunately, not in the path of HART nor TOD.

Please reconsider SB 327 and either hold it or vote it down. If it were such a good measure, this condemnation could have been accomplished by the Country. Mahalo.

Arvid T. Youngquist

SD 14, Voter & Resident