

Council Chair  
Alice L. Lee

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Gabe Johnson  
Kelly Takaya King  
Michael J. Molina  
Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Traci N. T. Fujita, Esq.

Deputy Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

March 14, 2022

TO: Honorable Henry J.C. Aquino, Chair  
House Committee on Transportation

FROM: Alice L. Lee  
Council Chair

DATE: March 14, 2022

SUBJECT: **SUPPORT FOR SB 2008, SD1, RELATING TO HIGHWAYS**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to relieve the State and counties of liability for condemned roads and the requirement to maintain and improve condemned roads.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

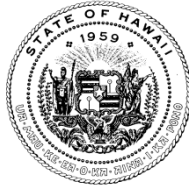
I **SUPPORT** this measure for the following reasons:

1. This bill reduces impediments to State and county condemnation of private lanes.
2. This bill repeals the three-year limit on the exemption of the State and counties from the requirement to maintain or improve any condemned roads.
3. This bill abolishes joint and several liability of the State and counties for acts or omissions that occurred prior to the condemnation of a highway, road, alley, street, way, lane, bikeway, bridge, or trail.

For the foregoing reasons, I **SUPPORT** this measure.

ocs:proj:legis:22legis:testimony:sb2008\_sd1\_paf22-018(72)a\_wal

DAVID Y. IGE  
GOVERNOR



**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
ROSS M. HIGASHI  
EDUARDO P. MANGLALLAN  
PATRICK H. MCCAIN  
EDWIN H. SNIFFEN

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

March 16, 2022

10:30 A.M.

State Capitol, Conference Room 423/Teleconference

**S.B. 2008, S.D. 1**  
**RELATING TO HIGHWAYS**

House Committee on Transportation

---

The Department of Transportation (DOT) **supports** this bill that will repeal the current 3-year exemption of the state and counties from any obligation to maintain or improve any privately-owned road that is condemned. Additionally, this measure will provide immunity from joint and several liability of the state and counties for any condemned roads.

This measure significantly reduces risk to government agencies when condemning roads that may not have been well maintained or may have environmental challenges that must be addressed. Assessments and or mitigations could take years. However, as DOT has not utilized this provision of law to condemn privately owned roads, and has no plans to do so in the short term, we have no information or data to indicate that removal of the 3-year exemption would facilitate more condemnations by the state.

Thank you for the opportunity to provide testimony.

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT WITH COMMENTS ON SB 2008**

Date: Wednesday March 16, 2022

Time: 10:30 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **Support Intent with Comments** on SB 2008, Relating to Highways.

Historically, the legislature has found that there are many roads throughout Hawaii that are not owned by either the State or any county, and whose private ownership is unknown. These roads may have been indicated on a subdivision plat or may have been a remnant of a former road or a small portion of a larger public road. Although these roads are often used by the public, the roads do not receive necessary repair and maintenance. In some cases, the roads have fallen into significant disrepair.

In 2016, the legislature passed Act 194 which gave the State and County 3 years to maintain the road after the condemnation. The purpose of condemnation is to allow the State or County to fix roads that have fallen into disrepair and are a danger to the public. Upon enactment in 2016, it was logical to allow 3 years to enable repair of the roads, but after that period, the State or County would then be responsible, just like any other road.

HAJ supports the intent of this measure and offers comments regarding the repeal of the 3-year limit on the exemption which allowed sufficient time for the State or County to repair or maintain a condemned road. The complete removal of any time limit for the exemption to maintain or improve the road raises the concern that the State or County might obtain a private roadway in 2022 and never have to fix it. For example, the State or County

could condemn a road where there is currently a 1-foot-deep hole in the middle that becomes 3 feet deep by 2032 which then cripples a child who falls into the hole at night because the road was not maintained or improved.

HAJ understands that immediate repairs may be difficult if government does not have sufficient funds to repair or maintain these roads. At a minimum, the current 3-year grace period should be preserved for planning, budgeting and construction. This procedure at least assures that there is an incentive for government to repair the most dangerous roads as quickly and as feasibly as possible.

Accordingly, HAJ recommends that the 3-year timeframe be extended to 4 years to provide the State or County additional time to properly maintain the road. Specifically, HAJ recommends the following amendments:

1. Section 1 of the bill be amended to read "~~Remove~~ Extend the three-year limit on the exemption of the State and counties from the requirement to maintain or improve any condemned roads to four years;
2. Section 2 amending HRS § 264-1(d) be amended to read "(d) If a privately owned highway, road, alley, street, way, lane, bikeway, bridge, or trail is deemed to have been dedicated to or condemned by the State or county pursuant to subsection (c), the State or county shall be exempt for a period of [~~three~~] four years from any state laws or rules adopted pursuant thereto that would require the State or county to perform construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation upon it."

For these reasons, HAJ supports the intent of the bill and appreciates the committee's consideration of our recommended amendments. Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.