

LATE

TESTIMONY – TRANSMITTAL COVER SHEET

Testifier's Name, position/title, organization:

Boyd Akase, Director, House Minority Research

Committee:

Legislative Management

Date and time of hearing:

Friday, April 3<sup>rd</sup>, 2009 @ 4:30 p.m.

Measure number:

House Resolution 242

Number of copies requested by the Committee:

Five (5)

Chair Tokioka, Vice Chair Oshiro, and members of the Legislative Management committee,

My name is Boyd Akase, and I am the Director of House Minority Research, and I am testifying both as a member of the public and in my role as Director of House Minority Research, as you will see. I am testifying IN SUPPORT of House Resolution 242, with comments.

While I agree with many of the propositions stated in the resolution, there are several that I feel compelled to comment on in an effort to clarify and improve the resolution.

In the fourth WHEREAS clause, the proposition that testifying before the Legislature may be correct, but that could lead to results that run contrary to the intent of the resolution. For instance, the duties for my particular position (as well as my counterpart in House Majority Research) is stated in section 20.9 of the House Administrative and Financial Manual as follows, with emphasis added:

**Director of Research**

**Duties and responsibilities:** The partisan caucus leaders, subject to the approval of the Speaker, shall appoint their respective Directors of Research to administer and manage the operations of their respective partisan research and legal service offices in the House. The Directors shall:

(1) Perform highly responsible administrative and coordination functions, including legislative and governmental consultation and research, liaison, and drafting support for the House;

(2) ***Assist in the formulation of internal policy;***

(3) ***Identify issues, trends, and problems of significance;***

(4) ***Undertake important studies of various subjects;***

(5) Coordinate training sessions for legislators and legislative staff;

(6) Review and evaluate final work products of subordinates to determine conformance with stated objectives, assess the adequacy and quality of the work performed, and make revisions as necessary; and

(7) ***Perform related duties as required.***

This resolution ultimately calls for support by the House members for amendments to our House Rules, which affects the formulation of internal policy for the House as well as House Minority Research. In so far as this resolution affects the ability of certain members of the public, i.e., those that work here, to exercise First Amendment rights, this could be classified as an issue or trend of significance which House Minority Research could be tasked with studying, etc . . . thus, testifying on this measure could be a "related duty" which was required by House Minority Leader.

At the very least, as both the Majority and Minority Leader are aware, I have been called upon in years past to assist the House Minority Leader and House Minority Caucus in collaborating with House Majority Leadership in crafting the House Rules.

In other words, while it may appear contrary for me as an individual to testify on this measure, it can and does fall well within my prescribed duties to do so. And if so, there should be no need for me to take leave to testify on this matter, which runs directly counter to the transparency you intend. This would apply to Researcher and Analyst positions as well, by my reading of the Rules.

But I did file for leave, as requested under this resolution, and a copy of that leave approval form is attached for your convenience. Now, it has been my experience that the Speaker of this House is very diligent in keeping the operations of the Chamber running smoothly, and that includes signing off on the numerous requests that come into his office on what seems to be an hourly basis. I have, and will continue, to be grateful for his prompt attention and disposition of requests from this office and myself.

However, he is only human, as am I. Both of our schedules get busier, as does yours, as the session draws closer to its end. It is clearly stated when the application was sent, received, and sent back.

I went through the exercise of getting leave approval to see just how tough it could be at a busy time, because I know it's pretty easy during a less

busy time. Trying to get this information to all the committee members before I testified wasn't as easy as I thought! So I just bring up that point to illustrate a potential difficulty, but not to call for the exclusion of that language.

I am a little concerned about how this plays out for session researchers, etc . . .they do not accrue vacation or sick leave as permanent staff does. That takes away the choice of using vacation or unpaid leave of absence in order for them to testify during working hours. It appears I can only sign off on unpaid leave of absence for session researchers to testify, giving them the choice of exercising their civic duty at a cost of not getting paid.

The economy is pretty bad right now, which gives all of us in the House one double-edged benefit – a pool of qualified session hires. As many could attest, those that have hiring authority in the House have seen some impressive resumes and worked with some gifted folks this session compared to the past several sessions. I've had to turn away attorneys, folks with great budget experience, and expertise in numerous areas.

Hypothetically, if I came across the resume of the Majority Leader, I'd be hard pressed to turn him away. He's a practicing attorney with an expertise in procurement, which is an issue of some importance. He'd be able to bring a lot to the table, and could speak authoritatively on the matter. I'd be sorely tempted to turn him loose to testify on procurement bills in an effort to improve them, and I'm pretty sure he'd be chomping at the bit for that opportunity. It would be a pretty sad choice we'd face, docking his pay to improve legislation or staying quiet and hoping it works out for the best. In the marketplace of ideas, I like to say that Majority Leader's opinions and insights on procurement would have 'high value', and this chamber should actively promote the acquisition of 'high value' insights in policy making.

As a final point, because they are right next door to us, I raise the question of our friends in the Legislative Reference Bureau. Director Takayama serves both the House and Senate, and testifies on quite a few bills and resolutions. How is he affected by this resolution?

In closing, I want to reiterate that I support this resolution. If this resolution passes out, I'm going to be dealing with it in some form anyway.

In conversation a couple of days ago, Chair Tokioka made it clear to me that this is not a partisan resolution, and I agree with that. We've seen examples of both Majority and Minority staffers testifying this year.

And the chair made it clear to me that he was not trying to stifle First Amendment rights, and I have no reason to doubt him. House Resolution 242 simply tries to set out a process to balance those rights with the obligations of the jobs here in the House. It just looks like the process needs a little tweaking.

And now that I've set the proposition that testifying is actually within my job description, I guess there was no need to take leave. So I apologize for not being able to take questions because I am leaving a half-hour early. I hope you all have a good weekend.

STATE OF HAWAII

APPLICATION FOR LEAVE OF ABSENCE  
RECEIVED

2009 APR -1 P 4:39

Date: April 1st, 2009

I, Boyd K. Akase apply for a leave of absence as follows:  
(PRINT YOUR NAME CLEARLY) ~~SPEAKER'S OFFICE~~

a. WITH PAY, charged to Vacation of 0.5 working hours  
(TYPE OF LEAVE)\*

for the calendar period from April 3rd, 2009  
(MONTH) (DAY) (YEAR)

to April 3rd, 2009  
(MONTH) (DAY) (YEAR)

b. WITHOUT PAY, for the purpose of \_\_\_\_\_ of \_\_\_\_\_ working hours  
(TYPE OF LEAVE)\*

for the calendar period from \_\_\_\_\_ to \_\_\_\_\_  
(MONTH) (DAY) (YEAR) (MONTH) (DAY) (YEAR)

Boyd K. Akase  
(SIGNATURE OF EMPLOYEE)

Date: 4/1/09 Approval 15 recommended.  
(IS) (IS NOT)

[Signature]  
(SIGNATURE OF SUPERVISOR)

Date: 4/2/09 Approval 15 recommended.  
(IS) (IS NOT)

Calvin Say  
(SIGNATURE OF SPEAKER)

THE USE OF THIS SECTION IS NOT MANDATORY. THE HOUSE WILL UTILIZE THIS SECTION AT LEAST ONCE A YEAR.

LEAVE STATUS OF EMPLOYEE

VACATION

SICK LEAVE

1. Credits accumulated as of Jan. 1, this year .....	_____	_____
2. PLUS credit earned from Jan. 1 to date .....	_____	_____
3. Total credits to date .....	_____	_____
4. LESS leave taken from Jan 1. to date .....	_____	_____
5. NET or unused leave credit as of this date .....	_____	_____
6. Number of days leave taken LAST YEAR .....	_____	_____

INSTRUCTIONS

1. This form is to be retained by the House for its use.
2. One copy of this form will be given to the employee who has taken a leave.
3. Submit the signed and completed application form to the Accounting Office.

All full-time permanent employees requesting sick leave for more than five (5) consecutive work days, must obtain a physician's note that must accompany this form for processing.

\* Types of leaves: vacation, sick, family leave, funeral, military, education, sabbatical, etc.

The Honorable James Kunane Tokioka, Chair  
The Honorable Blake K. Oshiro, Vice Chair  
Committee on Legislative Management

April 3, 2009

Re: Support of H.R. 242, Urging the members of the House of Representatives to support amendments to the House of Representatives Rules and Administrative and Financial Manual to impose a duty of a member to discourage permanent and session employees of the House of Representatives from testifying before the Legislature.

Dear Representatives Tokioka and Oshiro, and members of the committee,

I write in strong support of H.R. 242, which urges the House of Representatives to amend its internal administrative manuals to discourage its employees from testifying before the Legislature.

I respectfully request that the committee keep in mind Hawaii's current economic crisis, and look at the message currently being sent to the average, struggling residents of our state. Allowing employees of the House of Representatives to voice their opinions on pending legislation, while concurrently being paid by the state, is sending the disturbing message to our community that legislators are creating issues and then paying their staff members to testify in support of their own bills.

Additionally, legislative staff members are already biased toward certain measures, as they are more personally involved with the legislation, are familiar with the "players," and understand the "politics" behind the bill's language. By contrast, the average person often does not submit testimony on matters her or she thinks are important, because the average person usually does not hear of the measure until a decision has already been made. Allowing legislative staff members the ability to testify is taking further power away from average residents.

I urge members of the committee to preserve our legislative system created for the public, and to end the bias by legislative "insiders," who are being paid with our continually-dwindling state funds, by passing H.R. 242. Thank you for allowing me the opportunity to testify.

Respectfully,

Susan Reish  
Kailua