

JUDtestimony

From: John.M.Tonaki@hawaii.gov
Sent: Tuesday, February 08, 2011 3:42 PM
To: JUDtestimony
Subject: Public Defender testimony for JUD hearing on Feb. 10, 2011 at 2:00 pm
Attachments: HB 823.pdf

**Testimony of the Office of the Public Defender
State of Hawaii
to the House Committee on Judiciary**

February 10, 2011

H.B. No. 823: RELATING TO TRAFFIC FINES AND FEES

Chair Keith-Agaran and Members of the Committee:

We oppose passage of H.B. No. 823. This measure would double the amount of most traffic fines and deposit a portion of the funds raised into the judiciary computer and facilities maintenance funds. Through this bill, it appears that the judiciary is attempting to create a revenue stream via traffic cases to maintain its facilities and computer system.

This measure, we believe, poses serious questions as to whether the impartiality of the judiciary will be affected in traffic cases. The fines levied under this bill are punitive in nature and dependent upon a finding of guilt. Because the district court will become a major revenue producer with passage of this bill, will the ability of judges to remain impartial in traffic cases be diminished or eliminated? With respect to traffic cases, the public perception of the courts will be one of a moneymaker for themselves rather than a forum for seeking justice. Presumably, a periodic accounting of funds raised pursuant to this bill will be instituted. Perhaps revenues raised greatly decrease for a certain time period. Will judges be subconsciously encouraged to find more persons guilty to raise the revenue level? This is a major judicial ethics question.

The other issue is that many traffic offenders struggle to pay the fines levied at existing levels. This bill seeks, in effect, to "tax" individuals who are least likely to have an ability to meet the increased financial obligations. This measure may have the curious effect of providing little in financial gain while actually costing the government more. The courts will have to keep offenders under their jurisdiction for longer periods of time to monitor the payment of the increased fine amounts. This will cause the judiciary to incur additional costs.

Thank for the opportunity to comment on this measure.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 09, 2011 4:01 PM
To: JUDtestimony
Cc: jkaramatsu@honolulu.gov
Subject: Testimony for HB823 on 2/10/2011 2:00:00 PM
Attachments: HB 823 Traffic Fines Testimony Keith-Agaran.doc

Testimony for JUD 2/10/2011 2:00:00 PM HB823

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: Jon Riki Karamatsu
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Submitted on: 2/9/2011

Comments:

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THE HONORABLE GILBERT S.C. KEITH-AGARAN CHAIR
HOUSE JUDICIARY COMMITTEE
Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i

February 10, 2011

RE: H.B. 823; RELATING TO TRAFFIC FINES AND FEES.

Chair Keith-Agaran, Vice Chair Rhoads, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney, City and County of Honolulu submits the following testimony in opposition to H.B. 823.

This bill amends various sections of Chapter 291C, Hawaii Revised Statutes, to increase fines and fine ceilings for certain traffic offenses, and further amends Sections 601-3.7 and 607-4, Hawaii Revised Statutes, to reallocate these moneys to the judiciary computer system special fund, judiciary facilities repair and maintenance special fund, and the general fund. Although the Department of the Prosecuting Attorney does support the intent of this bill, we respectfully request that the increased amount(s) be fully allocated to the police department of the county in which the traffic offense occurs.

While this Office appreciates the hard work and dedication of its own staff, as well as that of the other prosecuting departments, the Judiciary and other agencies involved in the enforcement process, it is truly the county police departments that carry the brunt of the State's traffic enforcement duties. Without police officers actively patrolling our streets on a daily basis and having a visible presence on our highways and thoroughfares, there would be little or no incentive for motorists to comply with the traffic laws. Despite the financial difficulties affecting all of our counties, and cutbacks that have been made to most if not all State and county agencies, the police departments have pressed themselves and their personnel to maintain the same high level of public safety and welfare, using decreased budgets and manpower.

Based on our experience and understanding, it takes an enormous amount of manpower for the police departments to cover their traffic enforcement duties, including a great deal of working hours (or overtime hours) to appear and testify at court hearings. The Department of the Prosecuting Attorney of the City and County of Honolulu supports this pending measure to hold traffic violators to greater accountability for their actions, and to further deter traffic offenses, via increased fines and fine ceilings. However, due to the incredible burden shouldered by the

county police departments, in enforcing these offenses, the Department of the Prosecuting Attorney respectfully requests that the monies collected via increased traffic fines and fine ceilings be directed to the police department of the county in which the traffic offense occurs.

Lastly, there is a conflict since the Judiciary is making decisions on traffic fines for the various traffic offenses before them, and the funds from these fines are allocated to their budget.

For the following reasons, we oppose H.B. 823. Thank you for this opportunity to testify.



THE JUDICIARY, STATE OF HAWAII

Testimony to the House Committee on Judiciary
Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

Thursday, February 10, 2011, 2:00 p.m.
State Capitol, Conference Room 325

by
Susan Pang Gochros
Chief Staff Attorney and Intergovernmental & Community Relations Director

Bill No. and Title: House Bill No. 823, Relating to Traffic Fines and Fees

Purpose: Raises certain fines and fine ceilings for traffic offenses. Increases administrative fees for certain traffic offenses and allocates a portion of those moneys to the judiciary computer system special fund, judiciary facilities repair and maintenance special fund, and the general fund.

Judiciary's Position:

The Hawaii Judiciary supports the intent of House Bill No. 823, which would promote public safety while helping to defray costs associated with the administration of the justice system. This bill proposes increasing the administrative fees for certain traffic offenses. These fees were last increased in 2005. The bill also raises the fine ceilings for traffic offenses. It allocates a portion of the moneys collected to a Judiciary facilities repair and maintenance special fund.

Other states have enacted similar types of legislation. For instance, in California, the legislature enacted legislation increasing the fines for traffic tickets to include a \$35 surcharge on each fine, the proceeds of which are used to help renovate courthouses. Such legislation, like the bill before you, serves two important purposes: First, it generates increased revenue for the states. Second, and perhaps just as important, it serves to increase public safety by deterring unsafe behaviors such as speeding.



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We note a concern with this bill. On page 8, the bill mentions that 25% of the fees collected would be placed in a special fund called the judiciary facilities repair and maintenance special fund. We have not seen any bill introduced establishing this fund. We would suggest that the creation of this fund be added to this bill. We would be glad to assist by providing proposed language.

Thank you for the opportunity of providing testimony on House Bill No. 823.