

**HB2751, HD2,
SD1**

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: subvet808@me.com
Subject: Testimony for HB2751 on 3/28/2012 10:00:00 AM
Date: Sunday, March 25, 2012 6:28:59 PM

Testimony for JDL 3/28/2012 10:00:00 AM HB2751

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Brett Kulbis
Organization: Individual
E-mail: subvet808@me.com
Submitted on: 3/25/2012

Comments:

As a Navy Veteran, I spent 26 years defending the principles of our constitution; especially the right to free speech. ¶As a Legislature you too have a responsibility to protect our constitutional rights to free speech. ¶This legislation to me is a clear violation of the constitution and passage is the beginning of tyranny. I strongly oppose this legislation.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: cstravelerhi@yahoo.com
Subject: Testimony for HB2751 on 3/28/2012 10:00:00 AM
Date: Monday, March 26, 2012 7:04:31 PM

Testimony for JDL 3/28/2012 10:00:00 AM HB2751

Conference room: 016
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Craig Smith
Organization: Individual
E-mail: cstravelerhi@yahoo.com
Submitted on: 3/26/2012

Comments:

Dear Senator Hee and fellow committee members,

Adulation does not come by force and you cannot legislate respect. You get the respect that you deserve when you show respect to others and the Constitution.

There are already rules on the books that cover this issue and no one supports this bill, not the Attorney General, not the public – NO ONE! Except the sergeant-of-arms that has only ejected one person (from his testimony) in the history of the capitol and of course the legislators that are afraid of the public. The same people that will be violating the constitution the minute you jail a person for booing and not a group for applauding.

I thought that the legislature was going to focus on jobs and the economy this session. How does this bill HB 2751 HD 2 SD 1 improve the economy or create jobs? Unless of course you are trying to increase the number of correctional officers and the sergeant-of-arms staff, otherwise this bill has nothing to do with your supposed focus this year.

It seems to me that you are trying to demanded respect from the public by fear of incarceration. If the occupy movement has taught you anything it should be that fear of jail will not keep the 99% quiet when we are being oppressed by the government.

I have talked to lawyers and they said on the face this bill maybe constitutional but it will become unconstitutional the minute you enforce it against those that speak out at your failures and not those that support your decisions. So think carefully before you vote on this bill. Do you really want to waste more of the taxpayer's dollars by passing this ill conceived bill; or would you rather use those precious dollars to ensure we have a safety net, our food supply is safe, and we have money to pay our teachers.

If you chose the later then you will show us the respect that you want/demand of us; and that would be a great thing. But if you chose to move this horrible bill forward, you will only be calling on us to speak-out and call for your removal.

Do the right thing and KILL this bill, not the Bill of Rights! For you cannot legislate respect. Respect only comes when it has been earned and that does not come from just winning an election.

Thank you for the opportunity to testify this on horrible bill. Do the right thing and kill this bill, don't trample the constitution.

Craig Smith

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: [Lon Paresa](#)
Subject: Testimony for HB2751 on 3/28/2012 10:00:00 AM
Date: Tuesday, March 27, 2012 10:47:48 AM

Testimony for JDL 3/28/2012 10:00:00 AM HB2751

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Lon Paresa
Organization: Individual
E-mail: paresa@capitol.hawaii.gov
Submitted on: 3/27/2012

Comments:
I support HB 2751 HD 2, SD 1.

MITCHELL G. KAHLE

1519 NUUANU AVE., #154, HONOLULU, HAWAII 96817 • PHONE: 524-4040

TESTIMONY IN OPPOSITION TO HB 2751, HD2, SD 1
Relating to Offenses Against Public Administration

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Wednesday, March 28, 2012

TIME: 10:00 AM

PLACE: Conference Room 016, State Capitol

PAGES: 1 of 2 Total

Dear Chair Hee and Committee Members:

I object. My name is Mitch Kahle, and I object to this prayer on the grounds that is a violation of the Constitution of the United States.

For speaking those words from the public gallery of the Senate on April 29, 2010, I was physically ejected, assaulted, arrested, charged with the crime of *disorderly conduct*, and aggressively prosecuted.

In spite of all this, however, District Court Judge Leslie Hayashi ruled that I was NOT GUILTY. Judge Hayashi in fact scolded the prosecutor, asserting the state had “no prima facie evidence” that any crime had occurred. Further, Judge Hayashi ruled that I “...had a right to object to the prayer, because it violated the constitutional separation of church and state.”

In a subsequent civil lawsuit—which the State agreed to settle for \$100,000—the Federal Court found that “...the nature of the proceedings that occur in the Senate Chambers ... is a non-public forum. That fact, however, does not mean that Kahle had no free speech rights when he attended the session.”

In denying Defendants’ Motion for Judgment on the Pleadings, Judge Leslie Kobayashi opined, “Kahle’s verbal objection to the Senate’s invocation can be reasonably interpreted as part of an on-going attempt to persuade the senators and other elected officials of the error in the practice” [of allowing sectarian invocations]. And further that, “Defendants allegedly retaliated against him for doing so.”

In other words, while I acknowledge that sessions of the state legislature are normally considered to be non-public fora, two Hawaii courts have now recognized exceptions, wherein citizens may exercise their First Amendment rights, including free speech, press, and petition, under certain circumstances wherein the public has been invited to participate in or otherwise acknowledge proceedings.

Therefore, if the legislature allows or encourages public expressions of approval, such as applause, cheers, shouts of “Aloha” or “Amen,” then the body must equally permit and tolerate expressions of disapproval, such as boos, jeers, or similar shouts of “objection.”

On April 29, 2010, when the Senate President pounded the gavel and said, “Will the members and the audience please rise,” this act constituted an invitation for public involvement in the proceedings. When the pastor looked up at the gallery and said, “Please bow with me in prayer,” this was yet another invitation for public participation.

My objection to the unconstitutional Christian prayer on April 29, 2010 was in fact protected free speech. When the Senate President singled me out for removal and arrest, she engaged in impermissible viewpoint discrimination.

In the future, who is going to determine what speech or actions constitute “disrespect” or “breach of the peace” or “disturbance”? This measure does not even define the use of these ambiguous terms.

Is the sergeant-at-arms capable of making legal determinations as to “probable cause” for placing a member of the public under arrest?

I oppose HB 2751, HD2, SD1, because any application of this law will almost certainly constitute a similar act of viewpoint discrimination.

The State of Hawaii already has laws that prohibit disorderly conduct and obstruction of government operations. These laws were carefully crafted to avoid infringements upon civil liberties. This bill is thus unnecessary.

I strongly urge this committee to set this ill-thought legislation aside because it is ineffective and creates a new risk to state and taxpayer liability.

Sincerely,

Mitchell Kahle

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: toddhairgrove@hotmail.com
Subject: Testimony for HB2751 on 3/28/2012 10:00:00 AM
Date: Friday, March 23, 2012 5:57:09 PM

Testimony for JDL 3/28/2012 10:00:00 AM HB2751

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Todd Hairgrove
Organization: Individual
E-mail: toddhairgrove@hotmail.com
Submitted on: 3/23/2012

Comments: