

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 238**

FEBRUARY 20, 2013

RELATING TO WITNESSES

House Bill No. 238 raises the per diem rate for out-of-state witnesses from \$110 to \$145 and provides an additional \$90 per 24-hour day if an inter-island witness is required to stay overnight.

The Department of Budget and Finance primarily serves as the conduit for witness fee payments certified by the public prosecutor or county attorney for witnesses subpoenaed on behalf of the State and by the public defender for witness subpoenaed on behalf of the defendant. The FB 13-15 requested funding level for witness fees totals \$1.89 million and does not include the proposed cost increases for reimbursements. If this proposal is approved, the estimated cost impact based on the historical counts in regards to the annual number of witnesses that could be affected is \$21,000 in additional annual witness fee costs.

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THE HONORABLE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawai'i

February 20, 2013

RE: H.B. 238; RELATING TO WITNESSES.

Chair Luke, Vice-Chair Nishimoto, Vice Chair Johanson and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in strong support of H.B. 238, which increases the amount of per diem stipends for out-of-state witnesses from \$110 to \$145 per 24-hour day and makes available for a witness who must travel to another island within the State, an additional amount of \$90 per 24-hour day to the current \$55 per 24-hour day if that witness is required to stay overnight.

The purpose of this bill is to support and encourage victims and other witnesses to report and pursue charges against offenders of our criminal laws. In 1989, the legislature increased per diem stipends for out-of-state witnesses; however, the amount has remained the same since, for twenty-four years. This amount is no longer sufficient to pay the personal expenses of out-of-state witnesses, such as lodging and food. Often these individuals are forced to take money out of their own pockets to cover necessary personal expenses when subpoenaed to return to the state as a witness in state court proceedings. Because the per diem stipend amount has not been adjusted to keep pace with the cost of living in Hawaii, it has emerged as an economic "barrier" that either discourages or prevents an out-of-state witness from pursuing charges against offenders due to economic considerations. Further, the Department of the Prosecuting Attorney finds that the per diem stipend amount for witnesses that are required to travel to a different island within the State is also not sufficient to cover the witness' personal expenses when that witness is required to stay overnight.

Lastly, we believe the fiscal impact is manageable, considering that such funds will help bring witnesses from abroad who are needed to successfully convict defendants who have caused harm to people and property. In 2012, the total per diem days for bringing witnesses from the

mainland and foreign countries to the City and County of Honolulu was 95.25 for 25 witnesses for a total of \$11,082.50. The cost of bringing in 10 witnesses from the neighbor islands to the City and County of Honolulu was \$605.00, with none requiring an overnight stay. At a similar rate in the future the additional cost to the state for increasing the per diem from \$110.00 to \$145,000 **would be only \$3,333.75 per year**. Although the cost to the state of increasing witness per diem as proposed in HB 238 is minimal, the benefits to both returning witnesses and public safety are critically important as many of our visitors who are targeted by crime can no longer afford to return to testify at trials or other judicial proceedings with the current meager per diem. The proposed increase of \$35 per day in witness per diem is a small investment with a significant return.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of H.B. 238. Thank you for this opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

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Commissioner

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Commissioner

PAMELA FERGUSON-BREY
Executive Director

TESTIMONY ON HOUSE BILL 238
RELATING TO WITNESSES

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair

Wednesday, February 20, 2013; 3:30 PM
State Capitol, Conference Room 308

Chair Luke, Vice Chairs Nishimoto and Johanson, and Members of the Committee on
Finance:

Thank you for providing the Crime Victim Compensation Commission (“Commission”) with
the opportunity to testify before you today. The Commission supports the passage of House
Bill 238 which increases the per diem amount for out-of-state witnesses and witnesses from
another island who have been subpoenaed to testify at a state criminal trial.

The Commission was established in 1967 to mitigate the suffering and financial impact
experienced by victims of violent crime by providing compensation to pay un-reimbursed
crime-related expenses. Many victims of violent crime could not afford to pay their medical
bills, receive needed mental health or rehabilitative services, or bury a loved one if
compensation were not available.

Witnesses in criminal cases are vital and can be the deciding factor between an offender being brought to justice and an offender being released. In order to do their civic duty, witnesses must bear the financial burden of lost wages or having to use vacation leave. In addition to lost wages or leave, witnesses from out of state or off island must pay for additional expenses such as lodging and food. This creates an economic barrier that discourages or prevents witnesses from returning to testify.

The per diem for out of state or off island witnesses was intended to offset the lodging and food expenses. However, the current per diem amounts of \$110 per day for out-of-state witnesses and \$55 for off-island witnesses were last set in 1989 and have not kept pace with the cost of living in Hawai'i. A search of internet sites such as hotels.com shows that discounted hotel rooms start at approximately \$100 per night excluding taxes and fees. However, these prices are not always available to witnesses because witnesses rarely get more than a week's notice of when they need to be in Hawai'i to testify. Thus, an increase to \$145 per day would assist witnesses in finding accommodations that would not require them to pay out of their own pocket. The increase would help secure the cooperation of witnesses who are concerned that in addition to having to use their vacation leave or lose wages to testify, they would also have to use their own money to find suitable accommodations and to pay for meals.

Increasing the per diem from \$110 to \$145 is a modest increase considering that, \$110 in 1989 has the same purchasing power as \$204 today. Bureau of Labor Statics of the US Department of Labor.

Thank your providing the Commission with the opportunity to testify in support of House Bill 238. The Commission urges you to support increasing the per diem rate for off-island witnesses in criminal cases.



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Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

**Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
On
H.B. 238
Relating to Witnesses
House Committee on Finance
Wednesday, February 20, 2013
3:30 p.m.
Conference Room 308**

The Hawai'i Tourism Authority (HTA) supports H.B. 238, which proposes to increase the per diem payments for out-of-state witnesses in criminal cases.

One of the nine strategic initiatives of HTA's Tourism Strategic Plan is Safety and Security, with the goal of achieving a safe Hawaii visitor experience and providing assistance to visitors who are victims of crimes, accidents, and other adversities. Key to achieving this goal is supporting and strengthening criminal deterrence and law enforcement. This includes allocating more resources for law enforcement personnel and resources for those involved in the legal system. The current per diem of \$110 per day discourages many out-of-state witnesses, many of whom are tourists from returning to testify in state court. The per diem amount and the witness fee of \$20 are supposed to cover the witness' lodging, meals, ground transportation, and other expenses.

Providing adequate resources for law enforcement agencies and tougher sentencing law to keep repeat offenders off the streets are not effective if key witnesses do not return to testify.

Mahalo for the opportunity to offer these comments.

HB238

Submitted on: 2/17/2013

Testimony for FIN on Feb 20, 2013 15:30PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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