



LATE

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
Benefit, Employment and Support Services Division
820 Mililani Street, Suite 606
Honolulu, Hawaii 96813

COLIN KIPPEN • Governor's Coordinator on Homelessness • Telephone 808 586-0974

March 19, 2013

TO: The Honorable Suzanne Chun Oakland
Senate Committee on Human Services

FROM: Colin Kippen

SUBJECT: HB 535, HD2, Proposed SD1, Relating to Homeless Programs

PURPOSE: The purpose of H.B. 535 is to mandate the designation of temporary nighttime parking lots within each county to provide locations where homeless individuals will be allowed to inhabit their cars overnight. The bill mandates that the Counties shall fund this effort, and that these lots may be on private, county, state, and federal lands. The bill requires the the Department of Human Services shall set forth procedures to screen potential homeless individuals, to prohibit alcohol and drug use by patrons of these nighttime lots, and provide outreach, job counseling, and health facilities between the hours of 7pm and 6am each evening at these locations.

HOMELESS COORDINATOR'S POSITION: The State Homeless Coordinator appreciates that the intent of this measure is to seek alternative solutions for homeless individuals who possess an automobile and desire to inhabit it overnight. While this is a positive and salutary goal, the Homeless Coordinator does not support this bill because it is inconsistent with the policy report adopted by the Hawaii Interagency Council to reject over night camping for homeless individuals at public facilities.

That report found that . . . "(c)reating camping areas for homeless individuals in our parks, and in our public buildings during evenings only. . . is unworkable, is not advisable, and should not be pursued. These findings are consistent with and supported by the plan to end homelessness adopted by the Hawaii Interagency Council on Homelessness. . ."to rapidly return people experiencing

homelessness to stable housing. . .and to create and preserve permanent supportive housing options for people who are homeless. . ." (Report of the Hawaii Interagency Council on Homelessness, December 2012, page 3.)

The U.S. Department of Housing and Urban Development, the U.S. Interagency Council on Homelessness, and the Hawaii Interagency Council on Homelessness are united in their position that this strategy is inadvisable for the following reasons:

- This proposal is inconsistent with existing federal and state programs to stabilize homeless individuals by creating safe emergency and transitional shelters to prepare them for moving into and living in permanent supportive housing.
- This proposal potentially diverts scarce resources away from creating a path to permanent housing for homeless individuals.
- This proposal will not be able to guarantee the safety of homeless individuals for the evening and to provide safe and secure sanitation facilities for their use. A failure to be able to warrant and guarantee the safety and security of these overnight campers will create a potential risk of loss for the public entities involved.

Section 2 sub section C parts 1, 2, and 3, contains provisions which will be difficult and expensive to implement, even if the Department is vested with the authority to create rules and procedures to accomplish the objectives of this legislation.

First, screening potential homeless individuals will require identification and the ability to check warrant and criminal history so as to assure the safety of others who desire to park in the lot overnight. And, risk of loss issues may arise if an individual with a violent criminal history is allowed to enter and harms a third party. Additionally, a check of the occupants of a vehicle will have to be made in order to assure that all occupants of the vehicle are there consensually of their free will. Finally, the condition of the vehicle, whether or not it has a safety check, whether or not it is insured, and whether or not it and the driver are properly licensed will need to be considered, especially since all of the overnight parkers will be

discharged onto state highways or county roads at 6 am in the morning. This will be time consuming and expensive.

Second, enforcing a 'no alcohol and no drug use' policy will be difficult to implement in a closed automobile and raises numerous questions about the costs and requirements to enforce such a ban. Will a search of these vehicles be required? If a search is required, who will conduct it? If contraband is discovered, will it be confiscated and will an arrest be made? If confiscation and an arrest are to be made, will the person taking those actions be a duly certified law enforcement officer with the power to take these actions? Will the authority to search exercised by the law enforcement officer be consistent with the constitutional protections afforded drivers in their private vehicles under the 4th amendment to the U.S. Constitution? If drugs or alcohol are consumed in the lot and an individual drives out of the lot and harms or kills a third party in an accident while under the influence, will the parking lot be held liable if the search for drugs or alcohol was ineffective or not conducted pursuant to the stated policy guaranteeing that 'no drugs or alcohol' be used at the parking lot?

Third, it will be difficult for public service agencies to provide the confidential intake, screening, homeless outreach, homeless job counseling, and homeless health care services to automobile occupants in a way that guarantees the safety of the service provider as well as lives up to the standards of care in existence for these occupations. The impossibility of being able to provide such services within a mobile automobile will require the provision of external facilities dedicated to the provision and housing of these services, which will substantially raise the cost and risk of loss to these service providers and to the sponsoring county governments involved.

Finally, security must be provided on the premises to monitor the safety and well being of the parkers there. Additionally, rest areas also must be provided for the parkers, and their safety must also be provided for while traveling to and from these facilities. The failure to reasonable

assure the safety of individual parkers and the occupants of these vehicles raise risk of loss issues for the entities operating these facilities.

Both the counties of Kauai and Maui considered similar proposals and chose not to go forward with these plans presumably because of concerns about liability and the potential risk of loss due to tort claims brought against them by third parties. No counties have testified in support of this proposal ostensibly because they, too, have questions and reservations regarding their risk of loss and potential liability.

Thank you for the opportunity to offer testimony on this bill.

LATE

OFFICE OF THE MANAGING DIRECTOR
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 306 * HONOLULU, HAWAII 96813
PHONE: (808) 768-6634 * FAX: (808) 768-4242 * INTERNET: www.honolulu.gov

KIRK CALDWELL
MAYOR



EMBER LEE SHINN
MANAGING DIRECTOR DESIGNATE

GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

TESTIMONY OF EMBER LEE SHINN, MANAGING DIRECTOR DESIGNATE
CITY AND COUNTY OF HONOLULU
BEFORE THE SENATE
COMMITTEE ON HUMAN SERVICES

Tuesday, March 19, 2013, 1:00 p.m., Conference Room 016

HOUSE BILL 535, HD2, "RELATING TO HOMELESS PROGRAMS"

Position: In Opposition

To: The Honorable Suzanne Chun Oakland, Chair
and Members of the Committee on Human Services

The City and County of Honolulu ("City") opposes H.B. 535, HD2 because it grants the State Department of Human Services (DHS) unilateral authority to designate county parking lots for temporary nighttime parking for homeless individuals without approval of the counties. In its present form, H.B. 535, HD2 only requires that DHS consult with the mayor of the applicable county before designating parking lot(s) within the county for temporary nighttime parking for homeless individuals.

Many of the City parking lots are subject to use restrictions imposed by the federal or state funding source or underlying conveyance documents which strictly prohibit non-parking lot uses (i.e., living accommodation). Many public parking lots have operational hours which conflict with the parking lot hours set forth in H.B. 535, HD2. Likewise, parking lots in public parks are closed during evening hours pursuant to park closure laws and could not be used to accommodate the temporary nighttime parking for the homeless. Other public parking lots do not have public restroom facilities or cannot accommodate temporary restroom facilities without resulting in a reduction in available parking spaces. Some of the City parking lots which adjoin residential/commercial facilities have restroom facilities which are incorporated into the common elements of the residential/commercial facilities. Use of those restroom facilities would require approval of the owners of the adjoining residential/commercial facilities.

Should this bill pass out of the Committee on Human Services, the City requests that Section 2, paragraph (c) of H.B. 535, HD2 be further amended as stated below to provide that designation of any county parking lot as temporary nighttime parking for the homeless shall be subject to the prior approval of the applicable county mayor who is better able to evaluate and consider the diverse funding and use restrictions associated with the parking lot facilities under county control:

(c) The department, in consultation with the mayor of the applicable county and any interested public or private homeless assistance program, and subject to the approval of the mayor the applicable county, may designate in each county temporary nighttime parking lots that will be used to provide safe overnight parking for homeless individuals who live and sleep in their motor vehicles and who would otherwise park overnight on public or private roads or property. To accommodate regular public parking daily from 6:00 a.m. to 7:00 p.m., nighttime parking for homeless at these designated parking lots shall be allowed daily from 7:00 p.m. to not later than 6:00 a.m. the next day. The department shall adopt rules in accordance with chapter 91 to implement this subject section, including rules: . . .

Mahalo for the opportunity to testify on this bill. Should you have any questions or concerns, please feel free to contact me at 768-6634.