

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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**THE HONORABLE DAVID Y. IGE, CHAIR
THE HONORABLE MICHELLE N. KIDANI, VICE CHAIR
SENATE COMMITTEE ON WAYS AND MEANS
Twenty-seventh State Legislature
Regular Session of 2014
State of Hawai'i**

March 28, 2014

RE: HB 238, H.D. 1, S.D. 1; RELATING TO WITNESSES.

Chair Ige, Vice-Chair Kidani and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in strong support of H.B. 238, H.D. 1, S.D. 1.

The purpose of H.B. 238, H.D. 1, S.D.1 is to increase the amount of per diem stipends from \$110 to \$204 per 24-hour day for out-of-state witnesses, and to add an undetermined additional amount per 24-hour day (to the current \$55 per 24-hour day) for witnesses who must travel inter-island, if those inter-island witnesses are required to stay overnight.

Increasing per diem stipends would greatly support and encourage victims and other witnesses to report and pursue charges against criminal offenses that occur in Hawai'i. These amounts have not changed in 25 years (last increased in 1989), and have lagged significantly behind comparable per diems provided to state employees who travel interisland or overseas for state-related purposes. In fact, the current per diem for out-of state witnesses is generally insufficient to cover personal expenses, such as lodging and food, and many who return to testify as witnesses in state court proceedings are forced to take money out of their own pocket to cover necessary personal expenses.

Because the witness per diem stipend has not been adjusted to keep pace with the cost of living in Hawai'i, 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. Similarly, the per diem stipend amount provided to witnesses who must travel inter-island is insufficient to cover personal expenses, when witnesses are required to stay overnight.

Considering the Department's figures from 2013, the total number of per diem days for witnesses travelling from the mainland and foreign countries, to the City and County of Honolulu, was 178 days for 50 witnesses, for a total of \$19,580. The cost for 15 witnesses who travelled from the neighbor islands to the City and County of Honolulu was \$880.00, with one requiring an overnight stay.

Based on these figures, the anticipated increase in per diem expenditures, if the amount were raised from \$110.00 to \$204.00 per day, would only be **\$16,732.00 per year**. Considering the importance of bringing back necessary witnesses, to successfully convict defendants who have caused harm to people and property, the Department strongly believes that such fiscal impact is entirely manageable for the state.

Whereas the cost of increasing witness per diems as proposed in H.B. 238, H.D. 1, S.D. 1 would be very minimal, the benefit to the public and to returning witnesses is exponentially greater, not only for their overall sense of public safety and welfare, but also for Hawai'i's reputation of maintaining a safe and hospitable environment. The proposed increase of \$94 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, H.D. 1, and S.D. 1. Thank you for this opportunity to testify.

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 238, HD 1, SD 1**

MARCH 28, 2014

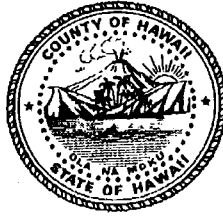
RELATING TO WITNESSES

House Bill No. 238, House Draft 1, Senate Draft 1, raises the per diem rate for out-of-state witnesses from \$110 to \$204 per day, provides an additional unspecified amount per 24-hour day if an inter-island witness is required to stay overnight and changes the effective date to July 1, 2030.

The Department of Budget and Finance (Department) 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 FY 15 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 Department would require additional appropriations to support the additional costs. Should there be no increase in existing funding levels and should this bill pass, there will be insufficient funds in the program for witness fees. Witness fee payments would be delayed until such time that sufficient appropriations are available.

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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 238 HD1 SD1

A BILL FOR AN ACT RELATING TO WITNESSES

COMMITTEE ON WAYS AND MEANS

Rep. Sylvia Luke, Chair

Rep. Scott Y. Nishimoto, Vice Chair

Rep. Aaron Ling Johanson, Vice Chair

Friday, March 28, 2014, 9:25 AM
State Capitol, Conference Room 211

Honorable Chair Luke, Vice Chairs Nishimoto & Johanson, and Members of the Committee on Finance, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 238 HD1 SD1.

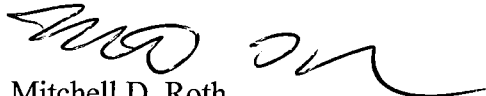
This measure increases the per diem payments to out-of-state witnesses in criminal cases. Provides an additional unspecified amount as a per diem payment for witnesses from any island other than the island on which the court is located, when that witness is required to stay overnight.

Per diem stipend amounts for out-of-state witnesses in criminal cases has not changed since 1989. The current amount is generally inadequate to cover personal expenses, such as lodging and food, and many who return to testify as witnesses in court proceedings are forced to take money out of their own pocket to cover necessary personal expenses. These economic barriers can prevent out-of-state witnesses from pursuing charges against offenders. Likewise, when a witness must travel inter-island and stay overnight, the per diem stipend amount is insufficient to cover personal expenses.

The proposed increase of \$35 per day in witness per diem is a small investment with a significant return. Considering the importance of bringing back necessary witnesses, to successfully convict defendants who have caused harm to people and property, Hawai'i County Office of the Prosecuting Attorney strongly believes that the fiscal impact is entirely manageable by the State.

The Hawai'i County Office of the Prosecuting Attorney supports the passage of House Bill No. 238 HD1 SD1. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "M. Roth", with a long, sweeping horizontal flourish extending to the right.

Mitchell D. Roth
Prosecuting Attorney
County of Hawai'i