

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 805 HD1, RELATING TO
VETERANS DISABILITY BENEFITS

PRESENTATION TO THE

COMMITTEE ON FINANCE

BY

MR. RONALD P. HAN
DIRECTOR OF THE STATE OFFICE OF VETERANS SERVICES

February 25, 2015

Chair Luke, Vice Chair Nishimoto and Committee Members:

I'm Ron Han, Director of the State Office of Veterans Services (OVS). I appreciate this opportunity to provide testimony in support of the concepts in House Bill 805 HD1.

This measure seeks to exempt federal veterans disability compensation benefits from seizure to enforce a court judgment. It also provides that only that portion of the veteran's disability benefits that is not considered to the veteran's disability compensation shall be subject to child and spousal support enforcement.

The OVS supports the intent expressed in this measure as long as its implementation does not impact or replace the priorities set forth in the Executive Budget.

Thank you for this opportunity to provide testimony on behalf of Hawaii's Veterans and their families in support of 805 HD1.

The Uniformed Service Member's Voice in Government
NATIONAL ASSOCIATION FOR UNIFORMED SERVICES
Hawaii Chapter (HI-1)
February 23, 2015

TESTIMONY IN SUPPORT OF HOUSE BILL 805HD1 WITH COMMENTS
RELATING TO VETERANS DISABILITY BENEFITS
HOUSE COMMITTEE ON FINANCE
HEARING WEDNESDAY, FEBRUARY 25TH AT 2:00PM,
IN CONFERENCE ROOM 308

Aloha Chair Luke and Vice Chair Nishimoto: Thank you again for providing us with this opportunity to share our sentiments in support of House Bill 805HD1. On Capitol Hill the National Association for Uniformed Services (NAUS) is "The Service Member's Voice in Government." Here, in the great State of Hawaii, NAUS Hawaii Chapter (HI-1) serves at the will and pleasure of our nation's largest per-capita uniformed services community.

NAUS Hawaii Chapter (HI-1) is sincerely appreciates your committee's efforts to consider exempting Federal Title 38 United States Code chapter 11 related disability benefits, from claims of creditors, attachment, levy, or seizure under any legal or equitable process, as provided by federal law; and prohibiting their being awarded to any other person.

In addition to protections HB 805HD1 propose, Arizona and most recently Wyoming also prohibit indemnification of those who would claim access to the subject disability benefits, in a divorce action.

NAUS Hawaii Chapter (HI-1) respectfully urges this committee to consider:

- a. the legislative example set by the Arizona and Wyoming legislatures, regarding claimant indemnification and
- b. legislatively encouraging our courts to defer judgment to the United State's Veterans Administration's equitable disability compensation apportionment policy, before imposing scheduled support payments, in accordance with Title 42 United States Code section 659(h)(1)(A)(ii)(V), for support claimed by a subject disabled veteran's dependent children, custodian/guardian and spouse.

In addition to the new provisions being considered in HB805HD1, NAUS Hawaii Chapter respectfully encourages this committee to include both of our aforementioned proposals in part III, Chapter 651, Hawaii Revised Statutes. This legislative action will most certainly strengthen our State's support for United States Code, Title 10, Section 1408(a)(4)(B) intent, and be much appreciated by our divorcing disabled veterans and military personnel.

Thank you for being here for us,

D Egge

Dennis Egge; Chapter President



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TESTIMONY ON HOUSE BILL 805, HD1, RELATING TO VETERANS
DISABILITY BENEFITS

PRESENTATION TO THE

COMMITTEE ON FINANCE

BY

CARSWELL J. ROSS, JR. Chief Master Sergeant, USAF. Ret.;
Counselor Emeritus, Office of Veterans' Services

Wednesday, February 25, 2015

Good afternoon Chair Silva Luke, Vice Chair Scott Nishimoto, and members of the committee on Finance. I support the intent of this bill which is to exempt federal veterans' disability compensation benefits from seizure to enforce a court judgment. It also provides that only that portion of a veteran's disability benefit that is not considered to be the veteran's disability compensation shall be subject to child and spousal support enforcement.

Disability benefits were granted to the veterans due to their medical issues which may hinder or adversely affect the veteran's ability to work. The idea is that since the veterans may not be able to gain full-time long term employment based up the medical problems, compensation is granted to assure that the veterans can sustain a certain level of wellbeing, for able to pay rent, purchase food. Without compensation or with reduced we adversely affect the wellbeing of the veteran. Should the veterans have children and be totally disabled the Veterans Administration can assure that these children have sufficient funds to attend college or other qualified educational institution up to the age of 26.

Thank you for this opportunity to comment this measure.

TO: Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice-Chair
House Committee on Finance

FROM: Jessi L.K. Hall
E-Mail: jhall@coatesandfrey.com
Phone: 524-4854

HEARING DATE: February 25, 2015 at 2:00 p.m.

RE: Testimony in Opposition to HB805, HD1

Good day Representative Luke, Representative Nishimoto, and members of the Committee. My name is Jessi Hall. I am an attorney who practices Family Law. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association. I am here today to testify against HB805, HD1.

The initial version of this Bill was clear and complied with Federal law. The amended version leaves a lot to interpretation (in fact four different Family Law attorneys read the provision to mean four different things) and may very well be in violation of Federal law governing this issue. This is just going to increase litigation unnecessarily.

One question I have is what type of disability benefits exist that is not disability compensation? And if it is not a cash benefit, how can it be attached as permitted by the language of this Bill? It seems that the intent of this amended language is to prevent any attachment of disability benefits for the purpose of child and spousal support in direct violation of Federal law.

I would support the original language of HB805, but it is for the above reasons that I must write in opposition of HB805, HD1 as it is currently written. Thank you for this opportunity to testify.

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TO: Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice-Chair
House Committee on Finance



FROM: Dyan M. Medeiros
E-Mail: d.medeiros@hifamlaw.com
Phone: 524-5183

HEARING DATE: February 25, 2015 at 2:00 p.m.

RE: Testimony in Opposition to HB805, HD 1 Relating to Veterans Disability Benefits

Good morning Representative Luke, Representative Nishimoto, and members of the Committee. My name is Dyan Medeiros. I am a partner at Kleintop, Luria & Medeiros, LLP and have concentrated my practice solely in the area of Family Law for more than sixteen (16) years. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association. I submit this testimony in opposition to HB805 HD1.

Section (b) of HB805 as originally drafted allowed the enforcement of Court-ordered child support and spousal support payments from service connected disability benefits. This was entirely consistent with the federal law codified at 42 U.S.C 659(h)(1)(A)(ii)(v).

Section (b) was amended in HB805 HD1, however, to state “only that portion of a veteran’s disability benefits that is not considered to be the veteran’s disability compensation ... shall be subject to child and spousal support enforcement”. Not only is this language incredibly confusing, it appears to be contrary to federal law.

Under 42 U.S.C 659(h)(1)(A)(ii)(v), “compensation for a service-connected disability paid ... to a former member of the Armed Forces” is subject to the enforcement of child support and alimony obligations under 42 U.S.C. 659. HB805 HD1 attempts to change the provisions of federal law and limit the funds available to the children and former spouses to collect Court-ordered support.

HB805 HD1 elevates the interests of veterans over the interests and well-being of their children and former spouses. It elevates the interests of veterans even more than federal law allows. Moreover, veterans have the ability to choose whether to elect to receive disability benefits and waive regular retirement benefits. In other words, HB805 HD 1 will give veterans the ability to intentionally shelter their income from the collection of child support and spousal support. This is unfair and a disservice to the families of veterans as well as the public who will likely bear the burden of supporting these families through welfare benefits.

For these reasons, I oppose HB805 HD 1. I would support, however, returning section (b) to its original language.

Thank you.