

SB 158

Measure Title: RELATING TO HOMELESSNESS.
Report Title: Homelessness; Puuhonua Safe Zones; Appropriation (\$)
Description: Requires the governor to establish puuhonua safe zones where homeless persons may reside. Appropriates funds.
Companion: HB83
Package: None
Current Referral: HOU/WTL, WAM
Introducer(s): S. CHANG, ESPERO, GREEN, Shimabukuro



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

February 7, 2017

TO: The Honorable Senator Will Espero, Chair
Senate Committee on Housing

The Honorable Senator Karl Rhoads, Chair
Senate Committee on Water and Land

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: **SB 158 – RELATING TO HOMELESSNESS**

Hearing: Tuesday, February 7, 2017, 2:45 p.m.
Conference Room 225, State Capitol

POSITION: The Governor's Coordinator on Homelessness respectfully opposes this bill, as it appears that it will result in the formal establishment of homeless encampments on state lands. The formal establishment of homeless encampments is inconsistent with the State's overall strategy to address homelessness. In 2012, the Hawaii Interagency Council on Homelessness (HICH) was requested by the Legislature to study the issue of "designating safe facilities located at areas, showers, toilets, laundry facilities, and locker rooms in various locations throughout the State for homeless persons for overnight stays." In its report to the Legislature, the HICH concluded that "[c]reating camping areas for homeless individuals in our parks and in our public buildings . . . is unworkable, is not advisable, and should not be pursued." See Report to the Twenty-Seventh Hawaii State Legislature 2013, in accordance with the provisions of Act 105, Session Laws of Hawaii 2012, Appendix 2, at page 10; link to the report: <http://humanservices.hawaii.gov/wp-content/uploads/2013/01/2012-Act-105-SLH-2012-HICH-Progress-Report.pdf>). The better long term strategy is to link people to housing.

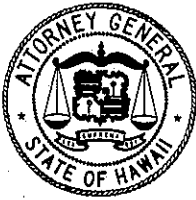
PURPOSE: The purpose of the bill is to require the Governor to establish Pu'uhonua Safe Zones where homeless persons may reside. The bill also appropriates an unspecified amount of funds to the Office of the Governor for implementation.

The State has adopted a comprehensive framework to address homelessness, which includes a focus on three primary leverage points – affordable housing, health and human services, and public safety. While all three of these leverage points must be addressed to continue forward momentum in addressing the complex issue of homelessness, the overall strategy emphasizes permanent housing as the solution to homelessness.

While the bill does not provide a clear definition for a “Pu'uhonua Safe Zone,” it appears that these zones may be intended to establish formal homeless encampments on state lands. The establishment of formal homeless encampments is inconsistent with the State's overall strategy to address this complex issue. Both the HICH and the United States Interagency Council on Homelessness (USICH) have recommended against formal establishment of homeless encampments. According to the USICH, “strategies that focus on making encampments an official part of the system for responding to homelessness can serve to distract communities from focusing on what is most important – connecting people experiencing homelessness to safe, stable, permanent housing.” (USICH, *Ending Homelessness for People Living in Encampments*, August 2015).

Linking people to housing and supporting their ability to maintain housing are better alternatives to the establishment of tent encampments; the Executive Budget request includes over \$180 million for the development of affordable housing and for public housing renovations, and additional appropriations for Housing First and mental health services. The Executive Budget specifically addresses housing production and assistance with high housing costs, as well as increasing resources for homeless outreach, mental health and substance use treatment.

Thank you for the opportunity to testify on this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:
S.B. 158, RELATING TO HOMELESSNESS.

BEFORE THE:
SENATE COMMITTEES ON HOUSING AND ON WATER AND LAND

DATE: Tuesday, February 7, 2017 **TIME:** 2:45 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Melissa L. Lewis, Deputy Attorney General

Chairs Espero and Rhoads and Members of the Committees:

The Department of the Attorney General provides the following comments.

The purposes of this bill are to appropriate funds and to require the Governor to establish, maintain, and operate puuhonua safe zones where homeless individuals may reside. The establishment, maintenance, and operation of puuhonua safe zones by the Governor in section 1 on page 1, lines 1-15, and on page 2, lines 1-3, of the bill may be challenged as a violation of the Hawaii Constitution. Article V, section 6, of the Hawaii Constitution provides:

All executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such manner as to group the same according to common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

Section 1 of this measure, at page 1, lines 1-2, provides: "The governor shall establish puuhonua safe zones where homeless persons may reside in the State." At page 1, lines 13-15 the bill provides: "The governor shall maintain and operate puuhonua safe zones until the legislature determines that homelessness is no longer a crisis in the State."

The bill as currently written may be interpreted to place the powers and duties of an executive office, administrative office, department, or instrumentality of State government within the Governor's Office rather than in a principal department of the State. Such a placement may be challenged as violating article V, section 6, of the Hawaii Constitution. The Office of the Governor is a constitutional office established by section 1 of article V of the Hawaii Constitution. It is not one of the principal departments of the executive branch of state government listed in section 26-4, Hawaii Revised Statutes.

To reduce the potential for a constitutional challenge, we recommend modifying the bill to place the responsibilities for the establishment, maintenance, and operation of puuhonua zones within a principal department of the State executive branch. In addition, we recommend the same principal department, rather than the Governor, be designated as the expending agency for the appropriation. Furthermore, placing this program in a principal department eliminates the need for subsection (g) of section 1.

Moreover, on page 1, lines 5-7, the bill provides: "Each puuhonua safe zone shall be furnished with appropriate hygiene facilities and security and social services as deemed necessary." The requirement for the State to provide security for the puuhonua safe zones may increase the State's liability. The Legislature may mitigate this risk by adding to section 1 of the measure a waiver of liability, such as, "The State shall not be liable for any loss, damage, injury, or death arising from or occurring in a puuhonua safe zone."

If this bill is to proceed we respectfully request that the recommended amendments be made.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

BRIDGET HOLTHUS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 7, 2017

TO: The Honorable Senator Will Espero, Chair
Senate Committee on Housing

The Honorable Senator Karl Rhoads, Chair
Senate Committee on Water and Land

FROM: Pankaj Bhanot, Director

SUBJECT: **SB158 – RELATING TO HOMELESSNESS**

Hearing: February 7, 2017, 2:45 p.m.
Conference Room 225, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this measure. DHS is concerned that this measure will create formal homeless encampments on State land. The better strategy is to place individuals and families into housing.

PURPOSE: The purpose of the bill is to require the Governor to create Pu`uhonua Safe Zones for homeless people to reside. The bill also appropriates an unspecified amount of money to establish the Pu`uhonua Safe Zones.

The only way to end homelessness is to find people safe and affordable housing. Placing homeless individuals into permanent housing through programs like Housing First is the best practice. Housing First is an approach that emphasizes stable, permanent housing as a strategy for ending homelessness. Additionally, as noted by the National Alliance to End Homelessness, Housing First is based on the theory that client choice is valuable in housing selection and supportive service participation, and that exercising that choice is likely to make a client more successful in remaining housed and improving their life. Safe zones, encampments, or tent cities

created by measures such as Pu`uhonua Safe Zones, takes away that choice, which is the critical component of Housing First.

Many experts on the issue of homelessness agree that these types of encampments encourage more encampments. It is important for government to build affordable low income housing to increase the inventory of permanent housing instead of promoting temporary camps. Barbara Poppe, former Executive Director of the United States Interagency Council on Homelessness (USICH), has stated that tent cities are not part, or should not be part of the government's response to homelessness.

Linking people to housing and supporting their ability to maintain housing with supportive services are better alternatives than the establishment of safe zones, encampments, or tent cities. DHS asks that the Legislature support the Governor's Executive budget requests that are grounded in available data, to continue to fund Housing First, support mental health services, repair public housing units, and develop affordable housing.

Thank you for the opportunity to testify on this bill.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEES ON HOUSING, AND ON WATER AND LAND

Tuesday, February 7, 2017, 2:45 pm, Room Number 225
SB158, Relating to Homelessness

TESTIMONY

Beppie Shapiros, Legislative Committee, League of Women Voters of Hawaii

Chairs Espero and Rhoads, Vice-Chairs Harimoto and Gabbard, and Committee Members:

The League of Women Voters of Hawaii strongly supports SB158 that establishes puuhonua safe zones for homeless people, which would include hygienic facilities.

We have watched with distress the process of pushing homeless people away from one area after another, without providing them with alternative places to live. We agree that many of the places where homeless individuals and families camp are not appropriate for residential use - e.g. there are no nearby toilets or water and electricity supplies. But it's cruel to keep "evicting" people most of whom do not choose to be homeless - they are stuck with little income in a state where rental rates are unaffordable even for many middle-class households.

SB158 offers a humane way to deal with our burgeoning homeless population while we work to create an adequate supply of affordable housing. As we've seen with the laudable work by city and state to house homeless people, it's slow and expensive work to house even a tiny fraction of the homeless. Meanwhile we can at least provide safe and hygienic places where homeless people will be allowed to stay until they can be housed.

Please pass SB158.

Thank you for the opportunity to submit testimony.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 1:42 PM
To: HOU Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB158 on Feb 7, 2017 14:45PM*

SB158

Submitted on: 2/3/2017

Testimony for HOU/WTL on Feb 7, 2017 14:45PM in Conference Room 225

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | Individual | Support | No |

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 1:46 PM
To: HOU Testimony
Cc: Ken_Conklin@yahoo.com
Subject: Submitted testimony for SB158 on Feb 7, 2017 14:45PM

SB158

Submitted on: 2/3/2017

Testimony for HOU/WTL on Feb 7, 2017 14:45PM in Conference Room 225

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------------|--------------|--------------------|--------------------|
| Kenneth R. Conklin, Ph.D. | Individual | Support | No |

Comments: I very much like the concept of establishing pu'uhonuas for homeless people who are lawful residents who have either U.S. citizenship or a green card. We should certainly provide at least the same level of support to Americans who are homeless, that we already provide to foreign refugees -- housing, healthcare, education, food, medical care. Take care of our own before we give social and financial support to foreigners which serves as a magnet drawing more to come here. I am mindful of signs in parks and outdoor restaurants: "Do not feed the birds" because that will attract more and more birds to come and fly in the faces of our people and drop their poop on tables, chairs, and even on people.. However, if we are going to establish pu'uhonuas for homeless people to live in safety, then we should also strengthen our laws to get rid of homeless people who use sidewalks, public parks, beaches, etc. as their ad hoc homes. The presence of homeless people is frightening and disruptive in public places where there are retail businesses, homes, apartment buildings, or where the public often go for recreation. Our state and local governments owe ordinary citizens the same amount of resources to protect their expectation of safety and quiet enjoyment, as the amount of resources being spent to support homeless people who are often mentally disturbed, alcoholics, drug abusers, or socially dysfunctional. In recent years society has come to realize that victims of crime should have rights at least equal to the rights of criminals. In the same way, legislators should pay at least as much attention and funding to protect the public against the disruption and menacing inflicted by homeless people, as is being given to homeless people to enable and support their lifestyle.

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 2:04 PM
To: HOU Testimony
Cc: hossellman@aol.com
Subject: *Submitted testimony for SB158 on Feb 7, 2017 14:45PM*

SB158

Submitted on: 2/3/2017

Testimony for HOU/WTL on Feb 7, 2017 14:45PM in Conference Room 225

| Submitted By | Organization | Testifier Position | Present at Hearing |
|----------------------|---------------------|---------------------------|---------------------------|
| Jeffry L. Hossellman | Individual | Oppose | No |

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 9:47 AM
To: HOU Testimony
Cc: hoonanea@aol.com
Subject: *Submitted testimony for SB158 on Feb 7, 2017 14:45PM*

SB158

Submitted on: 2/4/2017

Testimony for HOU/WTL on Feb 7, 2017 14:45PM in Conference Room 225

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Regina Gregory | Individual | Support | No |

Comments:

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