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WRITTEN ONLY

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON TRANSPORTATION
ON
HOUSE BILL NO. 333

**February 6, 2019
10:00 a.m.
Room 423**

RELATING TO THE STATE HIGHWAY ENFORCEMENT PROGRAM

House Bill (H.B.) No. 333 establishes the State Highway Enforcement Program (SHEP) which adds an illegal parking surcharge of \$150 that will be distributed to the Department of Transportation (DOT) for administrative costs of the program and parking management-related improvements (20%), while the remaining balance shall be distributed to the respective police departments of the county from which the surcharge was collected (80%).

As a matter of general policy, the department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-52.4, HRS, respectively. Special and revolving funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and

4) demonstrate the capacity to be financially self-sustaining. In regards to H.B. No. 333, it is difficult to determine whether the proposed (special) fund would be self-sustaining.

Further, this bill does not provide a special fund appropriation to support the program as envisioned in the bill.

Thank you for your consideration of our comments.

TAX FOUNDATION OF HAWAII

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SUBJECT: MISCELLANEOUS, Parking Violation Surcharge

BILL NUMBER: HB 333; SB 1076 (Identical)

INTRODUCED BY: HB by NAKAMURA, GATES, HASHIMOTO, HOLT, KITAGAWA, D. KOBAYASHI, PERRUSO, QUINLAN, TARNAS, TODD; SB by KOUCHI by request

EXECUTIVE SUMMARY: Establishes the State Highway Enforcement Program and related fund within the Department of Transportation. Establishes a parking violation surcharge to be imposed by courts in addition to other penalties and fines for parking violations on State highways.

SYNOPSIS: The bill's stated purpose is to establish the state highway enforcement program, which adds an illegal parking surcharge to existing penalties for violations of the statewide traffic code that involve stopping, standing, or parking on state highways. The surcharge shall be deposited into the state highway enforcement program fund. A percentage of the surcharge shall be distributed to the department of transportation for administrative costs of the program and parking management-related improvements, while the remaining balance shall be distributed to the respective police departments of the county from which the surcharge was collected and shall be used to enforce illegal parking laws and ordinances.

Adds two new sections to chapter 291C, HRS, to establish the state highway enforcement program and fund respectively.

Amends section 291C-111, HRS, to charge any violator \$150 in addition to any other penalty that may be imposed. The charge is to be deposited into the highway enforcement program fund.

EFFECTIVE DATE: July 1, 2019.

STAFF COMMENTS: In 2002, the Legislature set requirements for establishing and continuing special and revolving funds. Sections 37-52.3 and 37-52.4, HRS, now state that the criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by the purpose of the program to be supported by the fund; the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and an explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue—as opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;

- Provides an appropriate means of financing for the program or activity, that is used only when essential to the successful operation of the program or activity; and
- Demonstrates the capacity to be financially self-sustaining.

We are concerned that a new levy being directed to a new special fund subverts the appropriation process.

The bill relies upon earmarking civil fine moneys for its success. As with any earmarking of revenues, the legislature will be preapproving each of the programs fed by the fund into which the monies are diverted, expenses from the funds largely avoid legislative scrutiny, and the effectiveness of the programs funded becomes harder to ascertain. It is also difficult to determine whether the fund (or the departments involved) has too little or too much revenue.

Digested 2/4/2019

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Testimony Opposing HB 333, HD 1, Relating to the State Highway Enforcement Program

Submitted to House Committee on Transportation
10 AM, February 6, 2019 Hearing in Conference Room 423

I oppose HB 333. I don't think it should be state policy to harass locals and tourists who want to see Hawaii's scenic amenities and use Hawaii's beaches and trails. I think the Legislature and HDOT should respond to public demand and provide safe parking in appropriate places along state highways. Unfortunately, unlike nearly every other state, it currently is not state policy to provide pullouts and parking along state highways.

I fully understand the need to reasonably regulate public use of state highways. However, incremental proliferation and aggressive enforcement of NIMBY no-parking signs along rural state highways is NOT reasonable or necessary.

I am retired now, but while I worked for HDOT I proposed and drafted HDOT bills to protect HDOT and its contractors and agents (including county police) from liability when they summarily cleared obstructions from the highway right-of-way which affected traffic operations or compromised public safety. I still think such legislation would be good idea.

Thank you for the opportunity to present my concerns.