

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 1728

February 18, 2009

RELATING TO FEES

House Bill No. 1728 amends Section 92-28, Hawaii Revised Statutes, to give administrative agencies more flexibility to increase fees or other nontax revenues for Fiscal Years 2010 to 2015.

We support moving this bill forward to foster continued discussions. During these difficult times and considering the grave fiscal condition we are facing, all options must be kept open. While it is recognized that this bill may be unpopular, we will need to make difficult decisions to address our budget shortfall and ensure the fiscal health of our State. We defer discussion of the impact of this bill on specific fees and nontax revenues to the departments.

It is noted that most of the fees and other nontax revenues are deposited into special and revolving funds, rather than the general fund. Based on Fiscal Year 2008 revenues, fees and other nontax revenues totaled approximately \$300 million for the general fund and \$1.0 billion for special and revolving funds.



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
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LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Wednesday, February 18, 2009
2:30 p.m.

**TESTIMONY ON HOUSE BILL NO. 1728
RELATING TO FEES.**

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, MARILYN B. LEE, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Lawrence Reifurth, Director of Commerce and Consumer Affairs
("Department"). The Department opposes H.B. No. 1728.

In its preamble, H.B. No. 1728 purports that the purpose of the bill is to provide
administrative agencies with more flexibility to increase fees. The preamble is
incomplete as the bill also does the exact opposite—removes flexibility to adjust fees
using the expedited process—with respect to the Department, the University of Hawaii,
and the Judiciary (although the Judiciary is not an administrative agency). The
Department is opposed to the removal of its flexibility to adjust its fees in an expedited
manner, notwithstanding that the bill provides the increased flexibility to other agencies.

The expedited adjustment process contained in section 92-28, Hawaii Revised Statutes (HRS), enables the Department to react much more quickly to changing economic and business conditions than would be the case if we had to go through the chapter 91, HRS, process to adjust our fees, which could take more than a year. The Department believes that its customers appreciate the manner in which we have been able to reduce our fees.

The Department's ability to quickly respond to changes would be lost if it could not use the expedited process contained in section 92-28, HRS, and ultimately, it is our customers who would lose out.

Thank you for the opportunity to share our concerns on H.B. No. 1728.



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism
No. 1 Capitol District Bldg., 250 South Hotel St. 4th Fl., Honolulu, Hawaii 96813
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Oahu

Charles Au
Oahu

Donald Dymond
Oahu

Richard Schnitzler
Hawaii

David S. De Luz, Jr.
Hawaii

To: Chair Oshiro, Vice Chair Lee, and Members of the Committee on Finance
Conference Room 308 at 2:30 p.m.

Re: **HB 1728 – “Relating to Fees”**

From: Small Business Regulatory Review Board

Date: February 18, 2009

Aloha:

As the Chairperson of and on behalf of the Small Business Regulatory Review Board (Review Board), I offer testimony in **opposition** of HB 1728, “Relating to Fees.” The stated purpose of this bill is to provide “flexibility for administrative agencies to increase fees.” While we are most appreciative of the change of attitude towards business shown over the past few years, the Review Board believes that HB1728 is not following the intent of the legislation that was put into place. (See §201M-2 Determination of small business impact; small business impact statement (a) and (b)). Given that many proposed fees are written into an Agency’s administrative rules, any increase represents a potential negative impact, which requires a small business impact statement to be submitted to the Review Board for review.

This proposal also removes the maximum increase, leaving the business community totally vulnerable from fee increases that cause a huge financial business impact. On behalf of the members of the Small Business Regulatory Review Board, thank you for opportunity to testify on this bill.

Yours truly,

Lynne Woods, Chairperson
Small Business Regulatory Review Board



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
820 Mililani Street, #810
(808) 537-4308 Phone (808) 533-2739 Fax
office@oceantourism.org

February 18, 2009

TESTIMONY TO: HOUSE COMMITTEE ON FINANCE
2:30PM Room 308

Representative Marcus Oshiro, Chair

Presented By: James E. Coon, President of the Ocean Tourism Coalition

Subject: H. B. 1728 RELATING TO FEES

STRONG OPPOSITION TO HB 1728

Chair Oshiro and Members of the Committee:

I am Jim Coon, President of the state-wide Ocean Tourism Coalition (OTC) speaking in **Strong Opposition** of this bill.

Commercial boaters represent less than 3% of the total boats using state boating facilities yet produce close to 50% of all revenues derived from boater fees. Commercial boaters recently supported legislation to have their fees raised by 50% with the promise that this would provide enough extra revenue for DOBOR to upgrade our harbors. As an industry we just cannot afford any significant increase in what we are already paying. We are paying more than our fair share! We are not complaining, but do not want to see a draconian open ended fee system added on to our already strained resources to the point were it drives us out of business.

Here are some of the reasons we oppose this bill:

- It gives unfettered discretion to any board, commission, or governmental agency.
- It makes the user pay for gross cost overruns with out any check and balance or motivation for the agency to operate within a specific budget.
- It exempts itself from Act 168 that established the Regulatory Review Board which was established precisely for this reason.
- It creates a very difficult business environment for small business to plan and be a part of rule and fee making decisions.

- It makes the fee setting agency as the same entity that determines the “cost” or “value” of the service. Again no checks or balance.

Almost everyone realizes the present economic crisis is very serious. The Golden Goose story comes to mind. OTC appreciates the need for efficiency in government and the desire to raise fees as soon as they are needed. However we also realize that unbridled government always leads to excessive fees and rulemaking and would destroy the small and large business communities as well as hurt the community at large the government is designed to protect. We are the goose that needs to be nurtured not butchered. Please Kill this bill HB 1728.

Thank you,

James E. Coon, President
Ocean Tourism Coalition
PO Box 847
Kula, HI 96790
808-870-9115

TESTIMONY IN OPPOSITION TO HB 1728

HOUSE COMMITTEE ON FINANCE

Room 308 at 2:30 pm on Wednesday, 18 February 2009

Chair Oshiro and Respected Members of the Committee;

My name is Reg White. I work in the commercial passenger boat and highway transportation industries of Hawaii and depend heavily on the health of our tourism industry for my livelihood. Unfortunately this bill loses sight of the whole purpose for the hearing process that is presently required in order for an agency to make changes to the fees for it's services. It is not possible for members of a state agency to have expertise into the operations and status of each of the businesses upon which it settles fees for it's services or the use of it's facilities. Especially right now, during this time of economic emergency in our state. I sympathize with the state that it is looking at a very large shortfall in the coming budget period. I can only tell you that our companies face exactly the same problems and challenges except that we most certainly cannot raise our fees just to cover our expenses when we have a shortfall. We must get by only by making the best of what we can generate from the business that is left and we must do this without killing the hen that lays the eggs. We must preserve our trained force of employees as much as possible so that we can meet the demands when business returns to normal one day. This means that we must reduce spending on other fronts in order to get by, for we most surely at a time like this cannot consider an increase in charges to our remaining customer base. The state may well have to learn to do the same thing, as if they arbitrarily raise fees to meet their anticipated demands, they will very possibly kill the hen that lays the eggs and leave us without a tourist industry that is capable of rising to the demand once arrivals return to strength. That's the reason for the hearing process. It's so that the agency staff can learn what's happening within any particular industry and then adjust their fees and trim their budgets to make ends meet while at once preserving the future of the industry regulated or served. This is a bad bill. Truly "Taxation without representation"! Leave things as they are. Refer this bill to the shredder!!

Respectfully,

Reg White
1540 S. King St
Honolulu, HI 96826-1919
(808) 222-9794
RawcoHI@cs.com

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 17, 2009 5:47 PM
To: FINTestimony
Cc: MTKBAM@aol.com
Subject: Testimony for HB1728 on 2/18/2009 2:30:00 PM

Testimony for FIN 2/18/2009 2:30:00 PM HB1728

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Mike Kelley
Organization: Teralani
Address: 991 Limahana Place G Lahaina, Hawaii
Phone: 808-661-5500
E-mail: MTKBAM@aol.com
Submitted on: 2/17/2009

Comments:

I am against H.B. 1728 RELATING TO FEES

As a member of the commercial boating industry for many years I have been through numerous swings in operational challenges. Staying in business in any climate is very, very difficult and specifically more so in this disastrous economy.

As a commercial boating operation we've created a clean, eco-friendly business which has generated many thousands of dollars in state revenues while also creating dozens of jobs. Both of these are threatened by this bill. If the State has uncontrolled and unmonitored ability to raise fees at any juncture for any reason it may well lead to significant financial hardship and closure for many operations.

Act 168 which established a regulatory review board accurately assesses needs for movement in user fees and rates. This board and this act were approved specifically for this purpose. I encourage you not to now over ride this decision.

Positioning current and future rates of operation and consumer costs is difficult if not nearly impossible when regulatory fees are unknown. The perception of ever rising and out of control costs for a visitor traveling to Hawaii will become reality if we are not careful. Adding legislation which allows for increases of fees at will or whim surely will add to the end users cost of experiencing Hawaii.

I am strongly opposed to HB 1728 relating to fees and encourage you to NOT PASS THIS.

Mahalo,
Michael T. Kelley
President
Ka'anapali Kai Charters

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 17, 2009 3:49 PM
To: FINTestimony
Cc: bossfrog@maui.net
Subject: Testimony for HB1728 on 2/18/2009 2:30:00 PM

Testimony for FIN 2/18/2009 2:30:00 PM HB1728

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Phillip Kasper
Organization: Frogman Charters
Address: 156 Lahainaluna Rd Lahaina HI 96761
Phone: 808-667-0990
E-mail: bossfrog@maui.net
Submitted on: 2/17/2009

Comments:

This measure gives unbridled power to the DLNR and does not afford reasonable due process.
Please do not pass this bill

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 17, 2009 10:42 AM
To: FINTestimony
Cc: jeff@mauidiveshop.com
Subject: Testimony for HB1728 on 2/18/2009 2:30:00 PM

Testimony for FIN 2/18/2009 2:30:00 PM HB1728

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Jeff Strahn
Organization:
Address: 1455 South Kihei Rd Kihei, HI 96753
Phone: 808-270-9813
E-mail: jeff@mauidiveshop.com
Submitted on: 2/17/2009

Comments: