



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Water, Land, & Ocean Resources

Testimony by
Hawaii Government Employees Association
January 29, 2010

H.B. 2389 – RELATING TO THE PENAL CODE

The Hawaii Government Employees Association, AFSCME Local 125, AFL-CIO supports the purpose and intent of H.B. 2389 – Relating to the Penal Code, which makes it a Class C felony to assault a water safety officer who is engaged in the performance of duty.

The intent of H.B. 2349 is to amend Section 707, Hawaii Revised Statutes, to include water safety officers, who stand guard over our beaches of the state and counties to ensure the safety of the people. Ensuring the safety and well-being of water safety officers in the course of the performance of their duties are a necessity in order for them to manage and direct the activities on beaches for the people of Hawaii as well as our many visitors. Individuals who intentionally or knowingly commit harm to water safety officers should be held accountable for their violent behaviors.

We appreciate the opportunity to submit our testimony in support of H.B. 2389.

Respectfully Submitted,

Nora A. Nomura
Deputy Executive Director



January 28, 2010

The Honorable Ken Ito, Chair and Members
Committee on Water, Land and Ocean Resources
The House of Representatives
The Twenty Fifth Legislature
Regular Session 2010
State Capitol
Honolulu Hawaii 96813

Dear Chair Ito and Members:

Re: HB 2389 Relating to the Penal Code

The Hawaiian Lifeguard Association supports the intent of HB 2389 which would make it a Class C felony to assault a water safety officer in the course of his/her duties of providing public safety services at a state or county beach.

Water Safety Officers in the State of Hawaii are at high risk of assault while performing their normal duties of protecting the public at our beaches. There have been at least 10 documented cases of lifeguards being assaulted while on duty in the last five years. These cases illustrate not only the potential and reality of physical harm and injury to lifeguards, but also the negative impact on the safety of beach users who are unprotected because the officer is distracted from his/her primary duty of beach and ocean surveillance.

This is a serious problem for Water Safety and Ocean Safety Officers on Oahu, Maui, Kauai, and Hawaii Island. While performing their duties, lifeguards are extremely visible, exposed, and vulnerable to retaliation and attacks. They are not within the confines of an office, vehicle, or station, but work out of an open lifeguard tower on the beach. Constant distraction and concern for personal safety certainly compromises lifeguards' ability to watch the public they are charged with protecting.

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HB 2389
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The HLA respectfully suggests that rather than amending HRS Chapter 707 to create a new section, that the bill be reworded to amend Chapter 707, Section 711, to include Water Safety Officers employed by the State and/or Counties. The other work groups covered by Chapter 707-711 are correctional officers, educators, EMS workers, and workers at State mental health facilities. Because Water Safety Officers are frontline public safety, public trust, and emergency first responders, we feel that they should have similar protection while performing their duties.

We urge your favorable consideration of this matter and thank you for the opportunity to testify.

Sincerely,


Jan Prins, PhD
President

From: Monty Downs, M.D.
Chair, Kauai Water Safety Task Force and
Wilcox Hospital ER
3-3420 Kuhio Hwy.
Lihue, HI 96746

To: Committee on Water, Land, and Ocean Resources
Rep. Ken Ito, Chair

TESTIMONY REGARDING HB 2389

Hearing on Friday, January 29, 2010 9a.m.

Dear Mr. Ito and Committee Members:

I know why I support HB 2389 and with this testimony I hope to help you understand why you too should support it. I regret that my Kauai work schedule precludes my being able to testify in person.

Our Water Safety Officers (WSO's) are not, nor do they wish to be, Enforcement Officers. They do however routinely give advice, including some occasionally strongly-stated safety-oriented advice. They give this advice to hundreds of thousands of people per year – and by doing this they of course prevent many drownings. There are always people, however, who don't take well to advice, and it's therefore inevitable – and fortunately rare – that our WSO's find themselves in an unpleasant and potentially confrontational situation. I leave it to our WSO's themselves to describe some real examples of this.

There are also occasional (and again fortunately rare) times when the WSO is the only public safety employee present when a person is being assaulted, and although they know to summon Police with a 911 call, it may be several minutes until Police arrive. During those few minutes basic humanity can come into play and the WSO might make an effort to stop the assault – and insodoing he (or her) himself becomes vulnerable to being assaulted.

There is also the special consideration that the WSO's, unlike other essential public safety personnel such as Police and Fire, return to their same very visible workplace every day, and because of that they are in an unusually vulnerable position from someone who might hold a grudge because of a prior day's events.

These are three specific examples of reasons that WSO's should be protected by Statutes which provide for charges that have real teeth when someone assaults them while they're in their line of duty.

HB 2389 would create a new Statute which would accomplish this. Our Task Force, however, was very recently informed that this protection might more easily and just as effectively be accomplished by adding WSO's to a Statue that already exists, namely Statue 707-711 in the Charter.

I am not trained nor well versed in attorney matters, and I trust that I am validly presenting this new information. Assuming I am, my Testimony is in favor of the intent of HB 2389, with the further recommendation that the Bill be revised to reflect the 707-711 situation.

I have been an ER doctor on Kauai since 1972, and I became very involved with ocean safety issues starting in 1991. I became involved because I had witnessed far too many drownings and destroyed families. Now, as Lifeguard training and professionalism and technology have advanced, I have increasingly become a witness to some amazing and spectacular Lifeguard rescues, and to dozens and dozens (actually hundreds) of more "routine" ones. In the ER I get to see the people they have brought back from the edge, and I get to talk with the eternally grateful families who often can't really even comprehend what training and equipment and skill it took to make the rescue. When these cases come in my nurses, as they're running past me, often blurt out "Thank you Dr. Downs for working so hard to get more Lifeguards, and Thank God for the Lifeguards."

HB2389, then, is not only a Bill with some legal and technical importance and implications. It's a Bill about the respect which our skillful and brave Water Safety Officers have earned. I ask for your support of HB2389, with the revision that I've made reference to.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Monty Downs", with a horizontal line extending from the end of the signature.

Monty Downs, M.D.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon Har, Vice Chair

Friday, January 29, 2010

9:00 AM

Room 325

Comments on HB 2389 – Assault on Lifeguards

WLOTestimony@capitol.hawaii.gov

Aloha Chair Ito, Vice Chair Har and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety by supporting smart justice policies. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that almost 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

HB 2379 makes it a class C felony to assault a water safety officer who is engaged in the performance of duty.

Community Alliance on Prisons has never heard of this happening. Are there statistics on the frequency of these incidents?

If this is a rare occurrence, wouldn't our existing statutes on assault be adequate in addressing the situation? It just seems to us that we are enacting more and more statutes that are duplicative and carving out special classes of individuals/workers.

Please consider the data before enacting any more felony laws.

Mahalo for allowing us to share our mana`o with the committee.