

# LATE TESTIMONY

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE CLAYTON HEE, CHAIR**  
**SENATE JUDICIARY AND LABOR COMMITTEE**  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawai'i

February 7, 2013

**RE: S.B. 346; RELATING TO PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE CONSTITUTION OF THE STATE OF HAWAII AUTHORIZING THE CHIEF JUSTICE OF THE STATE SUPREME COURT TO APPOINT RETIRED JUDGES TO SERVE AS EMERITUS JUDGES.**

Chair Hee, Vice Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition of S.B. 346, which proposes a constitutional amendment authorizing the Chief Justice of the Supreme Court to appoint judges who have retired upon attaining the age of seventy years as emeritus judges, permitting the appointed judges to serve as temporary judges in courts no higher than the court level they reached prior to retirement and for terms not to exceed three months.

While the Department of the Prosecuting Attorney of the City and County of Honolulu supports judges and justices who are knowledgeable of the law and respectful to attorneys, staff, and witnesses pursuant to the Hawaii Revised Code of Judicial Conduct, the department notes that the mandatory retirement of judges and justices who reach the age of 70 provides opportunity for judicial nominees who have a fresh approach in analyzing the laws and a strong commitment to treating all participants in the court in a professional manner. Moreover, the mandatory retirement of age 70 for justices and judges is sometimes our only opportunity for change. By bringing back justices and judges who were mandated to retire upon reaching the age of 70, we slow down this transition of leadership.

It is for these reasons that we oppose S.B. 346. Thank you for this opportunity to testify on this measure.