



The Judiciary, State of Hawaii

Testimony to the Twenty-Fourth State Legislature, 2008 Session

House Committee on Judiciary
The Honorable Tommy Waters, Chair
The Honorable Blake K. Oshiro, Vice Chair

Tuesday, April 1, 2008, 2:10 p.m.
State Capitol, Conference Room 325

by
Thomas R. Keller
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Measure No. and Title: House Concurrent Resolution No. 360, Requesting the Judiciary to Establish a Separate Calendar for Cases that Involve Environmental Matters

Judiciary's Position:

The Judiciary opposes House Concurrent Resolution No. 360.

This measure incorporates what we believe is an erroneous fundamental premise – that consolidating environmental cases into a separate calendar creates more consistent and uniform application of the State's environmental laws. Presently, all agency appeals to circuit court, including agency appeals covering environmental issues, are regularly assigned to one designated judge in the First Circuit, and are rotated among a small number of civil judges in the Second, Third and Fifth Circuits. To the extent that such cases are filed, the circuit judges now hear them and will continue to uniformly apply the State's environmental laws, with or without this resolution.

There is no demonstrated need to single out environmental cases from among the many other types of cases for special treatment. It is uncertain whether the current number of filings related to environmental matters justify the creation of a separate environmental calendar because the Judiciary does not currently maintain an "environmental" case category, and preliminary information reflecting the number of cases involving environmental matters does not appear to be of serious periodic concern.


Thank you for the opportunity to provide testimony on this measure.

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JUDtestimony

From: Windward Ahupua`a Alliance [info@waa-hawaii.org]
Sent: Sunday, March 30, 2008 6:56 PM
To: JUDtestimony
Subject: HCR 360/HR 296 - Tuesday, April 1, 2008

SUBMITTED BY:

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COMMITTEE ON JUDICIARY

Rep. Tommy Waters, Chair
Rep. Blake Oshiro, Vice Chair

PUBLIC HEARING

2:10 pm
Tuesday, April 1, 2008
Conference Room 325

HCR 360/HR 296

REQUESTING THE JUDICIARY TO ESTABLISH A SEPARATE CALENDAR FOR CASES THAT INVOLVE ENVIRONMENTAL MATTERS

My name is Shannon Wood, speaking on behalf of the *Windward Ahupua`a Alliance*, a **501c3** Hawai`i non-profit corporation, which was established in July, 2002, to create the **Ko`olau Greenbelt & Heritage Trails System** in order to restore, protect & provide public access to the *mauka* lands on the Windward side of O`ahu along the base of *Na Ko`olau* up to **Kawela Bay** as well as to support locally-owned sustainable economic activities in the more developed areas.

Over time, however, its mandate expanded well beyond these vitally important regional issues. See below for our current mission statement.

The *Windward Ahupua`a Alliance* strongly supports **HCR 360/HR 296** which requests that the **Judiciary** establish a separate calendar for cases that involve environmental matters. A few weeks ago, I attended a conference sponsored by the local organizers of **KEEP AMERICAN BEAUTIFUL** during which a judge from Memphis, Tennessee gave the keynote speech plus a workshop on this subject. He also came to the **Legislature** to talk about the environmental court programs he's helped set up over the past 25 years.

What I found particularly intriguing about the concept was how the Tennessee courts broadly defined environmental matters. I assumed that the emphasis was illegal dumping or littering or oil spills or air pollution; however, they also included health code violations, vector control, and certain types of zoning violations.

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I also learned that there may be no need for legislation to set up these courts although the presiding judges do have to receive special training and must have an strong interest in dealing with these matters. Because the number of cases do not warrant a full-time judge in a particular court system, judges move from one circuit to another on a regular basis.

This is an issue whose time has come. All across the country, judicial systems are setting up specialized environmental courts. However, I am concerned that the **Judiciary** might ignore this resolution if there is no language in it requiring that the **Judiciary** report back to the **Legislature** prior to the next session with a progress report including what they think will be needed in the way of implementing legislation. Please amend **HCR 360/HR 296** to include this requirement.

Mahalo for the opportunity to testify on **HCR 360/HR 296 - REQUESTING THE JUDICIARY TO ESTABLISH A SEPARATE CALENDAR FOR CASES THAT INVOLVE ENVIRONMENTAL MATTERS.**

The Windward Ahupua`a Alliance works to educate & inform residents, visitors, businesses, policymakers, and the media about using Smart Growth planning principles which promote sustainability. These include: Designing long-term waste management systems; improving illegal dumping/derelict vehicle legislation & enforcement; developing & implementing comprehensive curbside recycling programs; providing research & support on public access issues; establishing both state & county-level "legacy lands" funds to support affordable workforce housing initiatives and critical land purchases to protect against inappropriate development; creating alternative energy systems to reduce Hawai`i's dependency on fossil fuels & to mitigate the impacts of global warming; and, setting long-term watershed protection policies based upon ahupua`a concepts & principles.

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