



*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Judiciary**

The Honorable Tommy Waters, Chair  
The Honorable Blake K. Oshiro, Vice Chair  
Friday, February 1, 2008, 4:00 p.m.  
State Capitol, Conference Room 325

by  
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**Bill No. and Title:** Senate Bill No. 1526, S.D. 2, Relating to Judiciary.

**Purpose:** Provides a mechanism to set the salaries of the Administrative Director (AD) of the Courts and Deputy AD by amending §601-3, Hawaii Revised Statutes (HRS).

**Judiciary's Position:** Senate Bill No. 1526, S. D. 2, is part of the Judiciary's package and, as such, we strongly support this bill, with amendments.

As background, House Bill No. 1917<sup>1</sup>, from the 2006 legislative session, amended the Hawaii Constitution by establishing a unitary Commission on Salaries responsible for reviewing and recommending changes to salaries for, among others, justices and judges. In addition, House Bill No. 1918<sup>2</sup>, amended various statutes to put into effect the purpose of establishing the Commission. The intent of these changes were to "lend fairness and consistency to the process."<sup>3</sup>

However, there are two inconsistencies that need clarification. First, House Bill No. 1917 (the Constitutional amendment) did not include the AD nor Deputy AD. The 2007 Commission on Salaries acknowledged it did not have the Constitutional authority to review and recommend the salaries for these positions and so stated in its report<sup>4</sup> to the Legislature. However, since rectifying this omission would require another Constitutional amendment, we are instead suggesting this alternative.

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<sup>1</sup>2006 Haw. Sess. Laws at 1272. H.B. No. 1917 was ratified by Hawaii voters on November 7, 2006.

<sup>2</sup>*Id.* at 1222. H.B. 1918 was enacted as Act 299, SLH 2006, on July 12, 2006.

<sup>3</sup>Hawaii Senate Committee on Judiciary and Hawaiian Affairs, Standing Committee Report No. 3004, at 2 (2006).

<sup>4</sup>*Report and Recommendations to the 2007 Legislature.* Hawaii Commission on Salaries, March 14, 2007 at 7.

000003



Senate Bill No. 1526, S.D. 2, Relating to the Judiciary  
House Committee on Judiciary  
February 1, 2008  
Page 2

Secondly, House Bill No. 1918, when creating the Commission on Salaries in §26-56, Hawaii Revised Statutes (HRS), likewise did not list the AD nor Deputy AD. However, mention was made in another section (§601-3, HRS) that refers back to §26-56, HRS. But since §26-56, HRS omits the two positions, mentioning it in another section is not applicable.

With that background, Senate Bill No. 1526 was introduced in the last session and crossed over from the Senate. The bill, as introduced, linked the salary of the AD at 89 percent of the Chief Justice's salary (whose salary is set by the Commission on Salaries) based on the then-current relationship of the Governor's "Administrative Director" (hereinafter, Chief of Staff) to the Governor. This would allow the AD and Deputy AD (linked to the AD) salaries to increase when the Chief Justice's salary increases. If this is not done, the difference in pay between the Chief Justice and AD will widen and eventually drop to 60 percent in Fiscal Year 2013.

The Senate, in hearing the bill, made two substantive changes. The first is to change the percentage to 80 percent of the Chief Justice's salary and the second is modify it to read "not exceed eighty percent..."

We respectfully offer the following amendments. The original intent of the bill was to bring parity, fairness, and consistency to the AD and Deputy AD positions. Thus, we mirrored the then-current salary relationship between the Governor and Chief of Staff. Subsequently, the 2007 Commission on Salaries, in setting the pay for the Governor and Chief of Staff, closed the gap between them by setting it at 98 percent (rounded to the nearest percent). Hence, our first amendment would likewise mirror the same percentage between the Chief Justice and AD at 98 percent.

The second suggested amendment is to clarify who is setting the salary (i.e., indirectly, the Commission on Salaries) by replacing the phrase "not exceed" to read "equal to". As it stands now, it is our understanding that no one has the authority to set the two salaries. If true, the "not exceed" phrase is moot.

Our third requested amendment is to provide funding for the purposes of this bill.

Lastly, there are some technical amendments that need to be made to bring the bill into conformance with changes to the underlying statute that have occurred since the drafting of this bill and to change the effective date to July 1, 2008.

For your convenience, a draft H.D. 1 reflecting our suggestions is attached.

In summary, we respectfully note that the Commission on Salaries does not have the authority, and no mechanism presently exists, to set the salaries of the AD and Deputy AD positions. Therefore, we suggest the mechanism of linking salaries as it seems to meet the

000009



Senate Bill No. 1526, S.D. 2, Relating to the Judiciary  
House Committee on Judiciary  
February 1, 2008  
Page 3

Legislature's criteria of lending "fairness and consistency to the process" while, at the same, following the intent of having the Commission on Salaries set the pay levels for these positions.

Thank you for the opportunity to testify on Senate Bill No. 1526, S.D. 2.

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**Salary Comparison Between the Chief Justice and Administrative Director of the Courts**

	<b>FY08</b> (7/1/2007)	<b>FY09</b> (7/1/2008)	<b>FY10</b> (7/1/2009)	<b>FY11</b> (7/1/2010)	<b>FY12</b> (7/1/2011)	<b>FY13</b> (7/1/2012)
Chief Justice	159,396	164,976	181,476	187,824	206,604	213,840
Admin Dir of the Courts	112,479	116,416	120,491	124,708	129,073	129,073
Percentage	71%	71%	66%	66%	62%	60%

The Chief Justice's salary is based on the 2006-2007 Commission on Salaries Recommendations.

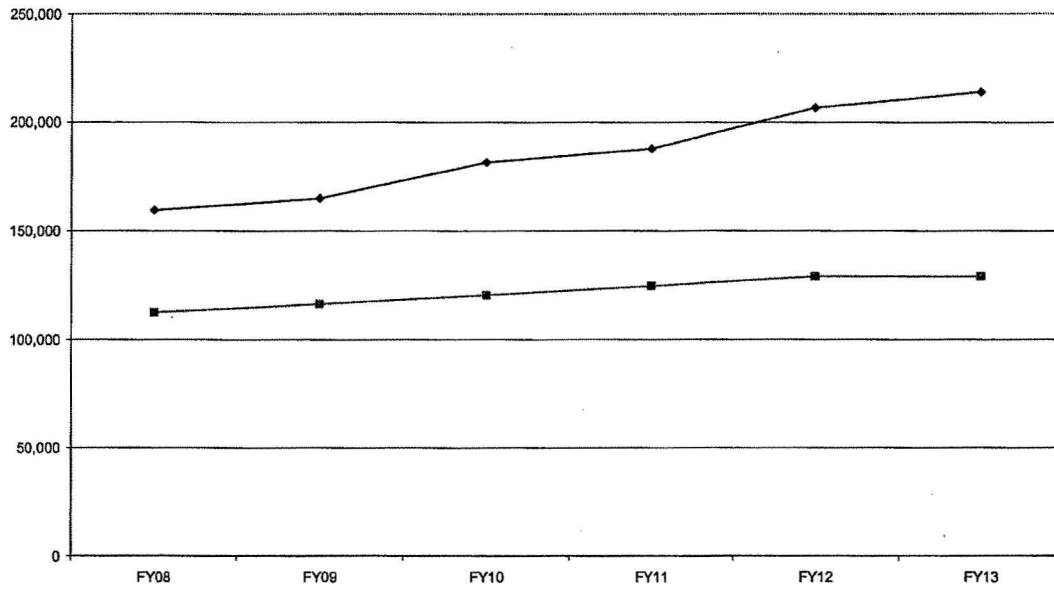
The Administrative Director's salary is based on the 2004 Judicial Salary Commission recommendations. As such, the recommendations end in FY12 and are therefore repeated in FY13 for this display.

**Salary Comparison Between the Governor and Administrative Director of the State**

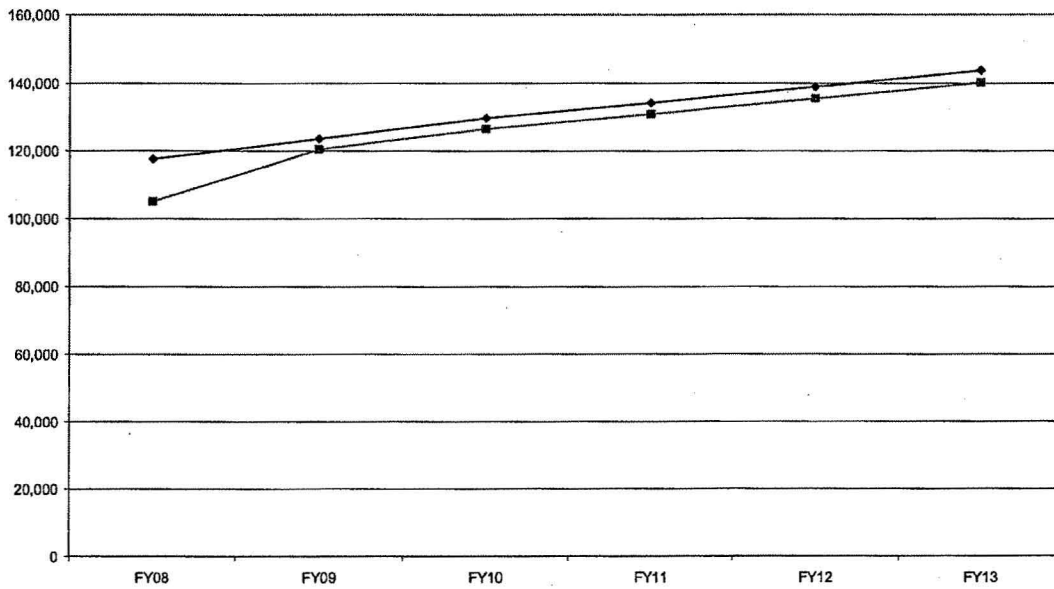
	<b>FY08</b> (7/1/2007)	<b>FY09</b> (7/1/2008)	<b>FY10</b> (7/1/2009)	<b>FY11</b> (7/1/2010)	<b>FY12</b> (7/1/2011)	<b>FY13</b> (7/1/2012)
Governor	117,600	123,480	129,660	134,196	138,888	143,748
Admin Dir of the State	105,000	120,444	126,468	130,896	135,480	140,220
Percentage	89%	98%	98%	98%	98%	98%

The Governor's and Admin. Director's salaries are based on the 2006-2007 Commission on Salaries recommendations.

Chief Justice vs. Admin. Dir. of the Courts



Governor vs. Admin. Dir. of the State



**Report Title:**

Judiciary; Administrators' Salaries; Appropriation

**Description:**

Establishes salary formulas for administrative director and deputy administrative director of the courts. Appropriates funds.

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# A BILL FOR AN ACT

RELATING TO THE JUDICIARY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 601-3, Hawaii Revised Statutes, is  
2 amended as follows:  
3           1. By amending subsection (a) to read:  
4           "(a) The chief justice, with the approval of the supreme  
5 court, shall appoint an administrative director of the courts to  
6 assist the chief justice in directing the administration of the  
7 judiciary. The administrative director shall be a resident of  
8 the State for a continuous period of three years prior to the  
9 administrative director's appointment, and shall be appointed  
10 without regard to chapter 76 and shall serve at the pleasure of  
11 the chief justice. The administrative director shall hold no  
12 other office or employment. Effective July 1, 2004, the salary  
13 of the administrative director shall be as last recommended by  
14 the judicial salary commission. Effective July 1, [2007, and  
15 ~~every six years thereafter,~~] 2008, the salary shall be [as last  
16 ~~recommended by the commission on salaries pursuant to section~~  
17 ~~26-56, unless disapproved by the legislature.] equal to  
18 ninety-eight per cent of the salary of the chief justice."~~

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1           2. By amending subsection (c) to read as follows:

2           "(c) The administrative director, with the approval of the  
3 chief justice, shall appoint a deputy administrative director of  
4 the courts without regard to chapter 76 and such assistants as  
5 may be necessary. The assistants shall be appointed without  
6 regard to chapter 76. Effective July 1, 2000, the salary of the  
7 deputy administrative director shall be no greater than provided  
8 in section 26-52(3) and shall be determined by the chief justice  
9 based upon merit and other relevant factors. Effective July 1,  
10 2004, the salary of the deputy administrative director shall be  
11 as last recommended by the judicial salary commission.  
12 Effective July 1, 2008, the salary of the deputy administrative  
13 director shall be equal to ninety-five per cent of the salary of  
14 the administrative director. The administrative director shall  
15 be provided with necessary office facilities."

16           SECTION 2. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$87,980, or so much  
18 thereof as may be necessary for fiscal year 2008-2009, for the  
19 purposes of this Act. The sum appropriated shall be expended by  
20 the judiciary.

21           SECTION 3. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect on July 1, 2008.

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INTRODUCED BY: \_\_\_\_\_