

**HB 300**  
**HD2, SD1**



*The Judiciary, State of Hawaii*

**Testimony to the Senate Committee on Ways and Means**

The Honorable David Y. Ige, Chair  
The Honorable Michele Kidani, Vice Chair

Friday, April 1, 2011 9:00 a.m.  
State Capitol, Room 211

By  
W. Tom Mick  
Policy and Planning Department Head

**WRITTEN TESTIMONY ONLY**

---

**Bill No. and Title:** House Bill No. 300, H.D. 2, S.D. 1, Relating to the Judiciary

**Purpose:** To provide biennium operating and capital improvement appropriations for FYs 2012 and 2013.

**Judiciary's Position:**

The Judiciary strongly urges your support of House Bill No. 300, H.D. 2, S. D. 1, which reflects the Judiciary's resource requirements for the 2011-2013 fiscal biennium. The Judiciary is extremely grateful for the support of the House Finance Committee and the Senate Committee on Judiciary and Labor of our budget request of \$8.1 million each fiscal year of the biennium to restore full payroll funding and thereby eliminate two-day-per-month furloughs in the Judiciary. We are also very pleased with the Senate Committee on Judiciary and Labor's restoration of funding for the \$1.3 million cut imposed by House Bill No. 300, H.D. 2. However, the Judiciary remains concerned that neither Committee provided funds for (1) the currently mandated restoration of the judges' five percent pay cut and scheduled pay increases, and (2) the Community Service Sentencing Program (CSSP) intake functions in the Second, Third, and Fifth Circuits.

The Judiciary is acutely aware of the State's limited financial resources and its continuing unsettled economic situation, the projected budget deficit for the fiscal biennium, and the potential further negative effects on the economy resulting from increasing oil prices and the recent earthquake in Japan. In fact, during the current fiscal biennium, the State's economic and



House Bill No. 300, H.D. 2, S.D. 1, Relating to the Judiciary  
Senate Committee on Ways and Means  
Friday, April 1, 2011  
Page 2

budget situation have already taken their toll on the Judiciary, with a budget base cut of 13.1%, or \$19.7 million, between FY 2009 and FY 2011, the elimination of 79 vacant positions, and the implementation of a two-day-per month furlough plan for employees. The impact of these budget and personnel reductions, together with the furloughs, has been felt throughout the Judiciary and Hawai'i, especially considering that the Judiciary has no control over its workload and must accommodate that workload with less financial resources, people, and work days. Furloughs alone eliminated more than 600,000 available staff hours of work. Taken together, these conditions have resulted in justice being less effective and delayed as cases and hearings take longer to get heard and resolved, and in the reduction or elimination of important services being provided by or through the Judiciary. Significant problems have arisen in scheduling trials and hearings as fewer days are available for scheduling, and because prosecutors, public defenders, and sheriffs do not all have the same furlough days as the Judiciary. With fewer days, there are more continuances which exacerbate the scheduling problems and contribute to overcrowded calendars. The restoration of the payroll funding and the related elimination of furloughs will help alleviate some of these conditions and concerns, and we are most appreciative of that.

On the topic of judges' pay, we are aware of House Bill No. 575, H.D. 1, S.D. 1, which would defer the judges' scheduled pay increase and leave their five percent pay cut in place until fiscal biennium 2013-2015. However, if this bill is for some reason not passed out or signed into law, then the Judiciary would need to pay \$1.9 million in FY 2012 and \$4.3 million in FY 2013 from its current budget base without any additional funding. If this occurred, the Judiciary would likely have to cut some programs and take reduction in force actions. As it is, the salaries of the judges in Hawai'i, based on a 2010 cost of living comparison done by the National Center for State Courts, rank last, that is, 51<sup>st</sup>, of judges in all states including the District of Columbia. These low salaries make the recruitment of qualified applicants to be judges in Hawai'i very difficult.

With regard to not funding the assumption of CSSP intake functions from the Department of Public Safety on the neighbor islands, this will likely leave our judges without an important and effective sentencing option that decreases the use of incarceration, and provides an opportunity for non-violent offenders to perhaps avoid prison in the future. Community service sentencing is a viable alternative to incarceration and therefore results in significant savings to the criminal justice system.

Relative to the CIP budget included in House Bill No. 300, H.D. 2, S. D. 1, the Judiciary is very appreciative of the \$21,434,000 provided for the fiscal biennium, including funds for upgrading and improving the roof and lanai at Ka'ahumanu Hale (\$4,645,000), the windows at the Kapuaiwa Building (\$1,850,000), fire systems (\$147,000) and elevators (\$292,000) at Ka'ahumanu Hale, and Judiciary facilities statewide (\$10 million lump sum for miscellaneous projects). However, we are extremely concerned with the lack of any funding provided for other



House Bill No. 300, H.D. 2, S.D. 1, Relating to the Judiciary  
Senate Committee on Ways and Means  
Friday, April 1, 2011  
Page 3

important CIP projects, that is, for the purchase of land (\$4.5 million) for the Kona Judiciary Complex, for planning and design of an Administrative Services Office Building in Kapolei to support the Kapolei Court Complex, for Ali‘iolani Hale Exterior Improvements (\$3,040,000), and for design funds for improvements to the Kauikeaouli Hale cellblock (\$305,000). We are also troubled that House Bill No. 300, H.D. 2, S.D. 1, provided only \$4.5 million of the \$7.5 million requested for design of the Kona Judiciary Complex.

Specifically, regarding the Kona Judiciary Complex, House Finance in its committee report stated that “Your Committee acknowledges that the Judiciary has recently narrowed the proposed location for the new Kona Judiciary Complex to six sites, three of which are on State-owned lands. Your Committee’s intent is that the new Complex be situated on one of the three State-owned sites. Accordingly, funds intended for land acquisition were reallocated to other State priorities.” Two of these sites are owned by the Department of Hawaiian Homelands (DHHL) and one by the Department of Land and Natural Resources (DLNR); one other is partially owned by DHHL. Only the DLNR site would potentially have little or no acquisition costs as DHHL has statutorily established fiduciary responsibilities to its beneficiaries that would likely require land purchase or some sort of lease or land swap at or near market value rates approaching the \$4.5 million requested. The Senate Committee on Judiciary and Labor in House Bill No. 300, H.D. 2, S.D. 1, did not reinsert any funds for land purchase in Kona, stating that the proposed DLNR site may “represent a cost-effective alternative to the other sites under the judiciary’s consideration.” It should be noted that there are no assurances that any portion of the DLNR site, which has already been conveyed to the County of Hawai‘i, would be conveyed back to DLNR for the Judiciary to use for its Judiciary Complex. Without the funding and authorization for land acquisition, the Department of Accounting and General Services (DAGS) and the Judiciary would be precluded from pursuing the acquisition of land once the Chief Justice makes a decision on the final site during FY 2012. This would mean a delay to the overall project of at least a year or more, until funds for the land become available. Also, it is important to note that the \$4.5 million appropriated for design is definitely inadequate for the size and scope of this project, as DAGS and its consultants have identified the need for design funding at \$7.5 million. Without adequate design funding, it is unlikely a design contract could be awarded, thereby further delaying this project. Lastly, although the movement of the design funding to FY 2013 (as opposed to FY 2012 in House Bill No. 300, H.D. 2) is a better fit to the anticipated project schedule, it would be of little use if the land required is not first secured, as design cannot proceed without the necessary authorization and funding (and State commitment) for land in place.

Not funding the other projects mentioned above has significant impacts on Judiciary facilities, its staff, the public, and Judiciary clients. Without an Administrative Services Office Building in Kapolei, many of the programs and services that support and interact with the family court and juvenile detention operations in Kapolei, such as the girls, family drug, and juvenile



House Bill No. 300, H.D. 2, S.D. 1, Relating to the Judiciary  
Senate Committee on Ways and Means  
Friday, April 1, 2011  
Page 4

drug courts, will have to remain indefinitely in Honolulu, some in costly leased facilities. Further, the separation of these programs and support services between Honolulu and Kapolei results in various functional and operational inefficiencies. For Ali'iolani Hale, which houses the Hawai'i Supreme Court and central administrative functions for the Judiciary and is significant both historically and architecturally, the appearance and preservation of the building are paramount. Unfortunately, no significant amount of work has occurred at the exterior of this building in over 30 years and, if measures are not taken now, the deterioration that has already set in will continue. Major improvements within the scope for this project that have been long needed include full replacement of the low-slope roofing which is leaking and in very poor condition; repair and refurbishment of the clock and clock tower, including the patching of spalled or broken concrete; cleaning of the mauka portion and painting of the makai portion of the building exterior; repair and repainting of exterior windows; cleaning and refinishing of the exterior koa doors; and improvements to the landscaped areas that are immediately adjacent to the building. Without funding for planning and design for cellblock upgrades at Kauikeaouli Hale, the cellblocks will continue to have certain safety and security issues, as well as not be in full compliance with applicable fire and building codes.

The Judiciary understands the current dire economic and budgetary situation faced by the state yet at the same time believes that its proposed biennium budget is the Judiciary's best estimate of the resources necessary to maintain the integrity of the courts and to fulfill our statutory, constitutional, and public service mandates. The Judiciary respectfully requests your support of House Bill No. 300, H.D. 2, S.D. 1, which includes the Judiciary's biennium budget request, and that you strongly consider restoring the funding for the judges pay cuts and scheduled pay increases and for the CSSP intake functions on the neighbor islands. The Judiciary also respectfully requests the restoration of CIP funding for land purchase and design at Kona, and for the other projects where funds were cut by House Bill No. 300, H.D. 2, S.D. 1.

I hope this information provided today will assist your committee in its deliberations relating to this bill. Thank you for the opportunity to testify on this measure.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON WAYS AND MEANS  
ON  
HOUSE BILL NO. 300, H.D. 2, S.D. 1

April 1, 2011

RELATING TO THE JUDICIARY

House Bill No. 300, H.D. 2, S.D. 1, appropriates funds for the Judiciary for the fiscal biennium beginning July 1, 2011 and ending on June 30, 2013.

While the Department of Budget and Finance supports ending the State's current furlough program on June 30, 2011, we oppose the proviso found in Section 7 of this measure that prohibits the expending of any funds if a work furlough program that is intended to achieve labor savings is implemented.

Collective bargaining is currently underway between the State, the Hawaii State Teachers Association, United Public Workers, and Hawaii Government Employees Association. As you are aware, labor savings is currently factored into the Administration's approach to balancing the general fund financial plan. While we remain committed to avoiding the complete closure of State offices on designated days as is the case with the current furlough program, the Section 7 proviso restricts the State from exploring a furlough program in any form or fashion as we attempt to negotiate an agreement acceptable to both the employer and the unions.

Given the State's fiscal condition, we simply do not wish to summarily dismiss any option for labor savings at the present time.



**Testimony of the Hawaii State Bar Association  
In Support of House Bill 300  
The Judiciary Appropriations Act of 2011**

Senate Committee on Ways and Means  
Friday, April 1, 2011, 9:00 am  
Conference Room 211

Senator David Y. Ige, Chair  
Senator Michelle N. Kidani, Vice-Chair

The Hawaii State Bar Association is comprised of over 7000 attorneys licensed to practice law in the State of Hawaii, 5000 of whom are residents of the State of Hawaii and are greatly impacted on a daily basis by the diminished services and functioning of the Judiciary. When the budget of the State Judiciary suffers a \$19.7 million (or 13.1%) cut, the services available to the public are diminished and the ability of the practicing bar to help the public are greatly hampered. When the Judiciary General Fund Appropriations are reduced from \$150,445,630 in FY 2009 to \$139,012,000 in FY 2010, and further to \$130,743,104 in FY 2011, the impact is dramatic on the ability to provide services and access to justice.

As the Chief Justice informed the Legislature and the public at his State of the Judiciary address to the Legislature on January 26, 2011, this negative impact comes at a time when demand for Judiciary services has increased due to the impact of the difficult economy on our citizens. Furloughs of Judiciary staff have had a dramatic impact on the ability to move cases forward, resulting in delays, transferred cases, use of furlough Fridays for settlement and other conferences in HSBA and other non-Judiciary facilities. Judges, attorneys and Judiciary staff have tried to work through the administrative issues resulting from diminished funding and resources, but the end result has been drastic on the public. Case backlogs are building due to the length of time required to work through the system;

- Median age of pending Circuit Court civil cases has increased by 41.8% since 2008
- Median age of pending foreclosure cases has increased by 44% since 2008
- Since 2008, pending District Court civil actions have increased 98.2%, with a 36.4% increase in the number of cases filed

**OFFICERS**

Louise K.Y. Ing, President  
Carol K. Muranaka, President-Elect  
Craig P. Wagnild, Vice-President  
Ronette M. Kawakami, Secretary  
Robert Carson Godbey, Treasurer

**DIRECTORS**

Nadine Y. Ando  
Steven J.T. Chow  
Vladimir Devens  
Rhonda L. Griswold  
Robert D. Harris  
William A. Harrison  
Geraldine N. Hasegawa (East Hawaii)  
Carol S. Kitaoka (West Hawaii)  
Derek R. Kobayashi  
Christine A. Kubota  
Gregory K. Markham  
Gerald S. Matsunaga (Kauai)  
Timothy P. McNulty (Maui)  
Suzanne T. Terada  
Calvin E. Young

**YLD PRESIDENT**

Levi K.K. Hookano

**IMMEDIATE PAST PRESIDENT**

Hugh R. Jones

**HSBA/ABA DELEGATE**

James A. Kawachika

**EXECUTIVE DIRECTOR**

Lyn Flanigan

**Testimony of the Hawaii State Bar Association in Support of House Bill 300**

**Page 2**

**Friday, April 1, 2011, 9:00 a.m.**

The number of self-represented litigants has risen during this critical economic period, as the services that can be provided by the Judiciary have diminished. Night court, drug court, girls' court, juvenile court and many other programs have and do successfully provide access to justice. These are the very programs which move the poor successfully through the judicial system, avoiding the more expensive and devastating alternative of incarceration and separation from families. Any cutbacks in these programs and in probationary and public safety staffing and resources would exacerbate this decline in the ability of the justice system to serve the public.

The HSBA strongly urges the Legislature to recognize the negative effect budgetary cutbacks have had on the judicial system and the services available to the public. In addition, the HSBA strongly urges the Legislature to take special notice of the need for planning and site selection for a judicial complex in Kona on the Island of Hawaii. While Judiciary facilities have been developed and improved elsewhere throughout the state, the facilities at Kona have continued in a barely functional location and condition. The HSBA and its members in the West Hawaii area have since 2005 urged the Legislature to support Judiciary requests for funding for site selection and planning for a facility to serve West Hawaii. Knowing that completion of a facility takes years, we again strongly urge the Legislature to include this funding in the upcoming Judiciary appropriations.

The HSBA appreciates the opportunity to support the Judiciary as our partner in providing access to justice to our community.





March 31, 2011

Testimony before the Hawaii State Senate  
Ways and Means Committee  
By Robert D. S. Kim, President  
West Hawaii Bar Association

**RE: H.B. 300, HD2, SD1, "A BILL RELATING TO THE  
JUDICIARY"; specifically the KONA JUDICIARY COMPLEX**

CHAIRMAN IGE AND MEMBERS OF THE WAYS AND MEANS  
COMMITTEE:

I am submitting this testimony to you as President of the West Hawaii Bar Association respectfully requesting your support and restoration of the \$7,500,000 that has been cut by the House Finance Committee for land acquisition.

There is a critical need for a Kona Judiciary Complex. This crisis involves the safety of the public and dire need for consolidation of judiciary functions. Currently the State is spending enormous sums on a broken system of courts scattered throughout the Kona district.

I have been a member of several committees in West Hawaii that have been selected to pursue the construction of a facility since 1990, to no avail. As a top priority of the Judiciary, after so many years of effort, we are close to realizing success.

I humbly and respectfully urge to reinstate the land acquisition funds for several important reasons.

First, the Chief Justice has selected six (6) potential sites that are currently being studied. Environmental assessments and other evaluations are being prepared as we speak. The prospective sites are generally in the same area, and include both private, state and DHHL lands. Logic would dictate that the proposed site should be

**ROBERT D.S. KIM**

PRESIDENT

81-6627 Mamalahoa Highway, Ste 109 | P.O. Box 188 | Kealahou, HI 96750  
Phone: 808.329.6611 | Fax: 808.329.6676

built close to the newly built County of Hawaii West Hawaii Civic Center in Kona. However, the WHBA and other involved agencies have not articulated their support for any particular site due to the fact that the assessments and evaluations have not been completed.

The House Committee on Finance and the Senate Judiciary Committee have reasoned that the \$7,500,000 should be cut because of the availability of state and DHHL lands which would be acquired "...at little or no cost to the Judiciary". See SCR 958, H.B. 300, H.D. 2, S.D.1. This analysis is not supported by DAGS, as there are costs for the purchase of DHHL and state lands. To delete the funding in its entirety would severely delay the process at this critical time, should these unknown costs become known upon selection.

Second, it is premature to make the *de facto* selection of the proposed site considering only state and DHHL lands prior to the environmental and other necessary studies being completed. The lands under consideration may have severe defects or adverse impacts that will prevent the Chief Justice from selecting only state or DHHL lands. If the state and DHHL lands are not appropriate the process will again be adversely impacted and construction delayed.


Finally, the immediate need for a Kona Judiciary Complex is evident to all state agencies dealing with the proper administration of justice in West Hawaii. A couple of years ago, a delegation of leaders from the WHBA and Hawaii State Bar Association met with then Governor Lingle and key cabinet members on the crisis involving the Kona court system.

At that meeting, Public Safety Director Clayton Frank, told the Governor that the situation in Kona "was a crisis situation five (5) years ago."

Testimony before the Hawaii State Senate  
Ways and Means Committee  
H.B. 300, HD2, SD1, "A BILL  
RELATING TO THE JUDICIARY"  
March 31, 2011  
Page 3

I respectfully urge you to consider the restoration of the funds as prayed for in my testimony. I am cognizant of the state's dire economic situation, however, this issue is a critical one that requires your close attention and support. Thank you.

Date: Kealahou, Hawaii, March 31, 2011.

  
-----  
ROBERT D. S. Kim

President  
West Hawaii Bar Association



HAWAII STATE BAR ASSOCIATION  
**Family Law Section**

**OFFICERS**

**CHAIR**

Thomas D. Farrell  
[tom@farrell-hawaii.com](mailto:tom@farrell-hawaii.com)

**VICE-CHAIR/CHAIR-ELECT**

Steven L. Hartley  
[shartley@hmfamilylaw.com](mailto:shartley@hmfamilylaw.com)

**SECRETARY**

Jessi L.K. Hall  
[jhall@coatesandfrey.com](mailto:jhall@coatesandfrey.com)

**TREASURER**

Lynnae Lai Lan Lee  
[lllee@lla-hawaiilaw.com](mailto:lllee@lla-hawaiilaw.com)

**DIRECTORS**

Chunmay Chang  
Everett Cuskaden  
William C. Darrah  
Richard J. Diehl  
P. Gregory Frey  
Geoffrey Hamilton  
Sara R. Harvey  
Adrienne S. King  
Charles T. Kleintop  
Jacqueline Y. M. Kong  
Edward R. Lebb  
Frank T. Lockwood  
Timothy F. Luria  
Dyan M. Medeiros  
Blake T. Okimoto  
Stephanie A. Rezens  
Thomas L. Stirling, Jr.  
Paul A. Tomar

**Mailing address:**

Family Law Section  
P. O. Box 3733  
Honolulu, HI 96812

**on the web at:**

[www.hawaiifamilylawsection.org](http://www.hawaiifamilylawsection.org)

**COMMENTS OF THE FAMILY LAW SECTION  
HAWAII STATE BAR ASSOCIATION  
IN SUPPORT OF HOUSE BILL 300, H.D. 2, S.D. 1  
THE JUDICIARY APPROPRIATIONS ACT OF 2011**

**COMMITTEE ON WAYS AND MEANS**

Friday, April 1, 2011 9:00 a.m.  
Conference Room 211  
State Capitol

Chair Ige, Vice Chair Kidani, and members of the committee:

I am Tom Farrell, an attorney and the chair of the Family Law Section of the Hawaii State Bar Association, on whose behalf I submit these comments.

The Family Law Section is comprised of over a hundred twenty five attorneys who practice primarily in Family Court. We handle divorce, paternity, domestic violence, child protection and guardianship cases. As a Section, our comments represent the views of our members only; we do not speak on behalf of the entire Hawaii State Bar Association.

We support House Bill 300, H.D. 2, S.D. 1 the Judiciary Appropriations Act, and will limit our comments to three budget items that directly affect the Family Law bar.

**Circuit Court Operating (JUD 310, 210, 330, 350):**

**We were very pleased to see that H.D. 2 restored funding for staff salaries in order to eliminate court furloughs and that the Senate Committee on Judiciary and Labor concurred with this position in S.D. 1. We urge you not to cut this proviso from the bill.**

In his State of the Judiciary address the other day, the Chief Justice said Hawaii's citizens "want a civil justice system that resolves disputes in a timely and fair manner, and that is not so complex, expensive and time consuming, that few can afford it. Our citizens want justice that works." It's not working so well in the Family Court of the First Circuit, primarily due to loss of staff time as a result of employee furloughs.

Now the judges come to work anyway, but you can't run a court without a clerk, and a bailiff, and the security staff, and all the other people who make it possible. Two Fridays a month may not sound like much, but there is a real price. For example, Juvenile Drug Court used to take place every Friday afternoon. Some of these children and their families need to see the judge every week. Now, that can't happen. We've also lost two days a month for

Senate Committee on Ways and Means  
House Bill 300, H.D. 2, S.D. 1  
April 1, 2011

paternity hearings and for hearings on Domestic Abuse Protective Orders. That's a serious problem, because once a Temporary Restraining Order is issued, a hearing must be held within fifteen days. Since the family court can't put these off, the calendars just get longer and longer. It isn't unusual at all to have as many as twelve, or fourteen, or sixteen of these cases all set to be heard by one judge in one three hour period. If you have been wrongly accused of domestic violence, and you need some time to present your witnesses and evidence, you may not get it, or you may have to agree to a continuance of several weeks until the court has time to hear you. Meanwhile you're removed from your home and not allowed to see your children. That isn't a justice system that resolves disputes in a timely and fair manner.

As you may recall from the State of the Judiciary address, uncontested divorces are taking twice as long, but that's not the worst problem on the divorce calendar. In the divorce division, we hold so called "short trials," which are hearings on contested issues that need a couple of hours but don't need a whole day or two. These are held on Fridays. We've now lost half of those days, which means that the waiting list for short trials gets longer and longer with each passing month. Even getting a hearing date on routine motions is becoming an enormous problem. It takes more than judges to run a court; the clerks who process and calendar motions are absolutely vital. This past summer, it was taking up to two months just to get a post-divorce motion processed and set for a hearing that would occur yet another month or six weeks later. Now imagine that you're a parent entitled to summer visitation with your child, and the other parent is refusing to send her. The summer will be over before you ever get your case in front of a judge. That's not the timely judicial system that Hawaii's citizens rightly expect and deserve.

And while I don't have first-hand evidence of the impact in the other circuits, I have no reason to believe it is any better on the neighbor islands.

So we strongly urge you to stick with the House and Senate JDL position on staff salaries. We take no position on judge's salaries.

The Kona Judiciary Complex (JUD 601 item 2):

**We understand and support the House's rationale for reducing the appropriation for the Kona Judiciary Complex to eliminate land acquisition costs. This facility can be built on existing state-owned land. The Senate Committee on Judiciary and Labor concurred with this position in S.D. 1 and appropriated design costs only. We urge you to retain this proviso in the bill.**

The Kona Circuit Court has been a ramshackle operation on the grounds of the State Hospital for the thirty years that I've practiced law. It was inadequate in the 1980's, and the growth in population and caseload hasn't helped. However, the Kona Family Court is even worse. It's difficult to believe one is actually at a courthouse, with the beauty shop upstairs, and the convenience store downstairs. Security is terrible and there's one toilet for the couple hundred folks who pass through each day (and the staff). By the way, you can't file family court

Senate Committee on Ways and Means  
House Bill 300, H.D. 2, S.D. 1  
April 1, 2011

documents there; you have to go someplace else to do that. So with the files at one courthouse, and the judge at another, you can only hope that your file makes it to the judge's desk when your case is called for hearing. H.D. 2 provides \$4.5 million in the first year for design of a Kona Judiciary Complex to house the Circuit, District, and Family Courts. S.D. 1 shifts the appropriation to 2012-2013. Please do not delete this item.

Administrative Services Office at Kapolei (JUD 601, item 1):

**The House's deletion of funds for an Administrative Services Office at Kapolei should be restored, if not this year, then soon.**

The original plan for the Kapolei Judiciary Complex included office space for the Juvenile Probation Division. Unfortunately, this building was dropped from funding before the project was completed.

At this point, the Judiciary is seeking \$6.5 million in design funding only. We support this request. We understand that CIP money is tight. However, a cost accrues each year that this project is deferred.

We now have probation officers downtown making a 43 mile round-trip from the court and the juvenile detention home. I can sympathize with that, as most of us who practice in family court have offices downtown and have to make the same trip. However, it seems a huge waste of money to pay probation officers to drive ninety minutes or more each day, particularly when they already carry staggering caseloads. You wind up having to hire more probation officers because they are spending their time sitting in traffic, instead of supervising probationers. And, of course, you also have to spend money on their current quarters and on the DAGS auto fleet and gas for them to drive to Kapolei and back. If a probation officer makes about \$50,000 per year, about \$10,000 of it is going to pay him to drive. If you have fifty probation officers, that's about a half million dollars a year of wasted time. And if you have to add another ten probation officers to cover the work, that's another \$250,000 in salary costs, not to mention benefits and employee overhead. My rough estimate is that the cost of separating them from the court is running at least \$1 million per year, plus whatever it costs to maintain their current office space.

Thank you for the opportunity to submit our comments.

TO: COMMITTEE ON WAYS & MEANS  
Senator David Y. Ige, Chair  
Senator Michelle Kidani, Vice Chair

FR: The Board of Directors of the Mediation Center of the Pacific  
Cynthia Alm, Sidney Ayabe, Eric Austin, Ann Botticelli, Thomas Cestare, Gerald Clay,  
Nicholas DeWitt, Lee Erwin, David Franzel, Warren Haight, Patricia Hamamoto, Connye  
Harper, Andrew Hipp, Peter Knapman, Dee Dee Letts, Judge Victoria Marks (Ret.), Ron  
Matayoshi, Bruce McEwan, Peter Robb, Abelina Madrid-Shaw and Judge Melvin Soong  
(Ret.); and Emeritus Directors, Charles H. Hurd, Susan Lampe, Michael Nauyokas and  
Ruth Tschumy.

RE: HB 300 HD 2, SD 1

**The Board of Directors of the Mediation Center of the Pacific (the Mediation Center)  
supports HB 300 HD 2 SD 1.**

The Mediation Center is a 501(c)(3) not for profit corporation dedicated to the mission of the Mediation Center which is "To provide high quality mediation and dispute resolution services that are affordable and accessible". The Mediation Center has worked for over 31 years with the community and the Judiciary to provide on site and off site mediation services to persons involved in the justice system, businesses and the community.

HB 300 HD 2 SD 1 calls for the appropriation of funds for the fiscal biennium beginning 07/01/11 and ending on 06/30/13 which directly impacts the provision of mediation services. The Mediation Center of the Pacific receives funding from the Judiciary through a POS with the Mediation Centers of Hawai'i. With the dedicated help of nearly 200 professional mediators who volunteer their services, the funding enables the Mediation Center to maintain the provision of high quality mediation and dispute resolution services annually that result in the following outcomes:

- Quality mediation and dispute resolution services are provided for more than 1,600 cases
  - On-site mediation services are provided at District Court for approximately 650 small claims, summary possession and Temporary Restraining Order matters
  - In-house mediation services are provided at the offices of the Mediation Center for more than 1,050 cases including 423 domestic cases
- 51% of the cases mediated overall, result in written agreements
- 59% of the domestic cases mediated, result in written agreements
- Approximately 40% of the clients served are in the low income and vulnerable populations
- 88 % of the clients overall who participate in mediations report that they would use mediation again; and
- 94% of the clients overall who participate in mediation report that mediation is a useful process

The Mediation Center of the Pacific provides a critical service for Oahu's communities and the Judiciary by increasing access to justice. Funding from the Judiciary helps the Mediation Center provide these needed services. The Board supports HB 300 HD 2 to ensure the Mediation Center of the Pacific continues to receive financial support to maintain high quality mediation and dispute resolution services that are affordable and accessible.

Mahalo for this opportunity to testify.



## THE MEDIATION CENTER OF THE PACIFIC, INC.

*Bringing People Together to Talk and Resolve Their Differences*

---

245 N. Kukui St., #206 Honolulu, HI 96817 Tel: 521-6767 Fax: 538-1454 Email: [mcp@mediatehawaii.org](mailto:mcp@mediatehawaii.org)

March 29, 2011

**BOARD OF  
DIRECTORS**

**PRESIDENT**  
Cynthia T. Alm

**VICE PRESIDENT**  
Gerald Clay

**SECRETARY**  
Warren Haight

**TREASURER**  
Eric Austin

**DIRECTORS**  
Sidney Ayabe  
Ann Botticelli  
Thomas W. Cestare  
Nicholas DeWitt  
Lee W. Erwin  
David Franzel  
Patricia Hamamoto  
Connie Harper  
Andrew Hipp  
Peter S. Knapman  
Dee Dee Letts  
Judge Victoria Marks (Ret.)  
Ron Matayoshi  
Bruce McEwan  
Peter Robb  
Abelina Madrid Shaw  
Judge Melvin Soong (Ret.)

**EMERITUS  
DIRECTORS**  
Charles H. Hurd  
Susan Lampe  
Michael Nauyokas  
Ruth Tschumy

**EXECUTIVE DIRECTOR**  
Tracey S. Wiltgen

**HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2011**

**TO:** COMMITTEE ON WAYS & MEANS  
Senator David Y. Ige, Chair  
Senator Michelle Kidani, Vice Chair

**FROM:** Tracey Wiltgen, Executive Director  
The Mediation Center of the Pacific, Inc.

**RE:** Appropriates funds for the judiciary for the fiscal biennium  
beginning 07/01/11 and ending on 06/30/13.

Dear Chair Ige, Vice Chair Kidani and Committee Members:

On behalf of the Mediation Center of the Pacific and Mediation Centers of Hawai'i, I am writing in support of HB 300 HD 2, SD 1 and the Judiciary's request for the appropriation of funds as defined therein. The requested funds in HB 300 HD 2, SD 1 are critical to enable the Judiciary to administer justice for the ever-growing number of individuals who access the court system.

On January 26, 2011, Chief Justice Recktenwald reported in his State of the Judiciary speech that the administration of justice is more than the adjudication of cases. He noted that the Judiciary also helps address problems that underlie disputes and helps to alleviate their human impact. One way that the Judiciary meets these needs is by offering alternative dispute resolution through the community mediation centers throughout the State.

The Mediation Center of the Pacific is one of five community mediation centers that receive funding through the Judiciary's Center for Alternative Dispute Resolution (CADR) POS with Mediation Centers of Hawai'i (MCH). The Judiciary funds enable the mediation centers to assist thousands of people annually to quickly and efficiently resolve a broad variety of disputes including but not limited to divorce, landlord/tenant, consumer/merchant, civil rights, family matters and more.



Despite significant reductions in funding, this past fiscal year, FY09-10, the centers together managed a total of 3,677 cases involving 7,673 clients. Of the 3,403 new cases that were opened by the centers, 81% were pending in the judicial system and 52% resulted in written agreements.

Equally significant is the fact that overall, the mediation sessions were scheduled on average within 3 days and were conducted on average within 9.8 days from the time the second party agreed to mediate. Thus, while “the median age of pending civil cases in circuit court increased by more than 40 percent...prolonging the time it takes to resolve civil disputes...”<sup>1</sup> the community mediation centers increased access to justice by quickly providing mediation services both on-site at the various courts and at the offices of the respective centers throughout the State.

Over the past two years, the community mediation centers, like the judiciary, have seen a significant increase in the need for services, particularly for individuals in the low-income and vulnerable populations. The Mediation Center of the Pacific alone managed approximately 24% more cases since FY 08-09. These growing needs cannot be met without sufficient funding. Therefore, the Judiciary’s request for appropriation of funds as described in HB 300 HD 2, SD 1 needs to be supported.

On behalf of the Mediation Center of the Pacific and Mediation Centers of Hawai‘i, we respectfully request that you approve HB 300 HD 2, SD 1 to enable the Judiciary to provide justice through prompt adjudication, dispute resolution and other needed services for all of Hawai‘i’s people.

Sincerely,



Tracey S. Wiltgen  
Executive Director

---

<sup>1</sup> Reported by Chief Justice Recktenwald in the State of the Judiciary on 1/26/11

March 30, 2011

Dear Senator Ige,

I am writing in support of HB300 HD2 SD1, which includes funding for the Judiciary History Center (JHC).

I am an Associate Professor of American Studies at the University of Hawai'i at Manoa. I also direct the Museum Studies Graduate Certificate Program and am Chair of the Executive Board of the JHC. My support of HB300 comes from my experience as an educator of American Studies and Museum Studies and my ability to evaluate the quality of the educational programs offered by the center and the professionalism of its staff.

The JHC is one of the "leanest and meanest" educational centers in the islands. With an extremely small and highly committed staff, it offers an incredible array of educational opportunities and resources for students, teachers, and visitors—from on-site exhibits, informative films, to teacher workshops, curricula with prepared lesson plans, popular high-school mock trial tournaments, and impressive public lectures featuring prominent local and national scholars. During the 2009-2010 year it serviced a total of 41,099 people (including 11,200 students and their teachers)—an impressive feat for such a small organization!

The work of JHC is underappreciated and largely unrecognized. This is due, I suspect, to its modest physical presence and its focus on service. It is unlike other museum sites in town with a distinctive building and large object collection. What JHC offers is primarily "invisible." It empowers people with knowledge about the judicial process and Hawai'i's legal history. This invisible resource must be conveyed in thoughtful and engaging ways so that people (from elementary students to visiting adults) can appreciate the complexity and/or importance of our legal system and how it affects our understanding of what it means to be an American citizen. For example, through its exhibits and programs, JHC examines Martial Law during World War II and the internment of Japanese Americans. Through one of its programs it helped teachers explore the relationship between the U.S. constitution and Native Hawaiian sovereignty through a three-day workshop. Teachers who attended were extremely excited and grateful to hear from Native and non-Native scholars. As a result, these teachers can now assist 7<sup>th</sup> and 8<sup>th</sup> grade social studies students understand questions about Native Hawaiian self-determination that were too complicated, perplexing, or controversial to address in the past.

The JHC has been involved in research and translation projects important to legal history in the islands (e.g., analysis of over 20,000 cases from Hawai'i State Archives, translation of probate records from Hawaiian to English). The staff's work in this area, together with its plans to renovate some of its permanent exhibits in the future (via external funding), will help solidify the uniqueness and importance of the center's work. As this modest center continues its local efforts, I believe it is poised to become more nationally and internationally recognized for its impressive representation and analysis of Hawai'i's legal history from pre-contact to the present.

Please continue to support the JHC with your funding. It is the only center of its kind in the islands—offering compelling ways to understand the importance of civic engagement and the complexity of the legal system in Hawai‘i and the United States.

Sincerely,

Karen K. Kosasa  
Associate Director, American Studies  
Director, Museum Studies Graduate Certificate Program  
Department of American Studies  
324 Moore Hall  
1890 East-West Road  
University of Hawai‘i at Mānoa  
Honolulu, HI 96822

Tel: 808-956-8676

Email: [kosasa@hawaii.edu](mailto:kosasa@hawaii.edu)

---

**From:** Alan Rosenfeld [alan3@hawaii.edu]  
**Sent:** Wednesday, March 30, 2011 9:52 PM  
**To:** WAM Testimony  
**Subject:** HB 300 HD SD1 testimony

Dear Senator Ige,

I am writing in support of HB300 HD SD1, which includes funding for the Judiciary History Center.

As a locally-based historian and a faculty member at the University of Hawai'i-West Oahu, the Judicial History Center has played an instrumental role in my educational endeavors. Specifically, as part of a 2010 federal grant award from the National Parks Service Japanese American Confinement Sites Committee, I developed a course on "Hawai'i during World War II," which I offered at UHWO in the fall of 2010. The course included a field trip to the Judicial History Center to view its standing exhibit on Hawai'i under Martial Law. JHC staff also prepared a special screening of a short film on martial-law Hawai'i and a mock trial based on the Duncan vs. Kahanamoku case.

The resources provided by the JHC really helped bring the story of martial law in Hawai'i to life for many of my students. Locally-raised students gained a new appreciation for the struggles faced by their older family members, while those moving here from the mainland were fascinated to learn more about Hawaii's unique place in American history. In fact, in their final research essays at the end of the semester, many of my students cited portions of the JHC exhibit and/or passages from the literature on martial law that the JHC provided.

In short, JHC plays a vital role helping college-level educators spark our students' interest in the history of Hawai'i. Thank you very much for considering my testimony in support of HB300 HD SD1.

Sincerely,  
Alan Rosenfeld, Ph.D.  
Assistant Professor of History,  
UH West O'ahu

Phone: 808.454.4810

<http://www.uhwo.hawaii.edu>

Building a Sustainable University for Hawai'i's Future

---

**From:** Robert G. Buss [rbuss@hihumanities.org]  
**Sent:** Wednesday, March 30, 2011 6:22 PM  
**To:** WAM Testimony  
**Subject:** Testimony on behalf of the Judiciary History Center and HB300 HD2 SD1

Dear Senator Ige,

I am writing in support of HB300 HD2 SD1, which includes funding for the Judiciary History Center.

The Hawai'i Council for the Humanities (HCH) has for many years worked with the Center to provide public and K-12 educational humanities programs. We view the center as a valued partner and leading public humanities resource in our community.

For example, this summer, HCH is supporting "Challenges of American Citizenry for Native Peoples," a workshop for K-12 public and private schools teachers, to be held July 18-21, 2011 at the Judiciary History Center. It's content and curriculum materials will be facilitated by the Center in cooperation with HCH and other local educational and historical groups and individuals

The overall mission of the Hawai'i Council for the Humanities to connect people with ideas that broaden perspectives, enrich lives and strengthen communities, as well as our strategic initiative to enhance humanities education in our K-12 schools, would be greatly diminished without partners like the Judiciary History Center. As Congress said in creating the National Endowment for the Humanities, with which we are affiliated, "Democracy demands wisdom." We cannot have active and engaged citizens without programs like the above that show our citizens and especially our younger citizens how the history and heritage of Hawai'i came about.

I urge you support of the Judiciary History Center. And thank you very much for considering my testimony in support of HB300 HD2 SD1.

Sincerely,  
Robert G. Buss, Executive Director  
Hawai'i Council for the Humanities

3599 Wai'ala'e Avenue, Room 25  
Honolulu, HI 96816  
Phone: (808) 732-5402, Fax: (808) 732-5432 [rbuss@hihumanities.org](mailto:rbuss@hihumanities.org), [www.hihumanities.org](http://www.hihumanities.org)

Ellen Godbey Carson  
700 Richards St. #2601  
Honolulu, HI 96813

March 29, 2011

Via email: [WAMTestimony@capitol.hawaii.gov](mailto:WAMTestimony@capitol.hawaii.gov)

Senator David Y. Ige, Chair  
and Committee Members  
Senate Ways and Means Committee  
State Capitol  
415 South Beretania St.  
Honolulu, HI 96813

Re: **House Bill 300, HD2, SD1, RELATING TO THE JUDICIARY  
(Appropriates funds to the Judiciary for FY 2011-2013:  
Hearing on April 1, 2011 at 9:00 am**

Dear Representative Gilbert and Committee Members:

**I am writing in support of the Judiciary's budget request in HB 300.**

I have been involved in litigation in Hawai'i's courts for over twenty years, and have served as President of the Hawai'i State Bar Association and Hawaii Women Lawyers, where I have had the opportunity to review our Judiciary and its programs in detail. I also serve as a partner in our law firm of approximately fifty attorneys, most of whom are litigators.

**Our Judiciary has many vital programs providing essential services and justice in our community. Without these programs, the very core of our legal structure and social order would be destroyed.**

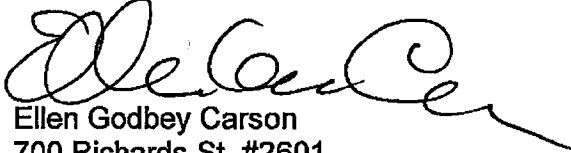
While everyone knows the vital mission of our courts, another Judiciary programs that is vitally important is the Center for Alternative Dispute Resolution ("CADR"). The Center provides mediation training, programs in alternative methods of dispute resolution, and policy support for teaching our citizenry to avoid and resolve disputes on their own. CADR sponsors wonderful ADR forums that teach and inspire ADR experts in Hawai'i. CADR assists ADR programs in every level of the courts, from small claims court to appeals courts that often resolve fifty percent or more of the disputes that have been filed in the Judiciary. Without CADR's programs, our budgetary needs would be hugely more for courtrooms, administrative staff, juries and related resources. CADR's programs have a great cost-benefit ratio, save money for the Judiciary and the parties in dispute, and leverage the time and talent of volunteer mediators so that disputes can be resolved amicably without needing more judges.

Senate Ways & Means Committee  
March 29, 2011  
Page 2

**I ask your support for the Judiciary's budget overall, as well as your support of CADR's work in innovative resolution of legal disputes in our community.**

The views expressed in this letter are my own and are not a statement on behalf of my law firm or on behalf of any organization affiliated with or doing business with my firm.

Very truly yours,



Ellen Godbey Carson  
700 Richards St. #2601  
Honolulu, HI 96813  
(808) 524-1800

768156

---

**From:** Megan Rhein [meganrhein@gmail.com]  
**Sent:** Wednesday, March 30, 2011 6:01 PM  
**To:** WAM Testimony  
**Subject:** testimony for HB300 HD2 SD1

To: Senator David Ige, Chair of the Senate Committee on Ways and Means  
Re: testimony for HB300 HD2 SD1

Dear Senator Ige,

I would like to testify on the importance of continued funding for the Judiciary History Center. I took my 3rd grade students there this year for a field trip to learn about the judiciary branch and how our state government works.

The docents at the center did an amazing job of turning an abstract system like our government into something concrete, understandable and exciting for young children. The students really enjoyed their experiences with being able to visit a real courtroom. The center also provides an invaluable resource for teaching about how the judicial system works to protect our civil rights and our community.

Please consider maintaining funding for the Judiciary History Center. We need to get kids and adults interested in our government since our democracy depends on their involvement and interest. Closing the center closes the door on a unique learning tool to get kids interested in civic education and hopefully involved and motivated in cultivating civic responsibility.

Sincerely,  
Megan Rhein  
teacher at Kalihi Uka Elementary School



---

**From:** Sigrid\_Yoakum/HILOH/HIDOE@notes.k12.hi.us  
**Sent:** Wednesday, March 30, 2011 4:24 PM  
**To:** WAM Testimony  
**Subject:** support of HB300 HD2 SD1

Dear Senator Ige,

I am writing in support of HB300 HD2 SD1, which includes funding for the Judiciary History Center.

I have taken the "We the People" and "Federalism and Separation of Power" training with the Judiciary Center.

The contents, presentations, speakers, and portfolio work this endeavor afforded me as a Civics and U.S. History

teacher at Hilo High School on the Big Island have been a neverending source of new ideas, lessons, and activities

in the classroom for me and my students. It is vital that we keep this program funded and operational for our future

generations.

Thank you very much for considering my testimony in support of HB300 HD2 SD1.

Sincerely,

Sigrid Yoakum

Soc. Studies Department

Hilo High School

---

**From:** Carol Hasegawa [carolhas@hawaii.edu]  
**Sent:** Wednesday, March 30, 2011 12:17 PM  
**To:** WAM Testimony  
**Subject:** Support HB300 HD2 SD1

Dear Senator Ige,

I support HB300 HD2 SD1, which includes funding for the important work of the Judiciary History Center and the very well qualified and committed individuals who provide exceptional services to schools and our community.

The JHC has already sustained substantial budget cuts. They provide unique programming which enlivens Hawaiian history in the schools.

I am a member and have attended many events, especially talks and presentations, that would not otherwise have found an accessible and comparable venue.

For instance, I am looking forward to their Distinctive Women in Hawaiian History Program's Lecture Series. Tomorrow evening JHC partners with the Hawaii Council for the Humanities to present Women in WWII Hawaii: An Era of Change with presenters from the Bishop Museum and the Center for Oral History, University of Hawaii.

Thank you very much for considering my testimony in support of HB300 HD2 SD1.

Sincerely,

Carol M. Hasegawa. Reference/Instruction Librarian . Honolulu Community College. 874 Dillingham Boulevard, Honolulu, HI 96817 . 808-845-9196 . [carolhas@hawaii.edu](mailto:carolhas@hawaii.edu)

---

**From:** Julia Fahey [jfahey@lejardinacademy.org]  
**Sent:** Wednesday, March 30, 2011 9:59 AM  
**To:** WAM Testimony  
**Subject:** Judiciary History Center

Dear Senator Ige,

I am writing in support of HB300 HD2 SD1, which includes funding for the Judiciary History Center.

The Judiciary History Center has helped support my teaching as a middle school history teacher tremendously. I was lucky to participate in a teacher training there on a number of civics programs including *We the People* and *Project Citizen*. My students are only benefitting from these programs because the Judiciary History Center provided me with the tools to teach them. I hope teachers and students will continue to benefit from these services in the future.

Thank you very much for considering my testimony in support of HB300 HD2 SD1.

Sincerely,  
Julia Fahey  
Middle School History Teacher  
Le Jardin Academy

---

**From:** Catherine Levinson [cmilevinson@gmail.com]  
**Sent:** Wednesday, March 30, 2011 11:35 AM  
**To:** WAM Testimony  
**Subject:** HB300 HD2 SD1

Dear Senator Ige,

I am writing in support of HB300 HD2 SD1, which includes funding for the Judiciary History Center.

I have watched the Judiciary History Center over more than 10 years provide continuing education and support for teachers across the state to enable them to effectively teach civic education to Hawaii's students. The museum sees many school tours and visitors and the courtroom provides a venue for outreach programs to educate our community on subjects of current and historical interest. Please enable them to continue to their valuable work which benefits teachers, students and residents across the state.

Thank you very much for considering my testimony in support of HB 300 HD2 SD1.

Sincerely,

Cathy Levinson

3-7-11

Dear Representative Keith-Agaran,

I am writing in support of HB300 HD2 SD1, which includes funding for the Judiciary History Center.

The Judiciary History Center has greatly affected the motivation, supervision and attendance of the students that I teach. I am a special education teacher of secondary school students who may not have a chance in the regular education classroom because of the impact that their environments have on their ability to function in the regular education classroom. They have issues with attending and focusing. However, with this class and the utmost support from the executive director and education assistants, we have receive text books that are leveled to the understanding and comprehension of my students, websites that have proved reliable and interesting, and DVDs and teaching techniques which would have taken me hours to obtain.

I am truly thankful for the support that the Friends of Judiciary have given me and the countless hours of self-sacrifice contributed by the people there, which have proved to make my student group successful and more understanding of the process of government, the need for student participation in government and the overall comprehension of the process and rule of law.

Not only has the program proved to motivate students, but it has also aligned itself directly with state educational standards in Social studies. I know that our school, students and teachers will be negatively impacted by the loss of such a program because there are few instructional tools that can reach my "hard to teach" group.

This program has opened my eyes and enabled me to use education that I had once obtained to the betterment of my students. I have begun to look at the possibility of writing grants for our school to enhance the skills of the persons whom I teach. Without participation in this program, I would not have the notion to look at other proposals that are available for my students. As well, my students are now aware that there is hope outside our small island and rural community. They now are optimistic toward the future and expect to gain a career.

I commend and thank the program staff for their diligent support of our school. New books, partnering with other teachers in the state, possibility of personal research, website exposure and legal analysis are only the few resources that I have received. If we lose the program, with the constantly changing political climate, we will again be in the "dark" unaware of the avenues available to us. We need this program as a motivational and teaching tool for our students.

Thank you very much for considering my testimony in support of HB300 HD2 SD1.

Sincerely,  
Karen Dickinson, special education teacher