

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 549, H.D. 1

March 3, 2015

RELATING TO PUBLIC SERVICE LEGAL LOAN REPAYMENT ASSISTANCE

House Bill No. 549, H.D. 1, establishes the Public Service Legal Loan Repayment Assistance Program, under the Hawaii Justice Foundation and the University of Hawaii's William S. Richardson School of Law, to support eligible lawyers in pursuit of public interest work in Hawaii. House Bill No. 549, H.D. 1, creates the Public Service Legal Loan Repayment Assistance Fund for the repayment program that would generate revenues through legislative appropriations, private contributions, and investment earnings. The bill appropriates an unspecified sum of general funds for FY 16 and FY 17 for deposit into the new fund.

The Department of Budget and Finance takes no position on the establishment of a loan repayment program to stimulate public interest legal work and servicing of indigent persons within Hawaii. However, the department does have concerns on the bill. It is unclear if the Public Service Legal Loan Repayment Assistance Fund is a special, revolving, or trust fund. As a matter of general policy, the department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-52.4, HRS. Special or revolving funds should: 1) serve a need as demonstrated by the purpose, scope of

work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 549, H.D. 1, it is difficult to determine whether the proposed fund is in compliance with statutes.



Hon. Daniel R. Foley
Associate Judge
Intermediate Court of Appeals
Chair

HAWAII ACCESS TO JUSTICE COMMISSION

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Hon. Trudy Senda
Gary M. Slovin
Dean Aviam Soifer
George J. Zweibel

March 1, 2015

To: The Honorable Sylvia Luke, Chair and
The Honorable Scott Y. Nishimoto, Vice-Chair
House Committee on Finance

Testimony in support of H.B. 549 Relating to Public Service Legal Loan
Repayment Assistance

Date of hearing: March 3, 2015

Dear Chair Luke, Vice-Chair Nishimoto, and Members of the Committee:

As a result of S.C.R. 116 from the 2014 Legislative Session, a working group was created to (1) explore alternative methods of encouraging law graduates to pursue public interest careers that provide legal services directly to underserved communities and nonprofit organizations; (2) consider the compatibility of the federal law graduate loan repayment programs with a Hawaii program; (3) consider the establishment of an incubator program for post-graduate apprenticeship to afford practice-ready training for graduates of the William S. Richardson School of Law and to encourage multidisciplinary training of graduates; and (4) draft proposed legislation or alternative measures, if needed, to implement such programs. The Hawai'i Access to Justice Commission ("Commission") appointed Gary Slovin, who is a commissioner on the Commission, to be the chair of this working group.

The working group engaged in substantial discussion in developing the backdrop for the proposed bill, H.B. 549. There is a need to address the significant financial burden that law school graduates face, and there is a need to address the underserved in our community who cannot afford legal assistance. The proposed legislation would create a program that would allow the law school graduates to relieve some of that substantial debt by engaging in public service. The Commission is in strong support of H.B. 549, provided that its passage does not adversely impact the legal services providers' requests for financial assistance.

Associate Judge, Intermediate Court of Appeals
Chair, Hawai'i Access to Justice Commission



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
Tuesday, March 3, 2015 at 1:30pm

By

Robert Bley-Vroman, Chancellor

And

Aviam Soifer, Dean

William S. Richardson School of Law

University of Hawai'i at Mānoa

HB 549 HD1 – RELATING TO PUBLIC SERVICE LEGAL LOAN REPAYMENT ASSISTANCE

Chair Luke, Vice Chair Nishimoto, and members of the committee:

The University of Hawai'i is in strong support of HB 549 HD1, provided that its passage does not replace or adversely impact priorities as indicated in our BOR Approved Budget. The proposed law addresses an important issue facing our community: basic access to justice. The need for legal services for everyone is an ongoing issue in Hawai'i. In 2008, the Access to Justice Commission was by the Hawai'i Supreme Court to address the lack of sufficient legal service providers for those unable to afford legal representation. Our many law students often graduate owing an average of \$80,000 in student loans, for law school alone.

HB 549 HD1 proposes to assist law school graduates somewhat with their burdensome loans so that they can elect to work in public service and provide more legal services to those most vulnerable in our communities. The bill itself directly resulted from the work of a task force created as a result of Senate Concurrent Resolution 116 (2014), which called for the development of an educational loan repayment program. SCR 116 started with a bill introduced by law students of the William S. Richardson School of Law. Richardson students have strongly demonstrated their commitment to public service in many forms, such as their formation of Advocates for Public Interest Law (APIL) in 1985; creating and implementing a substantial pro bono requirement for graduation, participating in clinical outreach work, and post graduation employment in areas dedicated to serving those most needy in our community.

There is a clear need for greater access to justice, and addressing the serious burdensome debt that students face after graduation. HB 549 HD1 would be a vital supplement to current federal loan forgiveness programs for public service already in existence, and finally, would allow more of our graduates to do the kind of public service so many of them want to do.

Thank you for the opportunity to comment on this matter.



UNIVERSITY
of HAWAII
MĀNOA

Center on Disability Studies
University Center on Excellence in Education, Research and Service

March 1, 2015

The Honorable Sylvia Luke, Chair, and
The Honorable Scott Y. Nishimoto, Vice-Chair
House Committee on Finance
State Capitol, Room 308
Honolulu, HI 96813

Aloha Chair Luke, Vice-Chair Nishimoto, and Committee Members:

I write to strongly support HB549, HD1 (HSCR523), legislation that would establish a loan repayment program for attorneys who practice in an area of law related to public service. As a member of the Hawai'i Access to Justice Commission, I am acutely aware of the barriers that prevent many low-income, and even middle-income people in Hawai'i from being able to obtain equal treatment under the law within our State.

As someone who has worked for many decades in special education and in providing services to the people of Micronesia, I am attuned every day to the challenges that these populations face in seeking justice to meet their daily needs for existence. You may be unaware that Hawai'i has the highest percentage of Due Process Hearings in the nation under the Individuals with Disabilities Education Act (IDEA). Many parents desperately seeking to obtain the special services their children need must self-represent because too few public-service attorneys are available to meet the demands for service.

Loan repayment programs of this nature have been tremendously successful in increasing the availability of health professionals in rural and underserved communities. Similarly, I believe this legislation could make a significant impact in our state in ensuring a reduction of the barriers encountered by underserved populations in accessing legal services.

Your support of this important legislation is strongly encouraged.

Sincerely,

A handwritten signature in black ink, appearing to read "Jean L. Johnson".

Jean L. Johnson, DrPH
Associate Professor
Access to Justice Commissioner

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Website: <http://www.cds.hawaii.edu>

An Equal Opportunity/Affirmative Action Institution

Re: HB 549, HD 1

**Testimony by
Gary M. Slovin
on behalf of the
SCR 116 Task Force in support of H.B. 549, HD 1**

Date: February 28, 2015

**To: Honorable Sylvia Luke
Chair, House Committee on Finance**

Submitted via: FINtestimony@capitol.hawaii.gov

**Re: H.B. 549, HD 1 Relating to Public Service Legal Loan Repayment Assistance
Date of Hearing: March 3, 2015**

Dear Luke and Members of the Committee:

I am Gary Slovin testifying in support of H.B. 549, HD 1. This bill is the product of the Task Force established by the Legislature during the 2014 Session through SCR 116. Legislation was considered during the 2014 Session that proposed a program to assist in the repayment of law school loans for those law school graduates who commit to working in certain non-for-profit agencies. Ultimately, the Legislature adopted SCR 116 which called for a task force to study this issue and a concept known as incubators. The task force submitted a report to the Legislature that supports the establishment of the program that is the subject of HB 549, HD 1. The bill includes very specific criteria that would guide such a program.

If established, the program would meet two specific and important objectives. First, many law school students enter law school with substantial loans. Those students, a majority at the Richardson School of Law, then are faced with additional loans to complete their educations and to then take the bar examination. They face a significant financial burden after they graduate that impacts upon their career choices. Second, the agencies that provide legal assistance to the indigent are not able to offer competitive compensation to law school graduates which makes both hiring and retention difficult. Providing assistance in the repayment of their law school loans in the form of grants will provide an incentive for graduates to work for the agencies that serve the indigent.

The task force members believe this program will help to meet these two important goals. The bill seeks seed money from the Legislature. Such seed money will help to get the program underway and will lay a base for securing additional funding from grants and private sources.

We suggest certain changes in response to comments of the Legislative Reference Bureau.

On Page 2, line 12, the word 'loans' should be changed to 'grants' to reflect that the assistance to be provided would be in the form of grants.

Re: HB 549, HD 1

On Page 6, line 6, we suggest the addition of a new subsection (d) to state: “The Hawaii justice foundation and the William S. Richardson school of law are hereby granted full authority to expend those sums of money as, from time to time, may be placed at their disposal pursuant to the provisions and for the purposes of the program.”

On Page 8, line 18, insert the word “initially” after the word “funds”.

The Legislative Reference Bureau has commented that the issue of whether the funds dedicated to this program would be subject to HRS Secs. 36-27 and 36-30 is not provided for in the bill. While certainly the task force would prefer that all funds granted be available to the program, we feel this matter is beyond our purview.

Thank you for your consideration of this matter.

HAWAII JUSTICE FOUNDATION

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March 2, 2015

TESTIMONY FROM: Robert J. LeClair, Executive Director, Hawaii Justice Foundation
(Note: Robert LeClair will not be testifying in person.)

TO: Representative Sylvia Luke
Chair, House Committee on Finance
Representative Scott Y. Nishimoto, Vice Chair
Members of the House Committee on Finance

HEARING DATE/TIME: Tuesday, March 3, 1:30 p.m., House Committee on Finance
Hawaii State Capitol, Room 303

MEASURE NUMBER: **TESTIMONY IN STRONG SUPPORT OF
HB 549 HD1, RELATING TO LEGAL LOAN REPAYMENT
ASSISTANCE FOR ATTORNEYS WORKING SURCHARGE
FOR INDIGENT LEGAL SERVICES**

SUBMITTED BY E-MAIL THROUGH INTERNET TESTIMONY SYSTEM

Dear Chair Luke and Members of the Committee on Finance:

The Hawaii Justice Foundation (HJF) requests the House Committee on Finance to approve HB 549 HD1. The purpose of HB 549 HD1 is to provide a system of periodic law school loan assistance payments for attorneys working with organizations whose primary purpose is to provide legal assistance to Hawaii's indigent population.

HJF distributes funds from a variety of sources to help increase access to justice for Hawaii's people. HJF does not provide direct client services, but HJF's funding activities provide HJF with a perspective on the seriousness of the unmet civil legal needs in the Islands. HJF has long been aware of the negative impacts upon low-income provider organizations that law school debt creates. This is a national problem, and throughout the country, there are many examples of successful programs that could be replicated in Hawaii. **The Hawaii Justice Foundation is confident that Hawaii could institute an effective program that would assist our legal service organizations in both attracting and retaining qualified attorneys who wish to make a career of helping our low-income population.**

All of the current low-income legal service providers face serious economic challenges to their continued ability to meet legal needs of our low-income population. We are all painfully aware of the current national and local economic conditions. Legal needs of people are higher than ever, due to these economic conditions. Low-income legal service providers face potential cuts

in governmental funding sources and reduced contributions from private donations. If a loan repayment assistance program is implemented, it will ease the financial sacrifices of the attorneys working for these legal service providers. Attorneys working for these legal service providers are earn very little income compared to private practice or government service workers. Help with the on-going burden of law school debt is a very positive way of helping relieve part of these financial burdens.

An additional benefit from helping with law school debt payments relates to increased efficiency in the courts by helping with providing legal advice and other needed services to the numerous *pro se* (“by self”) litigants in Hawaii’s various courts. District Courts and Family Courts have seen a virtual explosion of cases where people are unrepresented by counsel. The Hawaii State Judiciary has made valiant efforts to assist these litigants through self-help centers. However, people representing themselves face two fundamental difficulties. First, they are unfamiliar with court procedures and forms. Second, litigants of any economic level are emotionally involved in their case, and this makes it very difficult to resolve the case without outside assistance. HB 594, HD1 will provide needed financial assistance to our legal service attorneys, who in turn will be able to give greater information, advice, and sometimes direct representation to litigants. **This will assist our Courts in processing cases in a more efficient and effective manner.**

Your favorable approval of HB 594, HD1 is essential. Passage of this bill will be a major step toward efforts to achieve access to justice for all.

DEREK R KOBAYASHI

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745 FORT STREET · SUITE 1500
HONOLULU, HAWAII 96813

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INTERNET: dkobayashi@schlackito.com

March 2, 2015

Via website: www.capitol.hawaii.gov/submittestimony

The Honorable Sylvia Luke, Chair
The Honorable Scott Y. Nishimoto, Vice-Chair
House Committee on Finance

Re: **H.B. 549, Relating to Public Service Legal Loan Repayment Assistance
Testimony IN SUPPORT
Hearing Date: March 3, 2015**

Dear Chair Luke, Vice-Chair Nishimoto, and Members of the Committee:

I write in my individual capacity in support of **H.B. 549, HD1**, a measure that would establish a loan repayment assistance program for law school graduates who practice in “eligible employment” serving the public interest, including providing legal assistance to indigent persons. Over the years, I have had many opportunities to be involved in initiatives on the provision of access to justice including as a member of the Access to Justice Hui; a Commissioner on the Hawai‘i Access to Justice Commission; a Director on the Board of Directors of the Hawaii State Bar Association; a member of the HSBA – Delivery of Legal Services to the Public Committee; and as a past-President of the Board of Directors of Volunteer Legal Services Hawaii. In my humble opinion, there exists a strong culture of access to justice and *pro bono* service within our legal community in Hawai‘i and this measure would greatly assist in continuing to inculcate and nurture this culture by facilitating the provision of legal services to the indigent.

The Public Service Legal Loan Repayment Assistance Program would provide a fund to award financial assistance to law school graduates towards the repayment of law school education loans, where those graduates are employed in legal positions determined by the Hawaii Justice Foundation and the William S. Richardson School of Law as meeting the parameters of the Act to “serve the public interest, including providing legal assistance to indigent persons through a nonprofit organization or as an employee of a local, state or

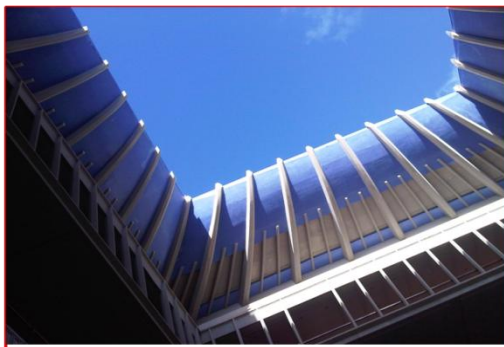
federal governmental entity.” The program would provide meaningful financial assistance to those law school graduates who are passionate about such service but given the financial burden imposed by student loan debt and entry level salaries for legal positions, may not be able to afford dedicating meaningful time towards service. In my view, facilitating service by school graduates at the outset of their legal careers is integral to sustaining their commitment to service over the balance of their practices which enhances the provision of access to justice in Hawaii for years to come.

Your support of this measure is respectfully encouraged.

Sincerely,



Derek R. Kobayashi



OPEN LAW ALLIANCE

Democracy Under the Rule of Law is Based on Public Access

LATE

March 2, 2015

House Finance Committee
Hawai'i State Legislature

Re: H.B. 549, H.D. 1, Relating to Public Service Legal Loan Repayment Assistance
Tuesday, March 3, 2014

Dear Chair Luke, Vice Chair Nishimoto, and Finance Committee members:

Thank you for the opportunity to testify in **support** of H.B. 549, H.D. 1.

There can be little doubt that loan repayment assistance for law school graduates willing to do public interest work would help to address the longstanding unmet need of Hawai'i's low income people for legal services.

Please help to realize the spirit of this bill.

Mahalo,

R. Elton Johnson, III
Open Law Alliance

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 03, 2015 9:29 AM
To: FINTestimony
Cc: rawlinsk@hawaii.edu
Subject: *Submitted testimony for HB549 on Mar 3, 2015 13:30PM*



HB549

Submitted on: 3/3/2015

Testimony for FIN on Mar 3, 2015 13:30PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
KEANI RAWLINS-FERNANDEZ	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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