



The Judiciary, State of Hawai‘i

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

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Thursday, February 22, 2018, 10:05 a.m.
State Capitol, Conference Room 211

by
Tom Mick
Policy and Planning Department Director

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2150, S.D. 1, Relating to the Judiciary.

Purpose: To provide supplemental operating and capital improvement appropriations for FY 2019.

Judiciary's Position:

The Judiciary strongly urges your support of Senate Bill No. 2150, S.D. 1, which reflects the Judiciary's resource requirements for FY 2019.

The Judiciary recognizes that the Hawai‘i economy continues to be strong and the overall economic outlook is relatively stable at the moment, but even with that and a projected budget surplus, funds will continue to be tight as there are many outstanding issues that need to be addressed such as health care costs and their effect on premiums. Accordingly, in our supplemental budget request, the Judiciary has been very prudent and focused only on its most pressing needs, primarily in the areas of essential staffing for court and administrative operations, and client services. Specifically, with these factors in mind, the Judiciary is requesting 30.5 new permanent positions and additional funding of \$1.57 million for FY 2019, which is less than one percent of its current budget.



The Judiciary is very grateful to the Senate Committee on Judiciary (JDC) for providing 24.5 new permanent positions (two of which are for late FY 2019) and funding of \$1.06 million in FY 2019 for our supplemental budget requests. The requests supported specifically relate to: (1) a Family Court judge and three support staff in Fifth Circuit; (2) two janitorial and two facilities staff for the new Kona Judiciary Complex in Third Circuit; (3) funding only for a Family Court judge and three support staff in First Circuit for which positions were previously authorized; (4) additional purchase of service contract funding for the Maui Drug Court; (5) two court bailiff positions in the Third Circuit, one for Hilo Family Court and one for South Kohala; (6) no-cost conversion of 12 temporary positions to permanent positions in First Circuit – two for the Interagency Council and Intermediate Sanctions (ICIS) program and ten for the Hawai'i Opportunity Probation with Enforcement (HOPE) program; (7) a part-time janitorial position for Lahaina District Courthouse in Second Circuit; and (8) two of the three social worker/probation officer positions requested for the Adult Client Services Branch (ACSB) in Second Circuit. With respect to the lack of support for the third social worker/probation officer position requested for ACSB, we are concerned that the Second Circuit will not be able to reduce average probation officer workload to a more manageable size in one of the three units (Domestic Violence, Special Services, or Pre-Investigation) where caseload has increased significantly over recent years.

JDC did not support our request for a District Court judge and support staff for the Second Circuit. For Second Circuit, the last District Court judge was added in 1982, more than 33 years ago, and the population in Maui County has more than doubled from 77,000 to 160,000 plus since then. Further, since FY 2011, while the population in Maui County has increased by about 10%, new traffic filings have increased by 30% from 21,694 to 28,276 and criminal filings by 16% from 2,859 to 3,322. The lack of a new judge will make it more difficult to address the growing needs and case numbers of the rural communities (Hāna, Lāna'i, and Moloka'i) that are currently underserved, and will not allow Lahaina District Court to increase from a three day to a five day a week rural court. Also, Second Circuit may not be able to pursue several new initiatives it was considering with an additional judge, initiatives such as a Community Outreach Court, a Driving Under the Influence (DUI) Court, and a dedicated District Court Mental Health docket to respond to the needs of those in the criminal justice system who suffer with mental health issues.

Also not supported by JDC was the request for an additional Staff Attorney position for the Intermediate Court of Appeals (ICA). With the restructuring of the appellate court system in 2006, almost all appeals are filed with and resolved in the first instance by the ICA. Under the restructured system, the ICA is responsible for a significantly greater number of appeals and motions, and has an increased number of complex appeals, which together impose greater demands on judicial resources and demonstrate the need for an additional Staff Attorney position. Indeed, when compared to its caseload prior to the restructuring, the ICA's appeals



caseload has almost doubled and its motions caseload has increased by more than ten times to some 2,500 procedural and substantive motions annually. Without this additional Staff Attorney, the ICA will not have the resources it needs to address its increased caseload and responsibilities under Hawaii's restructured appellate system, to decide more appeals more expeditiously, to improve its service to the public and the administration of justice, and to provide more support to programs such as the Appellate Mediation Program which enhances access to justice for appellate litigants.

It should be noted that JDC added \$250K for civil legal services. While we support and understand that funding for civil legal services is essential to continuing work and programs that are critical for those in the need of such services in the community, we request that such funding not come at the expense of other items in the Judiciary's supplemental budget request.

With regard to Capital Improvement Project requirements, the Judiciary is deeply appreciative of JDC's support and funding of \$5.8 million for furniture, fixtures, and equipment (FF&E) for our new Kona Judiciary Complex. Construction of the new courthouse is currently ongoing, with the project on schedule for opening in late summer 2019 so it is extremely important that the procurement process for the new FF&E begin early in FY 2019. However, we are also quite concerned with JDC providing only partial support or no support for our other three CIP requests:

- **Ka`ahumanu Hale Fire Alarms/Elevator System Upgrades** - JDC funded \$1.2 million of the \$8.98 million requested for this project. Both the fire alarm and elevator systems are over 30 years old and obsolete, continue to malfunction with greater frequency, and have become increasingly difficult to keep in safe working order. Elevator replacement parts are unavailable and must be drawn from other decommissioned elevators. While the \$1.2 million will help with the fire alarm upgrade, which must be done before the nine elevator replacements, the remaining \$7.78 million is needed as well to move forward with the project and start on the elevator upgrades. This is the fourth year requesting funding, and elevator maintenance costs have increased by 28% the last two years and construction costs are increasing 11% annually.
- **Lump Sum CIP** - JDC funded \$1 million of the \$3 million requested. Such funding is needed to address both continuing and emergent building issues, as well as our deferred repair and maintenance backlog estimated to be in the \$60 to \$70 million range. Most of the maintenance issues relate to water intrusion and/or air conditioning issues, which contribute to mold growth and poor indoor air quality. The lack of additional funding may affect our flexibility in responding timely to some of these issues and needs.



Senate Bill No. 2150, S.D. 1, Relating to the Judiciary
Senate Committee on Ways and Means
Thursday, February 22, 2018, 10:05 a.m.
Page 4

- **Kaua‘i Courthouse Reroof and Building Repairs** - JDC did not provide any of the \$1.1 million requested for Phase 2 of this project, although \$1.39 million was provided last year for Phase 1. The lack of requested funding would delay Phase 2 of a three-part effort to address significant premature degradation of the building envelope; repair construction and design defects; stop leaks that contribute to further building deterioration and mold; and add fall protection to the roof, thereby prolonging our inability to safely access and maintain large expanses of roofing that is subject to harsh climate and other environmental conditions.

In summary, the Judiciary is extremely grateful for all the support provided by JDC, but also respectfully requests restoration of support and full funding for the District Court judge and support staff, as well as the ACSB social worker, in the Second Circuit, the Staff Attorney for the ICA; and the Ka‘ahumanu Hale, lump sum, and Kaua‘i Courthouse CIP projects. With the restoration of positions and funding, the Judiciary respectfully requests your support of Senate Bill No. 2150, S.D. 1, the Judiciary’s supplemental budget request.

Thank you for the opportunity to testify on this measure.



TESTIMONY

Senate Committee on Ways and Means
Hearing: Friday, February 23, 2018 (9:50 a.m.)

TO: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

FROM: Howard K.K. Luke
HSBA President

RE: Senate Bill No. 2150 SD1
Relating to the Judiciary (Budget)

Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Senate Judiciary Committee, thank you for the opportunity to offer comments from the Hawaii State Bar Association (HSBA) in **STRONG SUPPORT** of certain appropriations and capital improvement projects (CIP) requests included in Senate Bill No. 2150 Senate Draft 1.

While attorneys are rarely in unanimous agreement of a policy, a proposition or philosophy, I believe it is safe to say that all Hawaii attorneys are unanimous in their support of the first mission statement of the HSBA: “to unite and inspire Hawaii’s lawyers to promote justice, serve the public, and improve the legal profession.” A State court system with knowledgeable, impartial and fair justices and judges, and secure and safe court facilities which are conducive to the conduct of judicial business, are needed to meet our mission to serve the public in the manner to which it is entitled.

State court buildings funded with public resources should meet the needs of its users: judges, staff, litigants as well as the general public. Understandably, this goal must be accomplished without extravagance. Funding of personnel, judges and judicial staff, should be in line with the responsibilities these individuals must meet to fulfill the matters on their respective court calendars.

The HSBA is aware of limited funding to meet the competing needs of State government. However, we firmly believe the funding requests we are supporting are necessary for the optimal delivery of judicial services.

First, the HSBA recommends restoration of the following items as originally requested. Specifically the HSBA supports the noted staffing requests:

- Intermediate Court of Appeals: 1 staff attorney position;
- Oahu First Circuit Family Court: 1 judge, 2 clerks, 1 bailiff

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- Maui Second Circuit District Court: 1 judge, 2 clerks, 1 bailiff
- Big Island Third Circuit: 2 bailiffs
- Kauai Fifth Circuit Family Court: 1 judge, 2 clerks, 1 bailiff

And second, the HSBA supports the CIP funding requests as originally requested for the:

- Kona Judiciary Complex: third phase for furnishing and equipment; and
- Upgrades to the fire alarm system and elevators at the Kaahumanu Hale building of the First Circuit, Oahu.

The HSBA greatly appreciates the prior planning and construction funding of the Kona Judiciary Complex this Committee and the Senate has generously approved. We have been informed that the Judiciary has managed this project efficiently in keeping with previously approved funding phases. The Complex is scheduled to open in the summer of 2019 as originally forecasted. To ensure a fully functional court facility for the transitional move to avoid any interruption in the delivery of services, funding for furnishings and equipment are now needed to begin procurement processes consistent with State procurement laws.

Certain items may be salvaged and moved from the current facility to the new court facility. However, we believe that bulk purchasing for needed equipment and furniture to furnish the larger facility may result in cost savings. Moreover, the Kona facility is designed to accommodate current and future wiring and electrical needs of equipment (such as computers, printers, servers, and security screening) so work areas and cubicles with electrical troughs will be needed for staff areas for health and safety reasons.

A statewide network of safe secure facilities conducive to the conduct of judicial business is essential to the delivery of justice to the public.

Thank you for your review and consideration

WEST HAWAI'I BAR ASSOCIATION

info@westhawaiiabarassociation.com

President: Donna V. Payesko ~ Vice President 1: R. Hermann Heimgartner ~ Vice President 2: Rebecca Colvin

Testimony

Senate Committee on Ways and Means

Hearing: Friday, February 23, 2018 @ (9:30 a.m.)

To: Donovan M. Dela Cruz, Chair
Gilbert S.C. Keith-Agaran, Vice Chair

From: Donna V. Payesko
President, West Hawaii Bar Association

Re: Senate Bill No. 2150
Relating to the Judiciary (Budget)

Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Senate Committee on Ways and Means, thank you for the opportunity to offer comments from the West Hawaii Bar Association (WHBA) in STRONG SUPPORT of the appropriations and capital improvement project (CIP) request included in Senate Bill No. 2150, specifically line item no. 8, requesting appropriations for furnishings and equipment for the Kona Judiciary Complex.

The WHBA greatly appreciates the funding that the Kona Judiciary Complex (the "Complex") has received thus far. It is our understanding that this project is proceeding "on time" and "on budget." Indeed, the progression of the construction of the new Kona Judiciary Complex is visible to all in our local community every day as we drive by. The Complex, scheduled to open in the summer of 2019, will consolidate the Judiciary's programs in West Hawai'i in one location and allow the Judiciary's Third Circuit to provide permanent, integrated, full services in a technologically equipped and secure facility.

Adequately and appropriately furnishing and equipping the building is necessary to open the Complex for services. It takes months to furnish and install, test and ready a new facility of this size for use and these activities must take place simultaneously while the existing facilities remain in operation to avoid any disruption in services. Due to the lead time involved in the procurement and ordering process, it is essential that the requested funds be appropriated during this session.

The present Kona facilities are disconnected and poorly equipped. The current furniture in the various Kona courthouses appears to be a collection of mismatched recycled office furniture, some of which has been exposed to the outdoor elements due to the current layout and is substandard. Indeed, there are significant safety concerns/issues regarding the current

state of the furnishings and equipment. For instance, most courtrooms have exposed wiring running along the floor creating conditions which pose a tripping hazard to the attorneys who appear before the Courts, as well as the public. Also, virtually all of the present courtroom seating is unsafe and distracting to litigants. Chairs have seats that are collapsing inward, upholstery that is worn and ripped, as well as old metal chairs that have rusted sharp edges posing safety risks. The current telephone system for telephone hearings is insufficient. We live on an island and in a rural community and minimizing attorney travel whenever possible is crucial for keeping costs down. The current phone system results in difficulties with hearing/receiving information where attorneys or parties are appearing by telephone and is ultimately an issue of due process and access to justice.

In addition to the concerns with the current furniture and equipment, there is also simply not enough existing furniture and equipment to fully outfit the new Complex. The design of the new Complex includes new and expanded facilities which will need to be adequately furnished. For example, the "Kona Self-Help Center," which is the program staffed by volunteer attorneys, at present exists in the small law library with a few desks. The new Complex will include an expanded, dedicated space which should be outfitted so that our volunteer attorneys may continue to assist the community and do so in a space that affords privacy to those seeking assistance. The new Complex will also include private conference rooms so that attorneys may meet in private with their clients, something that does not exist at the current facilities.

The Complex being funded with public resources should certainly not appear extravagant, however a suitably outfitted Complex is necessary to meet the needs of litigants, judges, court staff and ultimately our community.

Thank you.



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TESTIMONY IN SUPPORT OF SB2150 SD1 – RELATING TO THE JUDICIARY.

Committee on Ways and Means - Room 211

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S. C. Keith-Agaran, Vice Chair

February 23, 2018 at 9:50 a.m.

The Legal Aid Society of Hawaii submits testimony in support of SB2150 SD1 – Relating to the Judiciary, but requests an amendment to include \$750,000 in general revenue funding for general civil legal services.

We are grateful to the Senate Committee on Judiciary for including a placeholder for funding for civil legal services through the Judiciary. We ask, however, that this amount be increased to \$750,000 which was the funding level in FY17. This funding would go to restoring general revenue funding for general civil legal services.

In FY17, similar funding from “A” funds was provided to the Judiciary for purchase of service contracts. Contracts in FY17, were issued to our organization, Volunteer Legal Services Hawai‘i, and the Domestic Violence Action Center to provide general civil legal services. In FY18, similar funding was not provided by the legislature. While there could have been a significant impact on all three legal service providers who received these funds this year, the impact was minimized through one time funding provided by the Hawai‘i Justice Foundation.

Civil legal services are critical in that they can provide real world solutions to help families in crisis find stability and hope. These funds are general in nature, so they allow programs like ours to provide services to those who are financially eligible with legal advice and legal assistance whether they fit into a particular category or not. These funds also assist to supplement other funding which does not fully meet the minimum needs to support the provision of civil legal services to those who need it.

To this end, we are seeking restoration of this funding, to enable our organizations to continue to provide key civil legal services across the state. The Legal Aid Society of Hawai‘i has provided civil legal services to the community for over 65 years. Through our eleven offices which include one on each of the major Hawaiian islands, our staff assist residents of Hawai‘i to navigate and solve basic issues which require legal interventions. In 2017, our staff of 100 closed about 8,300 cases in legal areas ranging from family, housing, consumer, foreclosure, public benefits, elder law, homelessness, immigration, language access, and child welfare.

Thank you for this opportunity to provide testimony.

Sincerely,

M. Nalani Fujimori Kaina
Executive Director

Sergio Alcubilla
Director of External Relations



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A UNITED WAY AGENCY

TESTIMONY

Senate Committee on Ways and Means
Senate Bill 2150 SD1, Relating to the Judiciary
Hearing: Friday, February 23, 2018 @ 9:50 a.m.

TO: Chair Donovan M. Dela Cruz and Vice Chair Gilbert S.C. Keith-Agaran and
Members of the Senate Committee on Ways and Means

FROM: Carol Kitaoka
Kona Attorney

RE: SB 2150 SD1 - Relating to the Judiciary (Budget)
*KONA JUDICIARY COMPLEX

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means, I am an attorney residing in Kona currently in private practice and retired from the Hawaii County Prosecutor's Office. I am also the Hawaii State Bar Association Board Member representing West Hawaii. I am offering these comments in my personal capacity **IN STRONG SUPPORT** of the request for funds for furniture, fixtures, and equipment for the Kona Judiciary Complex.

I met with Brian Jenkins, DAGS Building Construction Inspector, who informed me that the project is on schedule. Final Inspection is scheduled for December 2018 and the project is scheduled to be completed in March 2019. They are currently working on the interior of the building and the parking lots. The move in date is scheduled for late Summer 2019. It is essential that the Judiciary have the funds to start ordering furniture, fixtures, and equipment soon after July 2018. There is a lag time of about six months from ordering to receipt of the order. Installation of the equipment and fixtures would start in March 2019. It will take months to install, test, and ready the courthouse for use by the public. The courts will need to remain in operation and provide services to the public while the new facility is being completed.

The Judiciary will bring the computers and phone system they are currently using to the new courthouse. The other furniture and equipment are worn, outdated, broken, and a collection of various orders and hand-me-downs from Hilo. The new furniture and equipment are not fancy, and attention has been given to ensure only what is needed is ordered and that taxpayers dollars are used wisely.

In closing, the State of Hawaii and the Kona community need a fully functional Kona Judiciary Complex. I am requesting your favorable consideration for the inclusion of the funding requested by Chief Justice Mark Recktenwald for the furniture, fixtures, and equipment. Thank you for your consideration of this request.

SB-2150-SD-1

Submitted on: 2/21/2018 1:00:57 PM

Testimony for WAM on 2/23/2018 9:50:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

Stand in strong support.