

The Judiciary, State of Hawai‘i

Testimony to the Thirty-First State Legislature, 2021 Regular Session

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 16, 2021, 9:16 a.m.

VIA VIDEOCONFERENCE

Hawaii State Capitol

by

Tom Mick

Policy and Planning Department Director

Bill No. and Title: Senate Bill No. 383, Relating to the Judiciary.

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2022 and 2023.

Judiciary's Position:

The Judiciary strongly urges your support of Senate Bill No. 383 which reflects the Judiciary's resource requirements for FYs 2022 and 2023.

The Judiciary is very cognizant of the depressed economic activity in Hawaii and the ongoing difficult budget situation facing the State resulting from the COVID-19 global pandemic. Accordingly, the Judiciary is not submitting any biennium budget requests for additions to its general fund operating base. However, it should be noted that in our budget base, we included funding for collective bargaining agreements passed in separate bills last session and funding and four permanent positions for the Criminal Justice Research Institute provided in Act 179/2019.

Nevertheless, Capital Improvement Program (CIP) requirements still remain a major item of concern as the Judiciary's infrastructure continues to age and deteriorate. Further, funding of CIP projects with bond funds can serve to stimulate the economy and economic recovery in periods of recession. Specifically, the Judiciary requests CIP funds totaling \$22.0 million in FY 2022 and \$18.6 million in FY 2023 to address certain critical needs--all of which relate to the health and



Senate Bill No. 383, Relating to the Judiciary
Senate Committee on Judiciary
Tuesday, February 16, 2021
Page 2

safety of Judiciary employees and the public, as well as to assist Hawai'i on the road to recovery. First Circuit has three such requests:

- (1) Replace Ka'ahumanu Hale's fire alarm systems and elevators, both of which are more than 30 years old, are tied into each other, and which continue to malfunction with greater frequency. The fire alarm systems do not comply with fire codes or ADA requirements and must be replaced before replacing/upgrading the obsolete elevators - elevators for which it is almost impossible to obtain replacement parts.
- (2) Renovate Ka'ahumanu Hale's sheriff patrol station and create a Sergeant's office to improve security and remove the screening station from public view.
- (3) Design and construct a new chiller and photovoltaic system for the Juvenile Detention Facility (JDF) at Ronald T.Y Moon Courthouse in Kapolei to reduce utility costs and keep the JDF operational during power outages.

For Second Circuit, CIP funds are requested to continue ongoing projects to improve security and renovate parking structure piping at Hoapili Hale. These ongoing projects are to fix critical security issues in a building that is more than 35 years old and was not built with the current security concerns related to court operations; and to replace corroded, non-compliant Hoapili Hale parking structure storm drain, fire suppression, sewer, and air conditioning piping systems. In Fifth Circuit, CIP funds are requested to continue an ongoing project to reroof and repair leaks and damages at Pu'uho'oua Kaulike. CIP funds are also being requested for two historic Judiciary buildings in the Capitol District of Honolulu, that is, to upgrade or replace all existing air conditioning equipment, ductwork, piping, sensors, actuators, and controls at Ali'iōlani Hale, where the current air conditioning system is very old, has led to numerous trouble calls, and contributes to air quality issues and excessive humidity in some locations; and to replace a seriously degraded roof and upgrade roof drainage at the Kapuāiwa Building. Finally, lump sum funds are needed to allow the Judiciary some flexibility to address both continuing and emergent building issues statewide.

The attached document provides a prioritized listing, additional information, and pictures related to each CIP request.

The 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 Senate Bill No. 383, the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.



Hawai'i State Judiciary

CIP REQUESTS

FY 2022 & FY 2023

CIP Requests for FY 2022 and FY 2023



Priority	Circuit	Request	FY 2022	FY 2023
1	First Cir.	Ka'ahumanu Hale – Replace and upgrade obsolete fire alarm systems and unreliable elevators, which currently compromise safety of employees and the public, to comply with code and ADA requirements.	\$6.07m	\$7.95m
2	Admin.	Lump Sum CIP – Continue to provide the Judiciary flexibility to address ongoing and emergent building issues statewide.	\$3.0m	\$3.0m
3	Second Cir.	Hoapili Hale – Renovate and replace piping of wastewater, chilled water, storm drainage, and fire sprinkler system in the parking structure to avoid devastating health and safety impacts and comply with code. Spot repairs are no longer viable to address deterioration.	\$2.886m	\$1.535m
4	Fifth Cir.	Pu'uhonua Kaulike – Continue reroof and renovation of leaks and resultant environmental degradation to building. Final phase of the three phase project.	\$3.9m	\$0
5	Admin.	Kapuāiwa Building – Replace roof and upgrade storm water drainage from roof to avoid further degradation and damage to building, which is on the National Register of Historic Buildings.	\$0	\$1.4m
6	Admin.	Ali'iōlani Hale – Upgrade and replace existing A/C system, equipment, and controls that are very old, subject to numerous trouble calls, and contribute to air quality issues. The rapidly failing A/C equipment, which ranges from 30-40 years of age, is well past the expected useful service life of 15 - 25 years.	\$3.7m	\$0
7	First Cir.	Ronald Moon Courthouse – Design and construct a new chiller and photovoltaic system for the Juvenile Detention Facility in Kapolei, which operates 24/7, to keep the facility operational during extended power loss and reduce utility costs through use of renewable energy.	\$1.52m	\$2.52m
8	Second Cir.	Hoapili Hale – Address critical security vulnerabilities in parking structure, entry, and perimeter, which were built in the 1980s.	\$0	\$2.2m
9	First Cir.	Ka'ahumanu Hale – Renovate the sheriff patrol station at main security checkpoint to address serious security deficiencies related to screening and monitoring an old building, while taking the screening station out of public view.	\$940k	\$0
Total			\$22.016m	\$18.605m

#1: 1st Circuit - Ka'ahumanu Hale Fire Alarm Systems & Elevator Replacement



- ▶ An example of some upgrades needed for this project . . .

- ▶ The elevator controls operate on hundreds of relay and electro-mechanical contacts, which are obsolete. This will be replaced with new microprocessor based controls.
- ▶ The current system servicing the public occasionally shuts down during times of high heat & humidity as the mechanical rooms are not air conditioned.



Elevator "Out of Order"



Machine room air cooled through wall vents



Electro mechanical contacts

#2: Admin - Lump Sum CIP



Example of unanticipated issue:
Damage from malfunctioning sprinkler head
in courtrooms and hallways at
Ka'ahumanu Hale in the First Circuit.

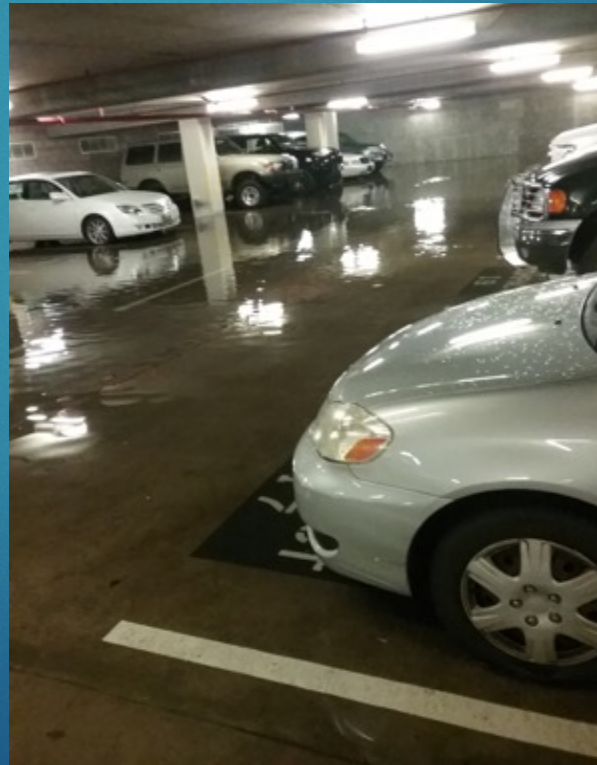


#3: 2nd Circuit – Hoapili Hale Parking Structure Renovation & Piping Replacement



Failed sprinkler system joint
Note: Hanger support has corroded and failed

Flooded parking structure after sprinkler failure



Burnt State vehicle under failed sprinkler head

#4: 5th Circuit - Pu'uhonua Kaulike Roof Replacement and Renovation (Phase 3 of 3)



Attempt to seal open joints



Corrosive effects on structure in attic



Blistering coating, corrosion of underlying ferrous metal

Water streaming at interior wall and distressed finishes



#5: Admin - Kapuāiwa Building Roof Replacement and Drainage Upgrades



Exposed blisters with deteriorated coating and foam

Open blisters and surface penetrations on parapet
→



Temporary repairs of parapet
←



Temporary catchment with water draining into trash receptacle

#6: Admin – Ali‘iōlani Hale Air Conditioning Replacement



Discharge duct

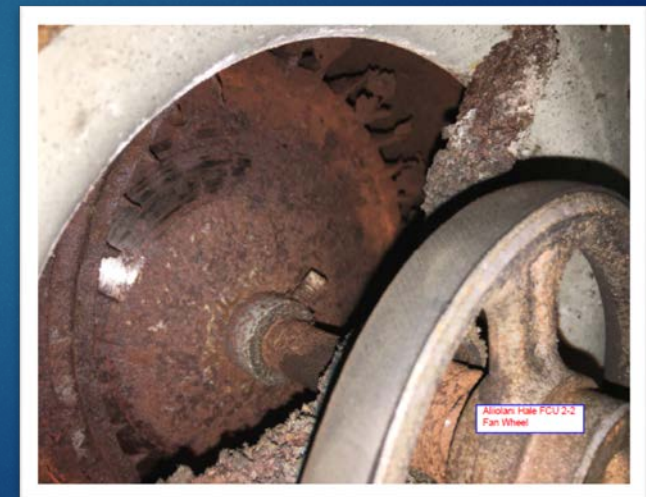


Photos (L to R) Wrapped ductwork; Sidewall Register; and Linear Diffuser



Wrapped duct work; Sidewall register; Linear diffuser

Fan wheel

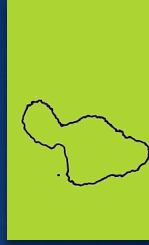


#7: 1st Circuit – Ronald Moon Courthouse New Chiller & Photovoltaic System



Design and construct a new chiller and photovoltaic system for the Juvenile Detention Facility in Kapolei, which operates 24/7, to keep the facility operational during extended power loss and reduce utility costs through use of renewable energy.

#8: 2nd Circuit – Hoapili Hale Security Renovation



Elevator used by
custodies, judges,
and staff

Custodies transfer from
van to cell block in open
parking structure



Cellblock lacks juvenile
holding. Sometimes
juvenile holding is
diverted to a remote
conference room

Hardware is rusted
and obsolete



#9: 1st Circuit – Ka‘ahumanu Hale Sheriff Patrol Station Renovation



Current Situation:

- 97 sq. ft. Sheriff Patrol Station to accommodate 4 sheriffs w/ 6 monitors and 3 desktops.
 - Currently within full view of the public.
 - Equipment prone to overheating given space.
 - No space for Sergeant's office.

Anticipated Sheriff Patrol Station for Improved Security:

- Station with monitoring room that is adequately sized for its intended use.
 - Not visible to the public.
- Equiped with sufficient air conditioning to protect expensive and sensitive equipment on a 24/7 basis.
- Space for Sergeant's office to provide day to day oversight of the office.





TESTIMONY

Senate Committee on Judiciary

Hearing: Tuesday, February 16, 2021 (9:16 a.m.)

TO: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair

FROM: Levi Hookano
HSBA President

RE: Senate Bill No. 383
Relating to the Judiciary

Chair Rhoads, Vice Chair Keohokalole and Members of the Senate Judiciary Committee, thank you for the opportunity to offer testimony on behalf of the Hawaii State Bar Association (HSBA) in **STRONG SUPPORT** of Senate Bill 383 which sets forth provisions for the 2021-2022 operating budget and line items, and the CIP budget and line items.

There is no doubt that the State is facing challenges of a historic magnitude, and you as our elected leaders have the unenviable task of balancing diminished State revenues with increasing expenses as a result of the COVID pandemic.

Similarly, the Chief Justice and the Courts face financial challenges, perhaps not on the level of the State’s Executive Budget, but significant nonetheless. Throughout the pandemic, the Judiciary continuously worked with attorneys and public partners to meet the demand for increased services, moving to heavier reliance on technology, all while protecting public health and safety for all who must enter court facilities--judges, support staff and the public.

As we move into a more optimistic chapter in the fight against COVID with vaccination plans, we understand that everyone in Hawai‘i will be called upon to continue to sacrifice. We believe the Judiciary has been responsible in its recognition of the limited financial resources of the State as a whole. The Judiciary currently accounts for less than 2% of the overall State budget, and over the past decade the Judiciary’s share of the State budget has decreased even before COVID hit.

The Judiciary worked hard to do more with less. At the end of the 2020 fiscal year, the Judiciary’s budget was reduced by 5.3%. In the current 2021 fiscal year the Judiciary’s budget was further reduced by 8.6%. Despite these reductions, and with some financial assistance from Governor Ige through the CARES Act, the Judiciary was able to pivot and retrofit courtrooms to utilize technological advances, providing greater access to the Courts via remote hearings, including criminal trials.

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These steps forward were not made without a few steps back. Judges and staff were called upon to undertake different responsibilities and learn new skills outside of their comfort zone to make up for the fact that some staff positions were left vacant and the filling of some judicial bench vacancies was deferred, delaying judicial proceedings.

Recent reports from community agencies and organizations indicate that there will be a greater need for judicial support in 2021. There is an unfortunate increase in criminal citations and domestic violence complaints. Additionally, there is an anticipated “tsunami” of landlord tenant eviction and rent cases the Court is preparing for once the current moratoriums are lifted by the Federal and State government. The Judiciary’s proposed budget helps to ensure that it can handle these anticipated challenges.

The HSBA Board took all of this information into consideration in coming to its decision to support the Judiciary’s budget, which does not request additional sources of funding not required by law such as collective bargaining adjustments, and which requests that no additional cuts be made.

The HSBA Board also supports all of the Judiciary’s needed CIP projects for public health and safety, many of which have been requested in prior legislative sessions:

Oahu First Circuit

- Ka‘ahumanu Hale: Replace and/or repair obsolete fire alarm system and unreliable elevators.
- Ka‘ahumanu Hale: Renovate the patrol station of the main security checkpoint.
- Ronald Moon Courthouse: Design and construct new chiller and photovoltaic system for the Juvenile Detention Facility.

Maui Second Circuit

- Hoapili Hale: Renovate and replace piping of wastewater, chilled water, storm drainage, and fire sprinkler system in the parking structure.
- Hoapili Hale: Address security vulnerabilities in parking structure, entry, and perimeter.

Kauai Fifth Circuit

- Continue to reroof and address environmental degradation.

Supreme Court and Intermediate Court of Appeals

- Ali‘iolani Hale: Replace existing a/c system, equipment, and controls.
- Kapuaiwa Building: Replace roof and upgrade storm water drainage from the roof.

The Judiciary dispenses equal justice for all and plays a vital role in maintaining a fair and civil society. Individuals utilize court services during some of the most stressful times of their lives. Families rely on the Judiciary to settle or resolve disputes which tear at the fabric of their households, and at the same time rely on the Judiciary to restore the family or create new familial bonds with adoptions. Business owners and entrepreneurs rely on the Judiciary to resolve contract or insurance disputes which threaten their continued existence. Individuals who have been wronged, intentionally or unintentionally, by others rely on the Judiciary to make them whole. Those accused of crimes rely on the Judiciary to hear their “side of the story” and enforce their “speedy trial” constitutional rights, and the government has the opportunity to present its case for public safety.

The HSBA recognizes that Hawai'i still faces challenges before we can overcome the harm done by COVID. The judicial system is essential to getting things back to normal by ensuring the rights of every person who wishes to be heard can participate in a fair and just process. Every citizen must do their share to adhere to guidelines to combat and contain COVID, and contribute to the recovery of our island way of life. The HSBA is committed to working with the Judiciary to help make this a reality.

Thank you for this opportunity to submit these comments in support of Senate Bill 383.

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY

By

Allison Mizuo Lee, President
Kauai Bar Association

Hearing Date: Tuesday, February 16, 2021
9:16 a.m., Via Video Conference

To: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Members of the Committee

RE: Senate Bill No. 383 Relating to The Judiciary

The Kauai Bar Association (“*KBA*”) is comprised of Hawaii-licensed attorneys who practice law in the Circuit Court of the Fifth Circuit (Kauai). We support S.B. No 383 (this “*Bill*”), which appropriates funds for the Judiciary’s Budget for fiscal year 2021-2022.

The community of Kauai benefits greatly from the services provided by the Judiciary. In addition to providing a forum for resolution of criminal and civil disputes, the Kauai courts facilitate invaluable programs such as the drug court and truancy court that may not be sustainable at lower levels of funding.

All of the funds allocated by the Bill to the Judiciary are needed, especially given the challenges created by the pandemic. While the courts have adeptly implemented remote hearings and conferences to minimize disruption in services, cases requiring jury participation were suspended for most of 2020. Delays in dispute resolution exact a substantial emotional and financial toll on litigants and increase the risk of unjust outcomes. Addressing the backlog of jury cases quickly is critically important, but will place severe burdens on the judiciary in the next fiscal year. Reducing the Judiciary’s funding will certainly exacerbate the problem.

Even before the pandemic, the Kauai judiciary operated on a lean budget. Because staffing and resources are already at low levels, even small budget cuts result in severe impacts on the Kauai judiciary that jeopardize the provision of essential services.

Thank you for this opportunity to express the KBA’s support of this Bill.



Testimony of the Former
Hawaii State Bar Association Presidents
relating to Bill SB383

TO: Senator Karl Rhoads, Chair
Senator Jarret Keohokalole, Vice Chair
and Members of the Senate Committee on Judiciary

FROM: Calvin E. Young
Past President, Hawaii State Bar Association
and the undersigned past HSBA Presidents

HEARING: Tuesday, February 16, at 9:16 a.m.
Video Conference

The undersigned are all past presidents of the Hawai'i State Bar Association (HSBA). Through each of our tenures as elected leaders of the state bar, we are deeply familiar with the legal community and the Judiciary's mission, programs, and structure. We also have among us many decades of professional experience practicing law in the courts of the state. But most importantly, we are all community members and constituents. Each of us has felt the effects of the COVID-19 pandemic, and we are painfully cognizant of the dire economic situation facing the State. We recognize the difficult choices you face as you shape the State's budget. Nonetheless, we write today to share our profound concern about the effects of further reductions to the Judiciary's budget and to respectfully request that the Judiciary budget remain steady in the next fiscal biennium.

Judiciary services are essential for ensuring public safety, protecting families, and facilitating our economic recovery. For instance, state courts are tasked with quickly and fairly adjudicating criminal cases, a process that ensures consequences are administered when public safety is threatened. Funding shortages delay this process and create backlogs. As another example, family courts do the critical work of ensuring that children are safe and that families are stable. Our civil courtrooms, too, serve as the bulwark for a thriving economy, as both individuals and the business community rely on a functioning court system to resolve disputes in a predictable and impartial fashion. In short, a strong court

Testimony of Former HSBA Presidents
SB383
Hearing on February 16, 2021
Page 2

system creates a foundation upon which a healthy and orderly society can thrive and it is essential for our community's wellbeing. We respectfully ask you to ensure that the courts have the funding they need in order to be able to administer justice.

The reductions incurred by the Judiciary in the past two fiscal years have had a deleterious effect on court business. One of the ways the Judiciary has managed the budget reductions is by keeping vacant positions unfilled; however, the work associated with those positions has not stopped. To take one significant example, there are currently four judicial openings in the criminal divisions of the Circuit Court of the First Circuit, the forum in which most felony criminal cases in the State are resolved. This deficit exacerbated the backlog of pending criminal cases, and it became necessary for the First Circuit to move a civil judge over to help ameliorate the impact of these vacancies. Thus, an entire civil calendar has effectively been paused. Judges and judiciary staff have done a remarkable job of adapting to and working through these challenges to continue to serve the public, all the while making significant adjustments to court business in light of the pandemic, such as quickly shifting proceedings to a remote format. But gaps in staffing due to vacancies exist throughout the organization due to the budget cuts of the past two years. Further reductions will only make the problem worse, and put further strain on court staff and the administration of justice.

In light of reduced budgets in the past two fiscal years, the Judiciary has already had to make difficult choices by reducing or eliminating contracts with critical service providers, including services for victims of domestic violence, Guardians Ad Litem, substance abuse testing, and mental health services for criminal defendants. These services are designed to assist the most vulnerable in our community, many of whom are already experiencing hard times because of the pandemic. As the effects of the pandemic continue to manifest, such as increases in domestic violence and evictions, the need for these kinds of services will only increase, and in turn, the loss of these services will only become more profound. Moreover, reductions to service contracts are not just devastating to those who benefit from these services, they have ripple effects throughout the economy: many of these service providers relied on contracts with the Judiciary to survive,

Testimony of Former HSBA Presidents
SB383
Hearing on February 16, 2021
Page 3

and their elimination threatens the livelihood of these important organizations and those who work there.

For the above reasons, we write to respectfully ask that the Judiciary's budget for the upcoming biennium remain steady and that no further reductions be imposed. We know that the path ahead for the State remains challenging, and we understand that the choices you must make to balance the budget are difficult. But we cannot emphasize enough that further reductions to the Judiciary's operating budget would have devastating effects on the administration of justice in Hawai'i and, in turn, would negatively affect public safety and hinder economic recovery. Thank you for your consideration.

Sincerely,

/s/ Calvin Young

/s/ Paul Alston

/s/ Sidney Ayabe

/s/ Alan Van Etten

/s/ James Kawachika

/s/ Randall Roth

/s/ David Louie

/s/ Michael Gibson

/s/ Dale Lee

/s/ Richard Turbin

/s/ Wayne Parsons

/s/ Jeffrey Portnoy

/s/ Jeffrey Sia

/s/ Rai Saint Chu

/s/ Hugh Jones

/s/ Louise Ing

/s/ Carol Muranaka

/s/ Craig Wagnild

/s/ Gregory Markham

/s/ Jodi Yi

Testimony of Former HSBA Presidents
SB383
Hearing on February 16, 2021
Page 4

/s/ Nadine Ando

/s/ Howard Luke

/s/ Derek Kobayashi

/s/ Douglas Crosier

/s/ Greg Frey

/s/ John Komeiji

TESTIMONY OF THOMAS D. FARRELL
Regarding SB 383, Relating to the Judiciary
Committee on Judiciary
Senator Karl Rhoads, Chair/Senator Jarrett Keohokalole, Vice Chair
Monday, February 16, 2021 9:16 a.m.
(via videoteleconference)

Good Morning Chair Rhoads, Vice Chair Keohokalole and Members of the Committee:

As one of the largest family law firms in Hawaii, we have a special interest in and support those Judiciary budget items that are significant to our clientele and their access to justice in the Family Court. We support SB 383 and urge your favorable action.

Notably, this bill does not request any increases in or additional operating items. It is only a CIP bill.

All of the funding requests are necessary and amply justified. Without working elevators, for example, I don't know how some of the elderly litigants in First Circuit probate matters can make it up all the stairs to the courtroom. However, if difficult choices must be made, I would suggest three priorities.

First on the list is the upgrade to electrical systems at the Ronald J. Moon judiciary complex, to include the Juvenile Detention Facility. In my former life as a deputy attorney general, I represented the Corrections Division and was heavily involved in the ACLU Consent Decree litigation. I can tell you from experience that one simply cannot operate a safe detention facility without continuity of electrical power. This presents a significant danger to detainees and staff.

Second should be the repairs to Hoapili Hale, the consolidated courthouse in Wailuku. Bursting pipes in the garage there could potentially result in tort liability that would exceed the cost of making repairs. Security upgrades there are also long overdue in a building that was designed in a kinder and gentler era when courthouse violence was virtually unheard of.

Finally, it is essential that the Judiciary have the ability to deal with unanticipated crises, such as the flooding incident in Kaahumanu Hale (First Circuit Court). I would make "unanticipated" CIP number three.

Mahalo for your consideration of this bill.

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Testimony on Behalf of the
Environment, Energy, and Resources Section
of the Hawaii State Bar Association

Before the
SENATE COMMITTEE ON JUDICIARY
Tuesday, February 16, 2021 9:16 AM

Comments in Support of
Senate Bill No. 383, RELATING TO THE JUDICIARY

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee,

Thank you for the opportunity to testify. This testimony represents the views of the Environment, Energy, and Resources Section only and does not necessarily reflect the views of the Hawaii State Bar Association as a whole.

On February 9, 2021, the Board of the Environment, Energy, and Resources Section agreed to express its **SUPPORT** for Senate Bill No. 383 in its current form, which reflects the Judiciary's proposed budget for the July 1, 2021 through June 30, 2023 fiscal biennium.

The District and Circuit Courts (including the Environmental Courts), the Courts of Appeals, and the Circuit Courts acting as appellate courts for agency appeals, serve an important role in administering justice impartially and efficiently in resolving disputes among competing interests related to sustainable development, renewable energy, water rights, agriculture, mitigating climate change impacts, preserving cultural resources, protecting fish and wildlife, and maintaining the people of Hawaii's constitutional right to a clean and healthful environment. In normal times, this is a heavy burden, but one the Judiciary has carried among many others in its efforts to deliver justice to the people of Hawaii without undue cost, inconvenience, or delay.

However, these are not normal times. The COVID-19 pandemic has forced the courts, practitioners, and those who seek justice to learn and adapt quickly to new methods of doing things to prevent the wheels of justice from grinding to a halt completely. While the Judiciary has adapted relatively quickly, the need for social distancing has created a substantial backlog of both criminal and civil jury trials and other matters which will take a significant effort to clear. Ordinarily, such a task would suggest a need for *more* resources.

Nonetheless, the Environment, Energy, and Resources Section recognizes that the COVID-19 pandemic has also created a significant revenue shortfall for the State, and that the Legislature faces the difficult task of allocating limited resources.

By opting not to seek any requests for additions to the Judiciary's operating fund base, which reflects significant cuts taken in 2020, and by limiting its Capital Improvement

Program requirements to key projects to address critical needs, such as health and safety, security, and preserving aging facilities, the Chief Justice's budget proposal strikes a reasonable compromise between the need for more resources and the reduced availability of resources to meet those needs.

For these reasons, the Environment, Energy, and Resources Section **SUPPORTS** Senate Bill No. 383 in its current form and urges passage of the bill without further cuts to the Chief Justice's proposed budget.

Sincerely,



David A. Morris, Chair

HAWAII COUNTY BAR ASSOCIATION

Michelle S.K. Oishi
President

Jeffrey W. Ng
Vice-President

Shaunda A.K. Liu
Secretary

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Board Members:

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James "Jimi" H. Kunimura
Jennifer D.K. Ng
Jill D. Raznov

February 12, 2021

Via <https://www.capitol.hawaii.gov/submittestimonyss.aspx>

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senate Committee on Judiciary
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: SB 393
RELATING TO THE JUDICIARY
Letter in Support of Funding for the Judiciary

Dear Senator Rhoads, Senator Keohokalole and Committee Members:

The Hawaii County Bar Association ("HCBA") is comprised of over one-hundred eighty attorneys who are either based on Hawaii Island, or are interested in issues pertaining to Hawaii Island. The HCBA respectfully submits this letter in support of SB 383 and urges this Committee to support full funding for our Judiciary.

During times of economic crisis and hardship, difficult decisions must be made to allocate limited funds for the benefit of our entire state. While all government offices and services are important, the Judiciary's function within our community is critical to the health and welfare of us all. The COVID-19 pandemic drastically altered the Judiciary's basic operations while it and other judicial systems across the country determined how to safely resume jury trials and other court proceedings. The delay, while necessary, resulted in a tremendous backlog of cases. While the Judiciary expeditiously adjusted to this emergency by moving to video/online court appearances, creating protocols for the resumption of jury trials, and conducting limited in-person hearings in a socially distanced and sanitary manner, proper funding is necessary to ensure that the Judiciary is able to maintain these systems so that access justice is safe and timely.

February 12, 2021

Page 2 of 2

Over the course of the pandemic, the Judiciary has attempted to reduce costs by imposing a hiring freeze (with approved exceptions). At the same time, it lost several dozen valuable employees due to retirement or resignation. These losses have had a tremendous effect on Judiciary operations, including the closure of the only courtroom in South Kohala on Hawaii Island. This closure resulted in the shifting of cases to Kona, which has forced community members to travel much farther distances for their opportunity to have their day in court. This hardship has undoubtedly resulted in higher travel costs and longer travel times for these litigants.

The Judiciary has also made efforts to reduce spending by reducing the following: regular pay \$6.68m (5.6%), repair and maintenance of building and grounds \$563k (60%), equipment purchases \$298k (36%), overtime and other special pay \$615k (38%), utilities \$866k (12%), other services on a fee \$348k (8%), guardian ad litem/attorney fees \$746k (15%), lab/medical/psychiatric fees \$303k (19%), purchase of service contracts \$3.96m (38%), jury costs \$626k (50%), and travel \$452k (75%). These reductions evidence the Judiciary's understanding of the need for responsible spending. However, because of the Judiciary's relatively small budget within the larger State budget (approximately 1.91% of the total proposed State General Fund Appropriations), any reduction in spending would likely affect the most vulnerable in our community, including children and adults needing guardian ad litem services and those with mental health and/or substance abuse issues.

We submit to you that any reduction in the Judiciary budget would profoundly affect its ability to fulfill its constitutionally and statutorily mandated mission. Thank you for your time and attention to this matter.

Very truly yours,



Michelle S.K. Oishi, Esq.
President
Hawaii County Bar Association

**Appellate Section
Hawaii State Bar Association**

LATE

Hearing on S.B. No. 383, Relating to the Judiciary
February 16, 2021 at 9:16 a.m.

Senate Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Jarrett Keohokalole, Vice Chair

Dear Chair, Vice Chair, and Members of the Committee:

On behalf of our colleagues in the Hawaii State Bar Association's Appellate Section,¹ we write in **strong support** of S.B. 383. Members of the section are appellate practitioners, and we have a keen interest in the proper functioning of the State appellate courts and the State Judiciary as a whole.

S.B. 383 proposes to generally maintain the existing funding of the Judiciary at the same level through the next fiscal year. Given the tremendous efforts made by the Judiciary this past year to adapt to the many challenges posed by the COVID-19 pandemic, and the expectant surge in the need for the Judiciary's services in the coming year, this proposal is reasonable even in light of the projected State budget shortfall.

During the pandemic, the Judiciary has ensured public court access alongside protection of the health and safety of litigants, counsel, jury members, court staff, and public safety personnel. A transition to remote services when available, however, does not obviate the necessity of in-person hearings and trials. Thus, in the coming fiscal year, courts face an increased number of jury trials due to delays caused by the need for social distancing and other safety protocols. Additionally, the economic consequences of the pandemic are sure to increase the public's future reliance on the courts in the wake of the scheduled end dates of moratoriums on certain actions, e.g., the eviction moratorium.

Thank you for the opportunity to testify in **strong support** of S.B. 383.

Deirdre Marie-Iha, Section Chair

¹ The views and opinions expressed here are those of the HSBA's Appellate Section. The HSBA Board has not reviewed or approved the substance of the testimony submitted.

LATE

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February 15, 2021

The Honorable Karl Rhodes, Chair
The Honorable Jarrett Keohokalole, Vice Chair

Re: Senate Bill No. 383 Relating to the Judiciary
Strong Support for Judiciary Funding, especially the Veterans Courts

Dear Chair and Vice Chair;

I write to strongly support the Judiciary's funding, especially for the Veterans Courts.

While I strongly support the appropriation for the whole Judiciary, the attached information demonstrates how the Veterans Courts receive federal grants, receive Department of Veterans Affairs (VA) support, and benefit the Veterans that receive the services.

Hawaii's Veterans Courts has received three federal grants totaling \$906,227.¹ These grants began in 2012 and one grant is still ongoing. The grants are administered through the Department of Justice's Bureau of Justice Assistance. Additionally, the VA directly supports the Veterans Courts with people from their Veterans Justice Outreach (VJO) Program. The mission of the Veterans Justice Programs "is to identify justice-involved Veterans and contact them through outreach, in order to facilitate access to VA services at the earliest possible point."² A VA fact sheet on the VJO program is attached below. Although not yet implemented, the

¹https://bja.ojp.gov/funding/awards/list?field_award_status_value=All&state=HI&field_funding_type_value=All&fiscal_year=&combine_awards=Veterans+Treatment+Court&awardee=&city=

² <https://www.va.gov/homeless/vjo.asp>

Federal Veterans Treatment Court Coordination Act of 2019, P.L. 116-153, will provide future support and coordination through the U.S. Department of Justice.

The Maui mentors, themselves veterans in the community who volunteer to support veterans in the judicial system, say the program is essential to help and keep Veterans on the good path. They believe it is a valuable program and helpful, although not 100% effective in preventing recidivism. Many of the Veterans have mental health issues such as PTSD or TBI and some suffer from chronic physical pain. The mentors sometimes help the veteran go grocery shopping or get to their medical appointments. Some mentors access services through other local veteran organizations to provide bus passes, household goods, and work-related tools and equipment. Overall, the Maui mentors say Veterans Court is a valuable resource with many successes. Without it, more Veterans would be incarcerated and without hope.

Thank you for the opportunity to provide testimony. Please contact me if I can be of further assistance.

Encl: 1) Jan 2021 VA Fact Sheet on Veterans Treatment Courts

VAU.S. Department
of Veterans Affairs**Fact Sheet**Office of Public Affairs
Media RelationsWashington, DC 20420
(202) 461-7600
www.va.gov

January 2021

Veterans Treatment Courts and other Veteran-focused courts served by VA Veterans Justice Outreach Specialists

The Department of Veterans Affairs (VA) Veterans Justice Outreach (VJO) Program is a prevention-focused component of VA's Homeless Programs Office (HPO), whose mission is to end homelessness among Veterans. Since the program was founded in 2009, VJO Specialists at every VA medical center have provided outreach to justice-involved Veterans in various settings, including jails and courts. As of November 2020, VJO Specialists report serving in 601 Veterans Treatment Courts (VTCs) and other Veteran-focused court programs across the U.S. The number of these courts has grown significantly since June 2016, when VJO Specialists reported serving in 461 courts.

What is a Veterans Treatment Court?

The VTC model is based on the drug and mental health courts that have existed for nearly 30 years. Unlike traditional criminal courts, the primary purpose of a VTC is not to determine whether a defendant is guilty of an offense, but rather to ensure that he or she receives treatment to address unmet clinical needs. Several factors distinguish VTCs from drug and mental health courts, most notably their focus on Veteran defendants, and the involvement of volunteer Veteran mentors who provide non-clinical support to Veteran participants. VTCs reflect the communities that choose to start them, and there is considerable variation among the courts in both participant eligibility criteria and operational processes.

What is VA's role in these courts?

VTCs are initiated, funded, and operated by local governments, rather than by VA. However, VA directly supports VTCs through the participation of its VJO Specialists as members of VTC treatment teams, and through the health care services it provides to Veteran defendants, most of whom would otherwise receive care at county expense. The Specialists assess Veteran defendants' treatment needs, link Veterans with appropriate VA treatment services, and (with the Veterans' permission) provide regular updates to the court on their progress in treatment. VA's role in a VTC is limited to the treatment-related aspects of the court process; VA does not decide which Veteran defendants should be admitted to a VTC or define the level of offenses (e.g., misdemeanor vs. felony) that a VTC will accept. VJO Specialists work closely with justice system partners as they plan new VTCs, informing the partners about VA services that would be available to Veterans defendants locally or regionally. However, as with all VJO-related services, the Specialists do not advocate specifically for the use a particular model or set numerical targets for desired VTC growth. Instead, they help communities plan to meet the needs of justice-involved Veterans using approaches that best fit local circumstances.

For more information, contact:

Katie Stewart, National Coordinator, VJO; Katharine.Stewart@va.gov, (202) 461-5863
Contact information for each VJO Specialist is available at: <http://www.va.gov/homeless/vjo.asp>

Encl. (1)

TESTIMONY IN SUPPORT
S.B. 383



TO: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senate Committee on Judiciary

FROM: Troy J.H. Andrade, Ph.D., J.D.

RE: SUPPORT of S.B. 383, RELATING TO THE JUDICIARY

DATE: Tuesday February 16, 2021

TIME: 9:16 A.M.

PLACE: Via Videoconference

I write today in my individual capacity to express my strong support of S.B. 383, the appropriation bill to fund the State Judiciary for the fiscal biennium beginning July 1, 2021 and ending on June 30, 2023.

A touchstone of any truly democratic society—in times of crisis or not—is the respect for the rule of law and the principle of separation of powers, in which the Executive and Legislative branches make and enforce laws, and the Judicial branch independently interprets laws and adjudicates disputes. In order to perform its critical role, and despite being in the midst of the Covid-19 pandemic, the Hawai‘i State Judiciary needs resources to ensure the public’s safety and protect those rights that often get trampled on during times of crisis.

From resolving the most contentious issues of our day to dealing with traffic and pandemic-related violations, the Judiciary has been hard at work. The Judiciary has, like many other entities, been forced to move and upgrade its capabilities to continue to provide justice in these unprecedented times. Yet, it has done so with less. As you are aware, the costs of operating the judiciary represents 1.9% of the State’s budget—a total that has already spread thin many of the critical services necessary for our judicial system to function effectively. In other words, with what I believe has been a decade of cuts to the Judiciary’s budget, our third branch of government has been working harder with less resources. This is, from my humble opinion, an unsustainable model for ensuring justice and equity in our community. Therefore, any cuts to the Judiciary’s budget will inevitably result in cuts to core court services and lengthier resolution times for disputes. I urge your support to sustain the Judiciary’s budget without any further reductions.

In this appropriations bill, the Judiciary is seeking funding for essential infrastructure projects. These projects, which affect the buildings throughout Hawai‘i where justice must be served are critical to ensuring public safety and the safety and health of our public servants. These projects cannot wait. Despite moving to online court services and remote work, there are many services

that the Judiciary provides that cannot be provided online. Because of these essential in-person services that need to be provided, it is important that our judicial facilities are safe and in operable condition. Things like clean air ducts, operable sprinkler systems, and upgraded security are essential. I urge your support of the Judiciary's Capital Improvement Projects as articulated in this bill.

I humbly ask that this bill be passed out of committee. Mahalo for the opportunity to submit testimony.

LATE

TESTIMONY

Senate Committee on Judiciary
Senate Bill 383, Relating to the Judiciary
Hearing: Tuesday, February 16, 2021 @ 9:16 a.m.

TO: Chair Karl Rhoads and Vice Chair Jarrett Keohokalole and
Members of the Senate Judiciary Committee

FROM: Carol Kitaoka
Attorney

RE: Senate Bill No. 383 - Relating to the Judiciary (Budget)

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Judiciary Committee, I am an attorney residing in Kona currently in private practice and retired from the Hawaii County Prosecutor's Office. I am also a Board member of the Hawaii State Bar Association representing West Hawaii and a Board member of the Hawaii State Bar Foundation. I am offering these comments in my personal capacity **IN STRONG SUPPORT** of the request for funds for the Judiciary operating budget and capital improvement budget.

In the Third Circuit, two out of four judges, court staff, and other Judiciary employees have retired or left their jobs. Almost none of these positions, including the judge's positions, have been filled. The South Kohala courthouse was closed for court hearings and the judge in South Kohala now sits in Kona hearing Kona and South Kohala cases. The clerical staff and probation officers are doing additional assignments to help the court run efficiently. The Judiciary has already cut its budget to help in this economic crisis.

I have lived in Hawaii for over six decades and have never known anyone that was a victim of a serious crime. This past year, I know of two people that have been held up at gunpoint and had their property stolen, one in their own home. The news reports of brazen crimes and that people are committing these crimes because the court system is backed up and the jails need to keep their population down due to the pandemic. This year the legislature has to deal with issues of hunger, the education of our keiki, and many other important issues. Safety in our community is also important. We want to feel safe in our homes and going to the grocery store. The courts are where criminals are held accountable for their actions. The Judiciary needs to be operating efficiently to be effective. Further cuts to its budget will severely impact its capacity to run efficiently.

In closing, I am respectfully requesting your support of the Judiciary budget. Thank you for the opportunity to submit testimony on this matter.