



The Judiciary, State of Hawai‘i
Testimony to the Thirty-First State Legislature, 2022 Regular Session
House Committee on Finance
Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair

Wednesday, March 2, 2022, 1:00 p.m.
VIA VIDEOCONFERENCE
State Capitol, Conference Room 308

By

Tom Mick
Policy and Planning Department Director

Bill No. and Title: House Bill No. 1536, H.D. 1, Relating to the Judiciary.

Purpose: To provide supplemental operating and capital improvement appropriations for FY 2023.

Judiciary's Position:

The Judiciary urges your support of House Bill No. 1536, H.D. 1, which reflects the Judiciary's resource requirements for FY 2023.

The Judiciary recognizes that it has been a difficult last few years for the economy in Hawai‘i, although it does appear that the State has now “turned-the-road” and is on the way to a measured recovery. This is confirmed by the Hawai‘i Council on Revenues meeting in January 2022 which raised the growth rate projected at its September 2021 meeting from 6% to 15% for FY 2022 and from 4% to 6.9% for FY 2023. But even at that, the Council noted risks that could inhibit any such economic recovery including new virus variants, vaccine reluctance, sustained travel restrictions, restrictions imposed on businesses for public health reasons, significant supply chain interruptions, and the effects of reduced Federal stimulus funding. The Judiciary is also aware of other challenges the State faces including collective bargaining negotiations, health care costs, State mandated commitments, environmental and climate change concerns, and other post-employment/unfunded liabilities.



House Bill No. 1536, H.D. 1, Relating to the Judiciary
House Committee on Finance
Wednesday, March 2, 2022, 1:00 p.m.
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Accordingly, after considering all this and noting that this is a supplemental year, our supplemental budget request is very modest, that is, just four new general fund operating requests totaling \$961K and no new permanent positions, and six Capital Improvement Program (CIP) projects totaling \$12.1 million in bond funds.

The Judiciary is very grateful to the House Committee on Judiciary and Hawaiian Affairs (JHA) for providing \$961K in appropriated funding for our supplemental requests related to an Interstate Compact Coordinator position in First Circuit, two Third Circuit judge positions (a Circuit Court judge and a Family Court judge) in Hilo, multifactor authentication which is an information technology security enhancement for Judiciary user access and network servers, and justices and judges delayed salary increases pursuant to the Commission on Salaries.

The Judiciary is also most appreciative for JHA's support and funding of \$12.1 million for our six CIP projects. These projects include funding for fire alarm replacement and security upgrades at Ka'ahumanu Hale in First Circuit, for air conditioning replacement work at Ali'iōlani Hale and roof replacement at Kapuuiwa Building in downtown Honolulu, for a new courtroom at Hoapili Hale on Maui, and for a supplemental chiller system to provide emergency air conditioning for the Juvenile Detention Facility in Kapolei.

It should be noted that the committee report (HSCR 647-22) for House Bill No. 1536, H.D. 1, mentioned that this Committee consider appropriating: \$2 million for reintegration programs, including education, culture, and vocational training programs to be coordinated by the Judiciary; \$50K for technology development of criminal pretrial data base for the Criminal Research Justice Institute; and \$1 million for services of two legal services organizations. We are not aware of the details of the proposal for the Judiciary to coordinate educational, cultural, and vocational reintegration programs. While we agree that such programs would be beneficial, we withhold further comment at this time on the appropriateness or possibility of the Judiciary coordinating such programming pending further information. Further, while we understand the need for and support such funding for other initiatives noted by JHA, we would respectfully request that if any additional funds are appropriated, they do not supplant Judiciary's existing funding or supplemental budget requests.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 1536, H.D. 1

March 2, 2022
1:00 p.m.
Room 308 and Videoconference

RELATING TO THE JUDICIARY

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill (H.B.) No. 1536, H.D. 1, is a Judiciary administration bill that appropriates supplemental funding for the Judiciary for FY 23. In its November 1, 2021 letter to the Governor, the Judiciary estimated their general fund expenditures for FY 23 were \$165,852,798 or \$961,312 more than the Judiciary's FY 22 general fund appropriation. The general fund amounts included in H.B. No. 1536, H.D. 1, have been included in the FY 23 Executive Supplemental Budget general fund financial plan that was submitted to the Legislature in December 2021.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



TESTIMONY

House Committee on Finance

Hearing: Wednesday, March 2, 2022 (1:00 p.m.)

TO: The Honorable Sylvia Luke, Chair
The Honorable Kyle T. Yamashita, Vice Chair

FROM: Shannon S. Sheldon
HSBA President

RE: House Bill No. 1536, HD1
Relating to the Judiciary

From the modest requests of the Hawaii Judiciary for the supplemental budget for the fiscal biennium beginning on July 1, 2021 and ending on June 30, 2023, the Hawaii State Bar Association through its governing Board of Directors is supporting the following General Fund requests and CIP requests:

GENERAL FUND APPROPRIATIONS

- Judicial Salary Adjustments (\$376,752) for the 6-month period from January 1, 2023 to June 30, 2023 as recommended by the Commission on Salaries and deferred thru December 31, 2022.
- Interstate Compact Coordinator First Circuit (\$55,200). Restoration of funding to monitor probationers and parolees entering and leaving the State of Hawaii. 300-400 offenders annually.
- Two Third Circuit (East Hawaii) judge positions (\$402,360). Restoration of funding of a Circuit Judge position and a District Judge position, which were established over 20 years ago and which have been filled.
- Multifactor Authentication for Outlook Email and Servers (\$127,000). Would enhance the security for Judiciary user access and network servers to protect against cyber attacks and unauthorized access. Multifactor authentication is considered to be a very effective tool against cyber intrusions.

CIP REQUESTS

- Kaahumanu Hale First Circuit (\$5m). Replace obsolete fire alarm systems to protect all facility staff and the public and meet CODE and ADA requirements.
- Kaahumanu Hale First Circuit (\$1.544m). Expansion and reconfiguration of the Sheriff Patrol Station at the main security checkpoint which is currently in public view. This Station monitors and screens public access to the building.
- Kapuaiwa Building Intermediate Court of Appeals (\$1.75m). Roof repairs and repairs to address storm water drainage issues which damage the building's interior.

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- Alliolani Building Supreme Court (\$1m). Necessary replacement of air conditioning parts to address air quality issues for building staff and guests. The air conditioning system is 35-45 years old and when installed the estimated life expectancy was 15-25 years.
- Hoapili Hale Second Circuit (\$1.32m). Build an additional courtroom in an existing area previously used for file storage to meet the need for additional courtroom capacity.
- Juvenile Detention Facility Kapolei Family Court (\$1.52m). Installation of an additional chiller to provide essential air conditioning that houses youth detainees 24/7.

DISCUSSION

With the exception of the Multifactor Authentication for Email and Servers, the three other General Fund requests endorsed by the HSBA involve the funding or the restoration of funding previously approved. The requests are modest and will enhance services to the public and provide stability to the Judiciary's workforce. Of particular interest to attorneys statewide is the restoration of funding for the two judicial positions for the Third Circuit which have been filled by qualified individuals confirmed by the State Senate.

Five of the CIP requests involve the continued concern over the health and safety of court staff and guests. The request for the conversion of storage space to a courtroom will help with the backlog of case dispositions caused by increased court filings and COVID related facility closures.

The need for fully operational and stable court services is essential as Hawaii moves from a pandemic to an endemic. Closures of court facilities due to the natural forces of nature can and should be minimized. The need for parties involved in civil, criminal, and family disputes to resolve differences so they can move on with planning for the future is critical for a robust economy and the quality of life we continually strive for.

Thank you for the opportunity to offer comments in **STRONG SUPPORT** of House Bill 1536, HD1 as noted.



LEGAL AID
SOCIETY OF HAWAII

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J. Blaine Rogers, Esq.
President, Board of Directors

M. Nalani Fujimori Kaina, Esq.
Executive Director

TESTIMONY ON HB1536 HD1

Committee on Finance
Representative Sylvia Luke, Chair
Representative Kyle Yamashita, Vice-Chair
March 2, 2022 at 1:00 p.m.

The Legal Aid Society of Hawaii submits testimony in support of HB1536 HD1 – Relating to the Judiciary.

During the pandemic, the need for civil legal services rose significantly. In 2021, we received over 19,000 requests for assistance and were able to provide legal help in a little over 8,200 cases in legal areas ranging from family, housing, consumer, foreclosure, public benefits, elder law, homelessness, immigration, language access, and child welfare. In 2021, over 30% of our clients were homeless or at risk for homelessness, over 17% experienced domestic violence and over 11% spoke a language other than English.

While general revenue funding for general civil legal services was not provided in FY21 and FY22 because of the economic crisis in the state, our ability to continue to provide services was only possible through federal pandemic assistance which will expire and generous one-time support through foundations. With these supports ending, including funding in the Judiciary budget is critical to ensuring that civil legal services continue to be provided across the state.

A line-item allocation of \$750,000 for general civil legal services would restore the funding last provided in FY20.

Thank you for this opportunity to provide testimony.

Sincerely,



M. Nalani Fujimori Kaina
Executive Director

Trever Asam
Board President

Rachel Figueroa
Executive Director



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**TESTIMONY IN SUPPORT OF H.B. 1536 HD1
RELATING TO THE JUDICIARY
Committee on Finance - March 2, 2022 1:00 p.m.**

CHAIR LUKE, VICE CHAIR YAMASHITA, AND MEMBERS OF THE COMMITTEE ON FINANCE:

Volunteer Legal Services Hawaii supports the passage of H.B. 1536 HD1, and respectfully requests an amendment to the proposed Judiciary supplemental budget.

Volunteer Legal Services Hawaii requests that the purchase of services contract for general civil legal services be restored in the Judiciary budget. In 2019, the Legislature generously provided a total of \$750,000 to Volunteer Legal Services Hawaii and Legal Aid Society of Hawaii, through a combination of a purchase of services contract in the budget and Grants in Aid.

This critical funding would go to funding civil legal services, including but not limited to the delivery of civil legal services to low- and moderate- income individuals in Hawaii. In the last forty-one years, Volunteer Legal Services Hawaii has partnered with volunteer attorneys in the provision of civil legal assistance to individuals and families of Hawaii. While Volunteer Legal Services Hawaii's only office is on Oahu, we service residents of Hawaii statewide. In 2021, with only a staff of 7, Volunteer Legal Services Hawaii qualified over 1,000 individuals. Volunteer Legal Services provides legal checkups, educational presentations, clinics, brief services and/or full representations. Twenty-Three percent (23%) of those helped are homeless or at the risk of being homeless, 11% of those helped suffer from domestic violence, 8% of those helped were veterans, 26% of those helped are disabled, and 13% of those helped were aged 60 and over. If not for Volunteer Legal Services Hawaii, these individuals would have otherwise gone without legal help.

The pandemic has greatly affected the financial outlook of legal services organizations like Volunteer Legal Services Hawaii. We support this funding mechanism which would allow us and other organizations to deliver critical safety net services to Hawaii's most vulnerable residents.

We respectfully request your passage of H.B. 1536 HD1 with amendments. Thank you for this opportunity to provide testimony.

Sincerely,
Rachel Figueroa, Executive Director

HAWAII COUNTY BAR ASSOCIATION

P.O. Box 585
Hilo, Hawaii 96721
HCBA@hsba.org

February 28, 2022

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

Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair
House Committee Finance
Conference Room 308
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: HB 1536 H1- RELATING TO THE JUDICIARY
Testimony in Support of Funding for the Judiciary

Dear Representative Luke, Representative Yamashita 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 HB 1536 and urges this Committee to support full funding for our Judiciary.

While the COVID-19 pandemic drastically altered the Judiciary’s basic operations, the Judiciary expeditiously adjusted 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. As such, proper funding is necessary to ensure that the Judiciary is able to maintain these systems so that access to justice continues in a safe and timely manner.

Of particular importance to the HCBA is that HB 1536 restores funding for two critical judicial positions located on the Island of Hawaii in Hilo (one of two Circuit Court positions and one of two District Family Court positions). Funding for these presently filled positions is extremely important so that the public has access to our courts and that litigants have their cases timely heard. The diversion of other Judiciary funds to pay for these necessary positions may adversely affect the Judiciary’s ability to provide services for the most vulnerable in our community, including children and those in need of mental health and/or substance abuse services.

HB 1536 also restores funds needed to monitor probationers and parolees entering and leaving the State of Hawaii, provides funds for enhanced cybersecurity services for Outlook email, and allows for critical capital improvement projects necessary to protect the health and safety of those entering Judiciary facilities. 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

HB-1536-HD-1

Submitted on: 3/1/2022 11:59:11 AM

Testimony for FIN on 3/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Joseph E Cardoza	Hawai`i Access To Justice Commission	Support	No

Comments:

Chair: Hon. Sylvia Luke, Chair

Vice Chair: Hon. Kyle T. Yamashita, Vice Chair

Committee: House Committee on Finance

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Wednesday, March 2, 2022

Hearing Time: 1:00 p.m.

Place: Via Videoconference

Conference Room 308

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

House Bill: HB No. 1536, HD 1

Position: Support of HB1536, HD1 Relating to The Judiciary

Dear Chair Luke and Members of the House Committee on Finance:

The Hawai'i Access to Justice Commission supports House Bill 1536, HD1, the Judiciary's supplemental appropriations bill of 2022, but respectfully requests that funding be restored in the budget for the purchase of civil legal services for low- and moderate-income persons. Previously, funds were placed into the Judiciary's budget for the purchase of civil legal services provided by non-profit organizations that assist low- and moderate-income persons. Due to the pandemic's economic challenges, these organizations have not received this funding since 2019.

Several non-profit organizations provide critical legal services to residents who cannot afford a lawyer. The inability to access essential legal services can often lead to long-term consequences. Undoing the damage done by the inaccessibility to legal services is costly, both for the individual and society in general. The impact on the community is both social and economic. Non-profit organizations have served thousands of our residents over a long period of time, but their financial support varies from year-to-year. Unfortunately, there are many residents who cannot be served because of the financial constraints these organizations face. The Hawai'i Access to Justice Commission appreciates the support the Legislature has provided in the past, and is hopeful that our low-and moderate-income residents will have access to essential civil legal services in the future.

The Commission appreciates the Committee hearing this bill. Thank you for the opportunity to present this written testimony.

I do not plan to testify during the videoconference hearing on this Bill.

Appellate Section Hawaii State Bar Association

Hearing on H.B. No. 1536 H.D. 1, Relating to the Judiciary
March 2, 2022 at 1:00 p.m.

House Committee on Finance
Honorable Sylvia Luke, Chair
Honorable Kyle T. Yamashita, 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 H.B. 1536 H.D. 1. 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.

H.B. 1536 proposes a modest increase to the existing funding of the Judiciary for the next fiscal year, with emphasis on capital improvements for necessary courthouse maintenance requiring immediate attention. Given the tremendous efforts made by the Judiciary in past years to adapt to the many challenges posed by the COVID-19 pandemic and the resultant surge in the need for the Judiciary's services, all under prior statewide budget constraints, this proposal is reasonable.

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. 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. With such increased usage, maintenance of judiciary facilities is imperative.

Thank you for the opportunity to testify in **strong support** of H.B. 1536 H.D. 1.

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.



WEST HAWAII BAR ASSOCIATION

westhawaiiibar@gmail.com



President: Brit Barker ~ First Vice President: Charles "Chase" Murray ~ Second Vice President: Aaron Masser

TESTIMONY IN SUPPORT OF HOUSE BILL 1536, HD1

RELATING TO THE JUDICIARY

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair

Representative Kyle T. Yamashita, Vice Chair

Wednesday, March 2, 2022 at 1:00 P.M.

Via Videoconference

Honorable Chair Luke, Vice Chair Yamashita and Members of the Committee on Finance. The West Hawai'i Bar Association Board submits the following testimony in support of House Bill 1536, HD1.

Members of the West Hawai'i Bar Association are concerned with the Third Circuit Judicial staff apparent difficulty in keeping up with the demands of the court process. With vacancies yet to be filled and funded, we are experiencing delayed filings and court proceedings which has the potential to result in detrimental effects to litigants. Approximately 13% of the State's population resides on the island of Hawai'i. However, the Third Circuit Family Courts currently service approximately 30%-40% of the State's Child Welfare cases alone. The ability to file documents is restricted by a time schedule, which further negatively impacts the legal community. We are informed that members of the Judiciary's staff are trying to complete multiple jobs. Some of the most hardworking staff are getting burnt out from trying to just assist our community for the greater good. The funding of positions that are currently available is needed to get the Judiciary to a place to be able to efficiently and effectively service the community of the Third Circuit.

The West Hawai'i Bar Association Board does not voice the opinions of every individual member but has notified its membership to present testimony on any individuals behalf. The West Hawai'i Bar Association Board Supports the passage of House Bill 1536, HD1. Thank you for the opportunity to testify on this matter.

Respectfully,

BRIT BARKER

WHBA Board President