



The Judiciary, State of Hawai‘i
Testimony to the Thirty-First State Legislature, 2022 Regular Session
Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Thursday, April 7, 2022 at 10:43 a.m.
Conference Room 211 & Videoconference

by
Tom Mick
Policy and Planning Department Director

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1536, H.D. 2, S.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. 2, S.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.



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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 Senate Committee on Judiciary (JDC), the House Committee on Finance (FIN), and 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.

House Bill No. 1536, H.D. 2, S.D. 1, also appropriated an additional \$200K to Judiciary Administration (JUD 601) for court-appointed guardians ad litem (GAL) and attorneys, but defunded and reallocated \$203,406 from five First Circuit (JUD 310) vacant positions to pay for this. While we understand and support the need for additional GAL and court appointed attorney funding, we are very concerned about defunding another five vacant positions to pay for this, especially considering that the Judiciary budget was reduced by \$9 million in FY 2020 and \$14.7 million in FY 2021, and 192 vacant positions were defunded during this same period. Continuing to pay for budget additions by defunding vacant positions just puts additional stress and workload on remaining employees, and adversely affects overall court operations.

The Judiciary is most appreciative for JDC's, FIN's, and 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 Kapuaiwa 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.

JDC in House Bill No. 1536, H.D. 2, S.D. 1, also provided \$3,120,000 in bond funding for another 17 smaller capital improvement projects. Unfortunately, based on recent guidance from and discussions with Budget and Finance, most of these projects do not qualify for bond funding, but must be done with operating funds as they are more repair and maintenance than capital in nature. At best, projects totaling about \$1.2 million might meet the requirements for CIP bond funding.

JDC, in House Bill No. 1536, H.D. 2, S.D. 1, also retained the \$1 added by FIN to Judiciary's budget request for Administration (JUD 601) as a placeholder for civil legal services. While we welcome and support any additional funding for civil legal services, we would



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respectfully request that such funding not supplant Judiciary's existing funding or supplemental budget requests.

In summary, we are very thankful for the funding and support provided by JDC, FIN, and JHA, but also respectfully request that reconsideration be given to defunding and reallocating funds from five vacant positions to pay for GAL and court appointed attorney additions, and that lump sum funding for smaller CIP type projects be reduced to \$1.2 million to comply with applicable criteria for bond funding.

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
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

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 SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 1536, H.D. 2, S.D. 1

April 7, 2022
10:43 a.m.
Room 211 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. 2, S.D. 1, appropriates supplemental funding for the Judiciary for FY 23. S.D. 1 reduces the Judiciary's general fund appropriation by \$3,405, bringing the total to \$165,849,393 in FY 23.

B&F notes that, with respect to the general fund appropriations 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 ON HB1536 HD2 SD1

Committee on Ways and Means

Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran, Vice-Chair

April 7, 2022 at 10:43 a.m.

The Legal Aid Society of Hawaii submits testimony in support of HB1536 HD2 SD1 – 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.

We would ask the Committee to maintain a line-item allocation of funding for general civil legal services and include an amount of \$750,000 in order to restore the funding last provided in FY20.

Thank you for this opportunity to provide testimony.

Sincerely,

Sincerely,

M. Nalani Fujimori Kaina
Executive Director

Trever Asam
Board President

Rachel Figueroa
Executive Director



545 Queen Street, Suite 100
Honolulu, Hawai'i 96813
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**TESTIMONY IN SUPPORT OF H.B. 1536, HD2, SD1
RELATING TO THE JUDICIARY
Committee on Ways and Means- April 7, 2022 10:43 a.m.**

CHAIR DELA CRUZ, VICE CHAIR KEITH-AGARAN, AND MEMBERS OF THE COMMITTEE ON WAYS AND MEANS:

Volunteer Legal Services Hawaii supports the passage of H.B. 1536, HD2, SD1 and respectfully requests an amendment to the proposed Judiciary supplemental budget.

The House version of the Judiciary supplemental budget provided a placeholder for the funding of general civil legal services. Volunteer Legal Services Hawaii would appreciate if the Legislature can provide funding via H.B. 1536, HD2, SD1.

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, HD2, SD1 with amendments. Thank you for this opportunity to provide testimony.

Sincerely,
Rachel Figueroa, Executive Director



TESTIMONY

Senate Committee on Ways and Means

Hearing: Thursday, April 7, 2022 (10:43 a.m.)

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

FROM: Rhonda L. Griswold
HSBA President-elect

RE: House Bill No. 1536, HD2, SD1
Relating to the Judiciary

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With respect to the modest requests of the Hawaii Judiciary in its 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 supports the following General Fund requests and CIP requests as originally introduced in House Bill No. 1536:

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.
- 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), which would enhance the security for Judiciary user access and network servers to protect against cyber attacks and unauthorized access. Multifactor authentication is considered a very effective tool against cyber intrusions.
- Interstate Compact Coordinator First Circuit (\$55,200). Restoration of funding to monitor probationers and parolees entering and leaving the State of Hawaii (approximately 300-400 offenders annually).

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). Expand and reconfigure the Sheriff Patrol Station at the main security checkpoint, which is currently in public view and creates unnecessary risk. 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 that, if not fixed, damages the building's interior.

- 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. 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). Install 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 previously approved funding. 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 to convert 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 efficiently in a safe and secure environment 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, HD2, SD1 as noted.

HAWAII COUNTY BAR ASSOCIATION

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

April 6, 2022

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

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means
Conference Room 211
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: HB 1536, HD2, SD1 - RELATING TO THE JUDICIARY
Testimony in Strong Support of Funding for the Judiciary

Dear Senator Dela Cruz, Senator Keith-Agaran 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 **STRONG SUPPORT** of HB 1536, HD2, SD1 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, HD2, SD1 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, HD2, SD1 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-SD-1

Submitted on: 4/6/2022 10:24:03 AM

Testimony for WAM on 4/7/2022 10:43:00 AM

Submitted By	Organization	Testifier Position	Testify
Joseph E Cardoza	Testifying for Hawai`i Access To Justice Commission	Support	Written Testimony Only

Comments:

Chair: Hon. Donovan M. Dela Cruz, Chair

Vice Chair: Hon. Gilbert S.C. Keith-Agaran, Vice Chair

Committee: Senate Committee on Ways and Means

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Thursday, April 7, 2022

Hearing Time: 10:43 a.m.

Place: Conference Room 211 and

Via Videoconference

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

House Bill: HB No. 1536, HD 2, SD1

Position: Support of HB1536, HD2, SD1 Relating to The Judiciary

Dear Chair Dela Cruz and Members of the Senate Committee on Ways and Means:

The Hawai'i Access to Justice Commission strongly supports House Bill 1536, HD2, SD1, the Judiciary's supplemental appropriations bill of 2022, that, in part, would restore funding in the budget for the purchase of civil legal services for low- and moderate-income persons and appropriate and authorize the Judiciary to expend moneys appropriated through this Bill to provide compensation to court-appointed guardians ad litem and attorneys at rates greater than those currently specified in section 571-87 of the Hawai'i Revised Statutes.

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 caused 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.

This Bill also impacts the ability to provide compensation for court-appointed counsel and guardians ad litem in Family Court cases. Section 571-87 of the Hawai'i Revised Statutes provides compensation for court-appointed counsel and guardians ad litem in Family Court cases. These cases are of critical importance to the community. Unfortunately, the compensation currently authorized by law jeopardizes the ability to secure the services of court-appointed counsel and guardians ad litem. House Bill 1536, HD2, SD1 will provide the appropriation and authorization for the Judiciary to expend moneys to pay for these valuable services at rates that although lower than current market rates, nevertheless represent a significant improvement over those rates currently authorized by statute.

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

HB-1536-SD-1

Submitted on: 4/6/2022 10:30:06 AM

Testimony for WAM on 4/7/2022 10:43:00 AM

Submitted By	Organization	Testifier Position	Testify
Stanley Roehrig	Testifying for Hawaii County Bar Association	Support	Written Testimony Only

Comments:

My name is Stanley H. Roehrig. I am testifying on behalf of the Hawai`i County Bar Association in support of HB1536,HD2 SD1. Our bar members have concerns about unfilled staff slots, not only in Hilo but in Kona, as well. These vacancies hav caused a significant backlog in the court system due to CoVid-related separations from employment. We do not know the full extent of available financial resources, but whatever can be done to help ease these financial constraints would be appreciated.