

The Judiciary, State of Hawai‘i

**Testimony to the Thirty-Second State Legislature
2023 Regular Session
House Committee on Judiciary and Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair**

Friday, February 10, 2023, 2:00 p.m.
Hawai‘i State Capitol
Conference Room 325 & Videoconference

by
Tom Mick
Policy and Planning Department Director

Bill No. and Title: House Bill No. 382, Relating to the Judiciary.

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2024 and 2025.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 382, which reflects the Judiciary’s resource requirements for FYs 2024 and 2025.

The Judiciary recognizes that after the difficult down years due to the effects of COVID-19, Hawaii’s economy has continued to gradually recover and move forward. This is confirmed by the Hawai‘i Council on Revenues meeting in January 2023 which raised the growth rate projected at its September 2022 meeting from 4% to 5% for FY 2024 and maintained its forecast of 3.5% for FYs 2025-2029, although it did lower its FY 2023 forecast from 6.5% to 5.5% due to the impact of the Constitutional Refund in the first half of the fiscal year. The Council also noted certain risks that could inhibit any such economic recovery including new virus variants, inflation and an aggressive monetary response from the Federal Reserve, high oil and commodity prices, geopolitical events and economic disruptions associated with the war in Ukraine, severe labor shortages, travel hesitancy from the Asian markets, supply chain interruptions, and reduced Federal stimulus funding. The Judiciary is also aware of other expenditures 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 these matters, the Judiciary is moving forward with requests for eight new permanent positions and \$7.8 million in FY 2024 and \$6.9 million in FY 2025. Our requests center on new facilities, new permanent positions, client services, restoration of funding for defunded positions, and some miscellaneous but important priority items.

Our first set of requests relate to the new Wahiawa Courthouse that is in the design and construction phase and is scheduled to open in 2025, and to the new and revitalized juvenile services and juvenile shelter facility, Hale Hilinai, located on Alder Street that just opened late last year. For Wahiawa, \$425K is needed to procure position related furniture, fixtures, and equipment, and another \$172K to equip the new courthouse with network circuits, phone lines, and associated telecommunications equipment such as cisco switches and a router. All these items must be ordered in FY 2024 to allow equipping and opening of the courthouse in 2025.

Hale Hilinai is a two story structure of about 30,000 square feet that shares a common wall with an apartment structure that has 200 affordable rental units. For Hale Hilinai, funding of \$120K is needed to contract for security services to protect facility users and staff, and \$272K to pay for common area maintenance or CAM costs. We are also requesting \$100K to restore funding for two defunded janitorial positions, as well as a no cost temporary to permanent position conversion of a janitorial position, to provide necessary janitorial services for Hale Hilinai.

For new permanent positions, besides the conversion position mentioned above, we are requesting about \$360K for a District Court Judge and three supporting staff for First Circuit, approximately \$90K for two bailiffs for Third Circuit, and another no cost conversion of a temporary to permanent position – this being for a Forensic Interview Specialist at the Children’s Justice Center (CJC). The District Court Judge position being requested would be for a judge who would be part of the Honolulu District Court pool of judges that are on a rotational schedule to the four rural courts – Waianae, Wahiawa, Ewa, and Kaneohe. This would allow the District Court to increase its capacity to serve the rural courts, develop additional court calendars based on caseload and other priorities, and provide the flexibility to better manage court dockets and be more responsive to the needs of the court users and communities they serve. Staff comprised of a bailiff and two District Court Clerks would provide the necessary operational support for this new judge, including preparing the courtroom, helping ensure the courtroom’s security, and ensuring that all court services are delivered in a timely, efficient and complete manner.

The two new bailiff positions being requested for Third Circuit – one for District Court and one for Family Court – would be to help support all the technical requirements that go with the new hybrid of remote and in-court proceedings. Having the “tech focused” bailiffs would allow other existing staff to successfully perform the more traditional job functions that were in place for courtroom operations before the pandemic and all the virtual related activities that were implemented. Lastly, the conversion of the Forensic Interview Specialist position to a permanent status for CJC would help provide the important stability needed for a position filled by a person who relates to and interviews children who may have been abused or witnesses to crime. Between



2018 and 2021, three different employees filled this position which now has been vacant since March 2022 as potential candidates do not want to accept a temporary appointment.

We have three requests totaling almost \$2.6 million in the client services area, an area that is very important to the Judiciary. First, we are requesting \$2.3 million for Guardian Ad-Litem (GAL)/Court Appointed Counsel (CAC) services. Last year, the Legislature gave us \$2.3 million based on a separate bill increasing the hourly rates for these services. While the bill never passed, we still received the funds but for one year only. That funding was very important to us as it helped offset the major funding reductions made in this area due to the pandemic, and it allowed us to restore the lost funding and better compensate and attract more qualified service providers. We think it is very important to continue this funding and the progress we have made, and ensure that both the children and the parents/guardians affected by such proceedings have the best representation possible.

Our two other client services requests are for \$85K for our Center for Alternative Dispute Resolution (CADR) purchase of service (POS) mediation contract, and \$200K for residential and other similar programs for women on probation that would allow minor children to remain with their mothers while participating in these programs. The CADR POS contract, which has been at \$400K since 2009, calls for mediation services for 3,100 cases. However, in FY 2021, the caseload increased to 4,420 cases and in FY 2022, the provider opened 7,154 new cases, more than double what the contract called for – therefore, the request for an additional \$85K in funding. For women on probation with children, the Legislature gave us \$200K last year for this program but for one year only. We feel that this program ties directly into the three year women’s court pilot program established by the Legislature last year and thus are asking for the \$200K to continue for each year of the biennium, and would like to expand it to include such programs as clean and sober housing and therapeutic living programs.

Our next grouping represents requests to restore \$2.3 million for 33.2 defunded positions spread throughout the Judiciary. During the pandemic, 192 vacant positions costing more than \$11 million were defunded to help the State’s economic crisis at that time. This refunding request is for positions that are very essential and important to the Judiciary and to the operations of the specific areas and programs to which they were assigned. Specifically:

- (1) First Circuit (14 positions - \$937K, FY 2024; \$970K, FY 2025):

One of these positions for which restoration funding is requested is for the Circuit Court Judge position for the 18th Division, a position for which a judge is especially needed.

Another six positions for which we are requesting restoration of funding are involved with various important and current societal issues and specialty areas/programs. These include positions for one social worker and judicial clerk



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who address domestic violence, two social workers that support and address adult and juvenile community service and restitution, and another two social workers that support drug and mental health courts.

We are also requesting funding restoration for a clerk position for our rural Ewa/Waianae District Court; for the Assistant Court Administrator position in our rural Kaneohe District Court, the only rural court without someone in the Assistant Administrator position; and for a clerk position in our Land and Tax Appeals Court where workload has increased significantly – from 2,981 new filings and a 6,623 caseload in FY 2019 to 5,792 new filings and an 11,589 caseload in FY 2022.

Our last four First Circuit positions for which restoration funding is requested include two Family Court clerks needed to support the Family Court judges; one IT support technician needed to help support the increased use of technology in all facets of court and staff operations; and an accountant to help alleviate the increase in workload resulting from the implementation of the Judiciary Information Management System (JIMS) civil program in April 2022, and ensure that all fiscal responsibilities are met for grants and contracts.

(2) Second Circuit (7.2 positions - \$699K, FY 2024; \$715K, FY 2025):

Restoration funding is being requested for a District Court Judge position, a District Family Court Judge position, and a per diem judge (.2 FTE) position. The importance of these positions is evidenced by the fact that Second Circuit reallocated funds designated to fill other staff vacancies and operational needs to temporarily fund these positions. However, this diversion of funds can result in inadequate staffing in other court operations units, delay court processes, and eventually compromise the overall integrity and accountability of court operations in Second Circuit.

Restoration of funding is also needed for positions of a Court Administrator in Wailuku, a District Court Clerk in Lahaina, and a Judicial Clerk on Molokai. The importance of the Administrator position cannot be stressed enough as the position heads a Branch which includes the Legal Documents, Traffic Operations, Rural Courts, and the Law Library/Service Center/Jury Pool Sections, and the Family Court Clerks and Bailiff Units. Funds had to be temporarily reallocated from other operational requirements to fill this position and ensure continued court operations, but this limits the ability of the Circuit to cover other recently vacated positions or needs. The inability to fund and fill the Lahaina Clerk position has contributed to delays in document uploading and processing, longer wait times for orders after hearings, and staffing issues in Wailuku as weekly staff transfers have been made to provide adequate court staffing levels in Lahaina. The same type situation



occurred for Molokai, which only has two Judicial Clerk positions, in that a position had to be temporarily transferred from the Legal Documents Section in Wailuku to cover this critical staff shortage but this, in turn, shorted Legal Documents staffing.

Lastly for Second Circuit are restoration funding requests for two Social Worker Assistant positions, one of who provides support to 11 juvenile probation officers and the other who helps provide support to nine Social Workers who are involved with various programs such as Community Service Sentencing, Monetary Restitution, GALs, Court Appointed Special Advocates, and Volunteers in Public Service.

(3) Third Circuit (7 positions - \$337K, FY 2024; \$353K, FY 2025):

Restoration funding is being requested for seven positions: a Janitor Supervisor for the Hale Kaulike Courthouse, an Account Clerk III for the Hilo Fiscal Office, a District Court Clerk for the South Kohala District Office, three Judicial Clerk III positions in Hilo, and a Social Worker IV for the Adult Client Services Branch (ACSB).

Without a Janitor Supervisor, it has been difficult for the Facilities Manager who not only has to perform his own duties, but those of the Janitor Supervisor, as well as manage the seven funded janitorial positions. Having funding to fill this position will ensure staffing levels are adequate to provide for proper maintenance and care of the 175,000 square foot courthouse without compromising the health and safety of employees and the public.

The lack of funding for the Accountant III position results in other Accountants and Account Clerks having to take on the cashiering and payment processing duties of the position. This is inefficient, can lead to payment delays, and impact service levels and interactions with the public.

The loss of funding for the District Court Clerk II position in South Kohala led to significant understaffing and temporary closure of District and Family courtroom services. Eventually, funds were reallocated from elsewhere to reopen courtroom services and address the hardship that had been created for the surrounding communities. This position provides essential support for court operations and for entering court data through JIMS which enables the immediate posting of dispositions in eCourt Kokua. Using this temporary reallocation of funds is not sustainable in the long run.

Two of the defunded Judicial Clerk III positions were assigned to the Hilo Files and Records Maintenance Unit – one supported District Court civil operations



(temporary restraining orders (TROs), small claims, landlord tenant matters) and assisted at service counters and over the phone, and the second supported Family Court and helped process TROs and other time sensitive and critical Family Court matters including criminal cases, guardianships, and adoptions. The loss of funding for these positions resulted in backlogs and processing delays in both areas, and required asking for assistance from other units/sections and a shuffling of resources. These situations cannot be sustained indefinitely as other areas suffer when having to provide assistance here.

The other defunded Judicial III Clerk position was assigned to the Traffic Operations Branch which supports two District Court Judges who hear traffic cases. Not having this position filled has caused delays in and a backlog of inputting citation information and subsequent processing of default judgements through JIMS, information which is important to court users and the public.

The defunded Social Worker IV position for which we are requesting restoration was assigned as a probation officer to a unit that supervises sex offenders in the Hilo ACSB. Not having this position filled has impacted the already excessive caseload per probation officer that existed prior to the pandemic, and has reduced the amount of time spent with probationers to effectively complete and implement case plans, conduct home and field visits, and perform the necessary collaborative work to reduce the risk of recidivism.

(4) Fifth Circuit (2 positions - \$115K FY 2024; \$120K FY 2025)

Restoration funding is being requested for a Court Documents Clerk III position assigned to the Legal Documents Branch and a Social Worker IV position assigned to the Pre-sentence investigation (PSI) Unit.

Without the Court Documents Clerk III, the remaining two Court Documents Clerks have struggled to handle their workload, especially if one person is out on extended leave. Further, workload has been increasing as it returns to more normal operations after COVID, and a small and short staffed circuit like Fifth makes it difficult to pull people and get assistance from elsewhere. Refunding this position would help go a long way to ensure timely, efficient, and effective court operations.

The PSI Unit to which the defunded Social Worker IV position belongs is responsible for preparing detailed diagnostic reports prior to sentencing individuals for their offenses, making recommendations to the judge for sentencing, preparing files and processing documents for mental health evaluations, and investigating interstate compact and intrastate transfer cases. Preparing these diagnostic reports takes eight to twelve weeks, and the number of these reports needed and being



prepared are gradually approaching pre-COVID numbers. So, refunding this position is essential to help address increasing workload demands, and possibly allow for a further increase in the number of PSI reports assigned, the shortening of the periods between convictions and sentencing dates, and the administration of justice more efficiently and effectively.

- (5) Office of Public Guardian (OPG) (3 Positions - \$191K FY 2024; \$199K FY 2025)

Restoration funding is being requested for two defunded OPG Social Worker IV positions, one located on Oahu and the other for the Island of Hawaii, and for a defunded OPG Account Clerk III position.

OPG personnel are court-appointed to serve as public guardians for incapacitated personnel and to make informed decisions and safeguard the rights, dignity, humanity, and quality of life for these persons. Loss of funding for the Social Worker IV position on Oahu has significantly increased the workload for the remaining social workers, with the higher caseload adversely affecting each social worker's ability to provide oversight and ensure the welfare and safety of each person. Restoring funding for the Oahu Social Worker IV position would reduce caseload from 100 cases per Social Worker IV to a more manageable 85 cases.

Loss of funding for the one Social Worker IV position on Hawaii Island eventually required a reallocation of funding for this position from other OPG areas to ensure coverage for the 53 wards in this county, but this has resulted in a funding deficit in other program areas. The Account Clerk III position is needed and important to assist the OPG Guardian Resource Specialist who is the only financial handler for 400 OPG accounts.

The OPG Account Clerk III position assists in investigating and recovering assets for the wards, applying for benefits, and paying their bills. If for some reason, the Resource Specialist could not perform his/her duties and the Account Clerk III position remains unfilled, it could lead to a loss of placements, entitlements, and benefits for OPG wards and possible homelessness.

Our last grouping of requests are unrelated but are very important, and in two of the three instances, "must pay" items for the Judiciary. The first request is for \$565K in FY 2024 and \$754K in FY 2025 to fund salaries for the justices and judges at the mandated pay levels set by the 2019 Commission on Salaries and approved by the 2019 Legislature. Secondly, \$600K is being requested for FY 2024 to replace the Judiciary's 4Gov accounting system which is near the end of its useful life, has breakdowns and critical functional deficiencies, and is no longer well supported by the vendor. The last request is for funding for risk management as we have been informed by



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DAGS that our share of the risk management program for the State will increase by \$260K for FYs 2024 and 2025.

Capital Improvement Project (CIP) requirements remain a major item of concern as the Judiciary's infrastructure continues to age and deteriorate. CIP funds totaling \$16.2 million are being requested to address certain critical needs, some of which relate to the health and safety of Judiciary employees and the public. Specifically, the Judiciary is requesting funds for non-position related furniture, fixtures, and equipment for the new Wahiawa Courthouse scheduled to open in Spring of 2025; and for Ka'ahumanu Hale in First Circuit to upgrade and modernize its elevators which are some 39 years old, obsolete, break down and malfunction with greater frequency, and for which replacement parts are almost impossible to find. Funding is also needed to address condensate discharge matters at Hoapili Hale in Second Circuit; complete the reroofing and related improvements at Pu'uohonua Kaulike in Fifth Circuit; and continue air conditioning replacement work at Ali'iolani Hale, where the current system is very old, has led to numerous trouble calls, and contributes to air quality issues and excessive humidity in some locations. Lastly, we are requesting lump sum monies to allow the Judiciary to address both continuing and emergent building issues statewide.

The attached document provides a prioritized listing of our CIP requests, and 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 House Bill No. 382, the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.



Hawai'i State Judiciary

CIP REQUESTS

FY 2024

CIP Requests for FY 2024



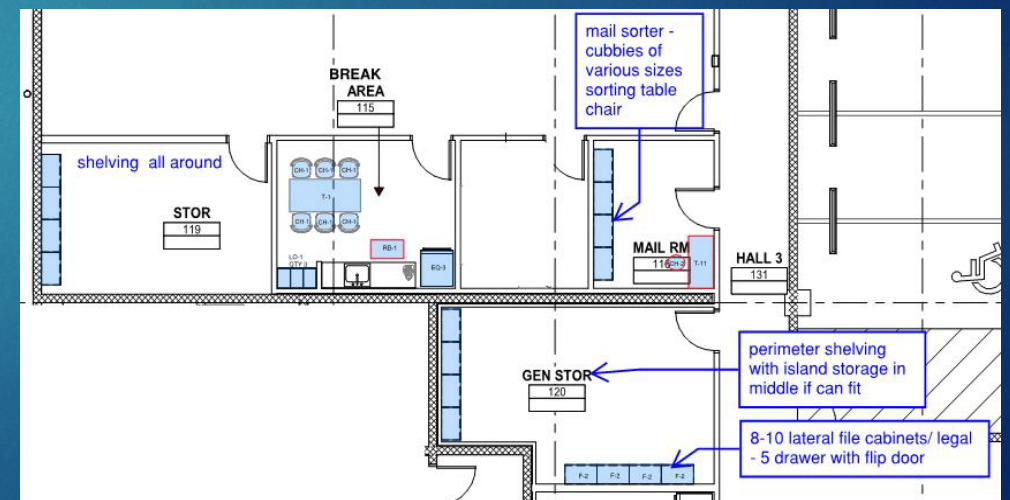
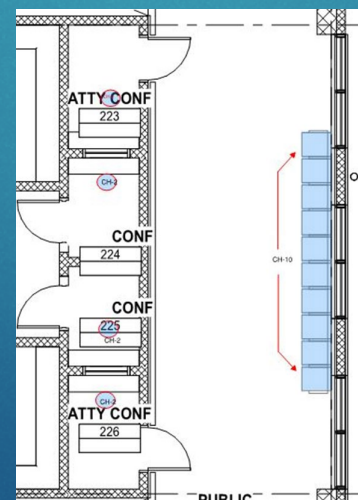
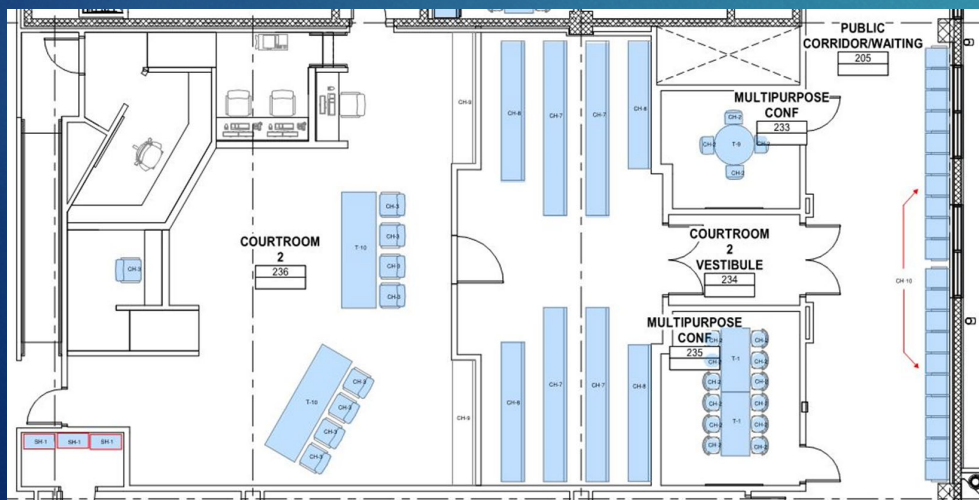
Priority	Circuit	Request	FY 2024
1	First Circuit	Wahiawā District Court – Acquire and install furnishings and equipment (not related to positions) for the new district courthouse on O‘ahu.	\$775K
2	First Circuit	Ka‘ahumanu Hale – Replace two (of eight remaining) obsolete elevators to ensure safety of public and employees and comply with code and ADA.	\$5m
3	Fifth Circuit	Pu‘uhonua Kaulike – Remaining phase to complete replacement of leaking courthouse roof to extend its useful life and preserve the value of the entire building asset.	\$4.15m
4	Administration	Ali‘iōlani Hale – Continue critical replacement of parts of existing A/C system that currently contribute to air quality issues and cause numerous service calls. The rapidly failing system, of which nearly every component ranges in age from 35–45 years, is long past the expected useful service life of 15–25 years.	\$3m
5	Second Circuit	Hoapili Hale – Plan and design redirection of A/C condensate discharge from wastewater system to a Maui County Code compliant outflow.	\$300K
6	Administration	Lump Sum CIP – Continue to address the widespread upkeep of Judiciary facilities, and any emergency repairs or maintenance issues.	\$3m
Total			\$16.225m

#1: First Circuit - Wahiawā District Courthouse Furniture and Equipment



The new Wahiawā courthouse will need to be fully and appropriately furnished prior to opening to ensure we are able to serve the public effectively.

- As part of a larger project, new Wahiawā courthouse has been designed, put out to bid, and a construction contract has been awarded.
- The courthouse is anticipated to be open in Spring 2025.
- The new courthouse will include two (2) District Court courtrooms.
- This request is for bond-fundable furnishings, which are not position-related. See *highlighted illustrations below*.



#2: First Circuit – Ka‘ahumanu Hale Replacement of Two Elevators



Replacement of these two elevators is the next stage of a comprehensive fire alarm system and elevator modernization project to ensure safety of public and employees, and comply with code and ADA requirements.

- ▶ A prior year appropriation is funding replacement of the fire alarm system and providing elevator system upgrades. The fire alarm system is being replaced before elevator system modernization can occur.
- ▶ The existing elevators at Ka‘ahumanu Hale are obsolete and prone to fail. They pose a danger to building users as they frequently go offline, often with occupants stuck inside the cabs.
- ▶ We are prioritizing replacing elevators with greatest consequence of failure.
- ▶ We intend to methodically address the deficiencies in the elevator system until all nine (9) elevators have been replaced, in order to improve safety and reliable building access at Ka‘ahumanu Hale.

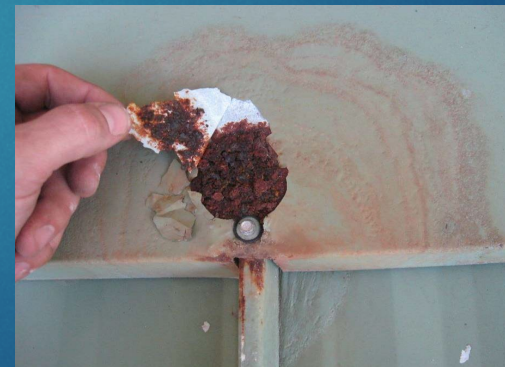
#3: Fifth Circuit - Pu‘uhonua Kaulike Replacement of Leaking Courthouse Roof (Phase 3 of 3)



- ▶ This project will renovate the building roof, which has experienced significant environmental degradation related to harsh weather conditions and construction/material deficiencies.
- ▶ The full scope of work was planned to be accomplished in three phases, with prior funding provided for the first two phases in FY 2017 and FY 2018. This request is for the third and final stage to complete the project.
- ▶ Completing this project will greatly extend its useful life and preserve the value of the entire building asset.
- ▶ In addition, it will remove sources of potential health risks related to mold growth and safety hazards related to slips and falls. It will add access and fall protection features that will make construction inspection feasible and future maintenance and repair doable and safe.



Moderate to severe corrosion of flashing.



Corrosion of underlying ferrous metal.



Unsecured and unsealed lap seam in expansion joint.

#4: Administration – Ali‘iōlani Hale Air Conditioning Replacement of Critical Parts



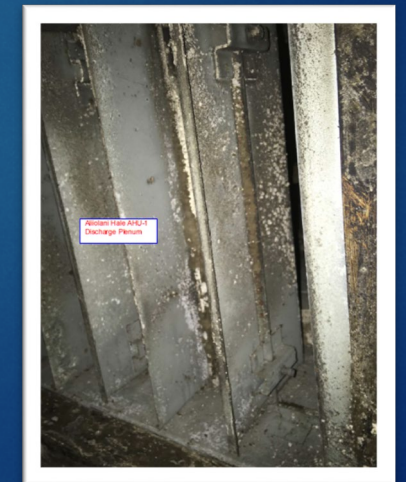
- ▶ Continue critical replacement of failing A/C equipment at Ali‘iōlani Hale. Nearly all of the equipment is between 35 – 45 years old, well past the expected useful service life of 15 – 25 years.
- ▶ The full scope of this project will be accomplished in phases, with prior funding provided for the first phase in FY 2023.
- ▶ Since 2013, at least three mold assessments and subsequent remediations of the A/C system have had to be completed. The deficiencies in the A/C system were identified as the cause of the poor air quality and mold issues.
- ▶ The poor air quality and mold issues caused by the inadequate A/C system pose an ongoing risk to the health and safety of Judiciary employees. Concerns of prolonged illness and respiratory symptoms have been reported by building occupants.



Fan Wheel without Fan Blades (rusted off)



Discharge Duct

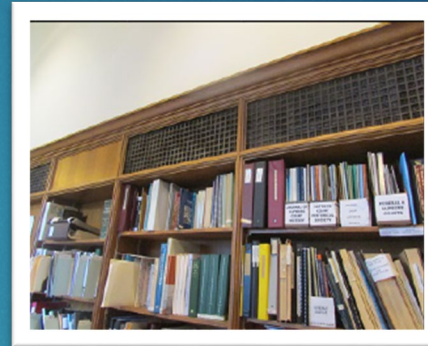
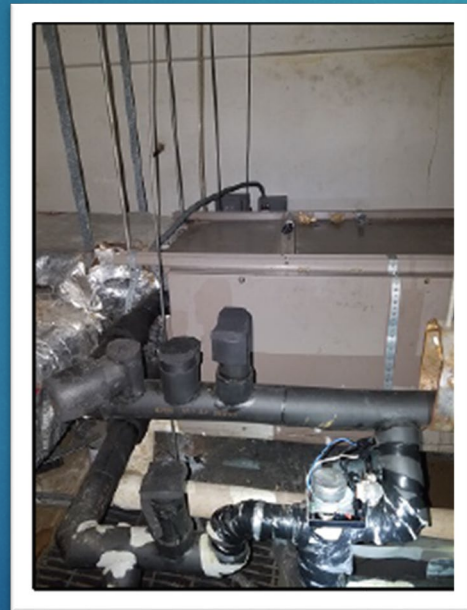


Discharge Plenum

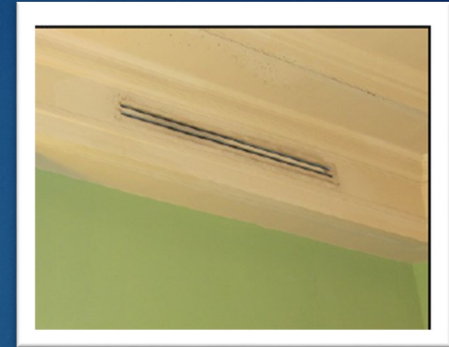
#4: Administration – Ali‘iōlani Hale Air Conditioning Replacement of Critical Parts



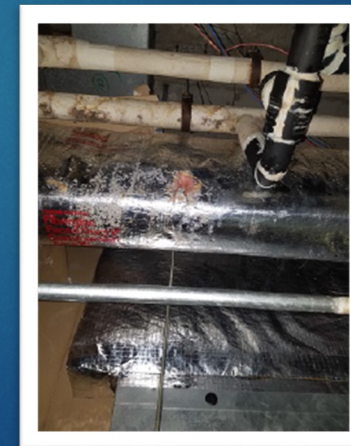
Additional examples of aging A/C system.



Sidewall Register



Linear Diffuser



Wrapped Duct Work

#5: 2nd Circuit – Hoapili Hale A/C Condensate Discharge Remediation



Plan and design redirection of A/C condensate discharge from wastewater system to a Maui County Code compliant outflow.

- ▶ This project will be completed in phases. This initial request is for planning and design funds.
- ▶ The full scope of the project is to bring the AC condensate discharge system into compliance with current requirements of Maui County Code, requirements that have changed since the time the building was built and further developed.
- ▶ Maui County has notified Judiciary that failure to make progress toward correcting the drainage will delay other future permits for the building.

#6: Administration – Lump Sum CIP



\$3M for FY 2024 to continue to provide the Judiciary with the flexibility to address ongoing and urgent building issues statewide as they arise.

HB-382

Submitted on: 2/9/2023 5:58:30 AM

Testimony for JHA on 2/10/2023 2:00:00 PM

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

Comments:

Chair: Hon. David A. Tarnas, Chair

Vice Chair: Hon. Gregg Takayama, Vice Chair

Committee: House Committee on Judiciary and Hawaiian Affairs

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Friday, February 10, 2023

Hearing Time: 2:00 p.m.

Place: Via Videoconference

Conference Room 325

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

House Bill: HB No. 382

Position: Support of HB 382 Relating to The Judiciary

Dear Chair Tamas and Members of the House Committee on Judiciary and Hawaiian Affairs:

The Hawai'i Access to Justice Commission (Commission) supports House Bill 382, the Bill that appropriates funds for the Judiciary for the fiscal biennium beginning July 1, 2023. Specifically, the Commission supports the funds requested for the purchase of civil legal services for low- and moderate-income persons, and guardians ad litem and court-appointed counsel in family court cases.

Several non-profit organizations provide critical civil legal services to persons who cannot afford a lawyer. The inability to access essential civil legal services can often lead to long-term consequences. Undoing the damage done by the inaccessibility to civil legal services is costly, both for the individual and society in general. The impact on the community is both social and economic.

Additionally, funding for guardians ad litem and court-appointed counsel in family court cases is essential. Children and adults who are parties to family court cases need these services to achieve successful outcomes. These services also serve the best interests of society because addressing serious family issues in the present is far more effective than doing so years later when it is often too late to undo the harm inflicted during childhood.

Thank you for the opportunity to present this written testimony.

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

Appellate Section Hawaii State Bar Association

Hearing on H.B. No. 382, Relating to the Judiciary
February 10, 2023, at 2:00 p.m.

House Committee on Judiciary and Hawaiian Affairs
Honorable David A. Tarnas, Chair
Honorable Gregg Takayama, 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. 382. 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. 382 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. Now on the backside of the pandemic, courts are servicing the public in greater numbers than ever before by continuing to provide both virtual appearance options as well as in-person hearings. With such increased demand, maintenance of judiciary facilities is imperative.

Thank you for the opportunity to testify in **strong support** of H.B. 382.

On behalf of the Appellate Section Board:
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.



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

M. Nalani Fujimori Kaina, Esq.
Executive Director

TESTIMONY ON HB382

Committee on Judiciary & Hawaiian Affairs

Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice-Chair

February 10, 2023 at 2:00 p.m.

The Legal Aid Society of Hawaii submits testimony in strong support of HB38282 – Relating to the Judiciary. We are grateful for the support of the legislature for their past support of general civil legal services in the Judiciary budget and also write in support of making the restoration and increase in Guardian ad litem and Parent Counsel funding permanent.

In January 2021, guardian ad litem contracts in the First Circuit were cut by 40%, retroactively to July 1, 2020. These cuts were devastating and in doing so, many experienced guardian ad litem providers chose to leave this practice area and also impacted the ability for providers like us to provide these services. Additional cuts in other circuits, also led to the departure of attorneys willing to serve in these roles.

With the support of the legislature, in FY23, this funding was restored and an increase was provided which has significantly assisted in the maintenance and recruitment of guardian ad litem providers. We ask that the legislature make this funding permanent.

Guardian ad litem contracts provide a critical piece in ensuring the safety of children in child welfare cases by providing an independent fact finder in child welfare cases whose sole interest is the welfare of the child as required by state and federal law.

Parent counsel is also critical to ensuring that the fundamental right of parents to raise their children is also preserved. Parent counsel can play a critical role in not only helping to assert the rights of parents when a child is wrongfully removed, but also to counsel parents to enter treatment, counseling or other services in order to reunify with their children. When done right with the right support and done with compassion, we've seen amazing changes and growth in parents who are now able to provide safe family homes for their children.

For over 20 years, Legal Aid has been providing guardian ad litem and parent counsel services across the state, assisting close to 4,000 children in the child welfare system and representing over 500 parents.

Thank you for this opportunity to provide testimony.

Sincerely,

M. Nalani Fujimori Kaina
Executive Director

Angela Lovitt
Deputy Director

Hearing Date: Friday, February 10, 2023, 2:00 p.m.

Committee on Judiciary and Hawaiian Affairs

Submitted by The Mediation Center of the Pacific, Inc.

HB382 – Judiciary Package, Appropriations, Budget

To: Chair David Tarnas, Vice-Chair Greg Takayama, and members of the committee

The Mediation Center of the Pacific supports HB382 to increase the Judiciary’s Budget, including increasing the contract for Statewide Dispute Resolution services by \$85,000. The community mediation centers supported by the funding from the contract provide critical services for Hawaii’s communities by helping people prevent and resolve conflicts involving landlords and tenants, families, co-workers, neighbors, and more.

Mediation Centers of Hawaii (MCH) is a statewide nonprofit organization whose mission is to educate and empower the people of Hawaii to resolve conflicts peacefully by providing high-quality, accessible dispute resolution services. MCH serves the people of Hawaii through the collaboration of five Community Mediation Centers located throughout the State: KEO Mediation Program of Kauai Economic Opportunity (Kauai); Ku’ikahi Mediation Center (Hawaii); The Mediation Center of the Pacific (Oahu); Mediation Services of Maui doing business as Maui Mediation Services (Maui); and Big Island Mediation Center doing business as West Hawaii Mediation Center (Hawaii). For the past thirty-two years, through these Centers, MCH has provided the people of Hawaii with neutral, alternative dispute resolution (ADR) services which create opportunities for early, party-driven, efficient, and fair resolution of conflicts, and promote[s] the use of ADR as an effective means of resolving appropriate disputes without litigation.

The work of MCH helps to reduce the courts’ workload while promoting fairness and prompt action. Over the past three fiscal years (FY 19-22), MCH has reduced the courts’ workload by opening an average of 4,750 cases a year, an increase of 1,200 cases from the previous 3 years, and serving an average of 11,300 clients, an increase of over 4,000 clients from the previous 3 years. 42% of those cases were referred to the respective Centers by the various courts in their circuits.

The work of MCH is supported by a Contract with the Judiciary that has decreased over the years, despite an ever-increasing number of requests for mediation and referrals from the courts for services. In 2009 due to the great recession, the MCH contract was reduced by 20% from \$485,000.00 to \$400,000.00. The allocations to each of the five centers that comprise MCH were commensurately reduced by 20% as well. These funds were never restored, although services provided by the centers continued to increase, particularly over the past three years, necessitating increase staffing, office space, mediator recruitment, and training.

Under the terms of the contract with the Judiciary, MCH is expected to provide services for approximately 3,100 cases, involving 2,075 mediation sessions, and 5,620 mediator hours. During this past year, FY2122, MCH not only maintained the provision of quality services to the courts and communities throughout the State by providing both on-site and off-site mediations in person as well as remotely via videoconference, MCH exceeded the targeted goals of the contract by more 60%.

In FY2122, a total of 7,638 cases were served during the year, representing an increase of 2,899 cases from the prior fiscal year (FY2021) and exceeding the contract goal by 4,538 cases including: opening 7,154 new cases, an increase of 2,734 new cases from FY2021; conducting 3,361 mediations, an increase of 1,897 mediations from FY2021; and conciliating 81 cases, an increase of 56 cases from FY2021. In addition, 4,081 mediation sessions were conducted in FY2122, representing an increase of 2,268 sessions from the prior year FY2021 and exceeding the contract goal by 2,006 sessions, involving 12,993 mediator hours, an increase of 3,249 mediator hours from FY2021 and exceeding the contract goal by 7,373 hours.

The above data reinforces the need for community mediation and the important role that the MCH centers play in Hawaii's communities. To support this work and ensure mediation is available for all, the \$85,000 needs to be restored to the MCH contract. The Mediation Center of the Pacific respectfully requests that you pas HB382.

Mahalo for the opportunity to testify.



Tracey S. Wiltgen
Executive Director
The Mediation Center of the Pacific, Inc



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Ku'ikahi Mediation Center is a 501(c)(3) nonprofit organization, donations to which are tax-deductible. We welcome your support!

February 9, 2023

Testimony to the House Committee on Judiciary and Hawaiian Affairs
Friday, February 10, 2023, 2:00 p.m.
Conference Room 325 & Videoconference

RE: Support of HB 382, Relating to the Judiciary

Dear Chair Tarnas, Vice Chair Takayama, and members of the Committee on Judiciary and Hawaiian Affairs:

Ku'ikahi Mediation Center strongly encourages you to support HB 382 to increase the Judiciary's budget, including increasing the contract for Statewide Dispute Resolution services by at least \$85,000.

The Judiciary contract for Statewide Dispute Resolutions services via Mediation Centers of Hawai'i (MCH)—of which Ku'ikahi is one of five members—has remained unchanged at \$400,000 for the past 14 fiscal years, since FY 2009-2010. Previously, the contract was for \$485,000. We are requesting that, at a minimum, the contract be restored to its FY 2008-2009 level of \$485,000.

According to the U.S. Bureau of Labor Statistics CPI Inflation Calculator, \$400,000 in 2009 dollars would equal \$550,000 in 2022 dollars. And \$485,000 in 2008 dollars would equal \$650,000 in 2022 dollars. Thus, the restoration of the contract to at least \$485,000 for FY 2023-2024 is an extremely modest request.

Even as the MCH Judiciary contract amount has stayed flat for 14 years, all costs associated with running our five non-profit community mediation centers (e.g., staff, mediator training, rent, supplies, telecommunications, etc.) have risen exponentially. Whereas in FY 2009-2010 the MCH Judiciary contract covered about 40% of the five mediation centers' expenses, in FY 2021-2022 that same \$400,000 contract covered only about 15% of these ever-rising expenses.

Ku'ikahi Mediation Center's new cases opened count for the fiscal year 2021-2022 (513) was higher than any other year, followed by fiscal year 2012-2013 (507) during the Foreclosure Mediation Pilot Project in the Third Circuit, and by fiscal year 2020-2021 (505) during the first year of the coronavirus pandemic and when we were running the Rapid Response Landlord Tenant Mediation Program.

Founded in 1983 as a program of the Island of Hawai'i YMCA, and becoming an independent organization in 2006, Ku'ikahi Mediation Center has a 40-year track record of providing conflict prevention and resolution services to our diverse



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Kaitlyn Lacombe

communities. We are the sole non-profit mediation center serving East Hawai'i, and one of only five in the state. Our purpose is "Finding Solutions, Growing Peace."

Ku'ikahi's mission statement reads, "We empower people to come together—to talk and to listen, to explore options, and to find their own best solutions. To achieve this mission, we offer mediation, facilitation, and training to strengthen the ability of diverse individuals and groups to resolve interpersonal conflicts and community issues."

Mediation is an empowerment process that promotes self-determination in the face of life's most challenging situations: divorce, child custody, debt, eviction, and more. Mediated resolutions tend to be long lasting and help to improve relationships, promote understanding, and strengthen our community. The Judiciary and the Third Circuit judges strongly support mediation not only because it diverts cases from their overloaded dockets, but also because it lets people decide their own fates and resolve extra-legal issues that the court cannot address (e.g., accessing rental assistance, negotiating payment plans, mending neighborly relations, etc.).

Mediations are provided on an affordable sliding scale, with no one turned away for lack of funds. Between 50-60% of Ku'ikahi's mediation clients have annual household incomes of under \$20,000 and are eligible for free services. Census data shows that the Ka'u and Puna districts, which are among those we serve, house some of the poorest populations in the state. Sample opportunities include: 1) domestic mediations to help parents put kids first after separations and divorces, 2) debt meditations for credit cards or medical bills to negotiate debt reduction, payment plans, or forgiveness due to hardship, and 3) landlord/tenant mediations to prevent eviction and homelessness.

Local non-profit legal services and court self-help centers receive more inquiries than they can process. Mediation is integral to Hawai'i's "Access to Justice" framework, which strives to ensure that all people have access to civil processes.

We strongly urge you to pass this legislation and increase the contract for Statewide Dispute Resolution services by at least \$85,000. Thank you for reading this testimony.

Mahalo,

Julie Mitchell
Executive Director

a partner agency of the



Ku'ikahi Mediation Center is a 501(c)(3) nonprofit organization, donations to which are tax-deductible. We welcome your support!

Trever Asam
Board President

Rachel Figueroa
Executive Director



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**TESTIMONY IN SUPPORT OF H.B. 382
RELATING TO THE JUDICIARY**

Committee on Judiciary & Hawaiian Affairs – February 10, 2023 2:00 p.m.

CHAIR TARNAS, VICE CHAIR TAKAYAMA AND MEMBERS OF THE COMMITTEE
ON JUDICIARY & HAWAIIAN AFFAIRS:

Volunteer Legal Services Hawaii supports the passage of H.B. 382.

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-two 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 2022, with only a staff of 8, Volunteer Legal Services Hawaii qualified over 900 individuals. Volunteer Legal Services provided legal checkups, educational presentations, clinics, brief services and/or full representations. Nineteen percent (19%) of those helped are homeless or at the risk of being homeless, 21% of those helped suffer from domestic violence, 1% of those helped were veterans, 26% of those helped are disabled, and 15% of those helped were aged 60 and over. If not for Volunteer Legal Services Hawaii, these individuals would have otherwise gone without legal help.

Volunteer Legal thanks the committee for the past support of legal services in the judiciary budget.

We respectfully request your passage of H.B. 382. Thank you for this opportunity to provide testimony.

Sincerely,
Rachel Figueroa, Executive Director



TESTIMONY

House Committee on Judiciary & Hawaiian Affairs
Hearing: Friday, February 10, 2023 (2:00 p.m.)

TO: The Honorable David A. Tarnas, Chair
The Honorable Gregg Takayama, Vice Chair

FROM: Rhonda Griswold
HSBA President

RE: House Bill No. 382
Relating to the Judiciary

Chair Tarnas and members of the House Committee on Judiciary & Hawaiian Affairs, the Hawaii State Bar Association appreciates the opportunity to offer testimony in **STRONG SUPPORT** of House Bill No. 382, which sets forth the biennium budget requested by the Hawaii State Judiciary.

As Hawaii moves into an optimistic “endemic” phase after facing health and safety challenges of a historic magnitude, we understand that the Legislature, the Executive, and the Judiciary will be called upon to refocus efforts to continue and perhaps expand programs created to pivot in a time of crisis, and to restore budget restrictions where funds were diverted to meet immediate emergency needs. We have been informed that the State Judiciary accounts for approximately 2% of the overall State budget, and over the past decade the Judiciary’s share of the State budget has decreased even before the Covid pandemic. We believe the Judiciary has been and continues to be fiscally responsible.

Recent reports from community agencies and organizations indicate that there will be a greater need for judicial services for the upcoming biennium. There appears to be an unfortunate increase in criminal citations and complaints. The civil courts must now work through a backlog of cases which accumulated as criminal matters needed to be resolved first necessitating the deferral of certain commercial and personal disputes. The Judiciary’s proposed biennium budget helps to ensure that it can meet these challenges.

GENERAL FUNDS APPROPRIATIONS

Significant items of interest:

- One new First Circuit, District Court judicial position and three support staff to provide stability and continuity in rural courts. (FY24 \$361,000 & FY25 \$360,000)
- Restore funding for one First Circuit, Circuit Court position. (FY24 \$215,000 & FY25 \$217,000)

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- Restore funding for judicial positions in the Second Circuit (one District Court, one District Family Court, and one Per Diem. (FY24 \$447,000 & FY25 452,000)
- Funding for Court appointed counsel and Guardian Ad Litem to continue services. (FY24 \$2.3m & FY25 \$2.3m)
- Funding for residential furlough, drug treatment, therapeutic community, and mental health programs for women and children to continue services. (FY24 \$200,000 & FY25 \$200,000)
- Restore funding for essential staff on all Islands (ex: social workers, clerical support, probation officer and IT support)

CIP APPROPRIATIONS

Significant items of interest:

- First Circuit: Wahiawa District Court. (\$775,000)
- First Circuit: Kaahumanu Hale replacement of two obsolete elevators. (\$5m)
- Fifth Circuit: Puuhonua Kaulike phase 3 of 3 for replacement of leaking roof. (\$4.15m)
- Administration: Aliiolani Hale replacement of parts for air conditioning system. (\$3m)
- Second Circuit: Hoapili Hale plan and design for redirection of air condition condensation discharge from wastewater system for Maui County Code compliance. (\$300,000)
- Administration: lump sum CIP to meet repair and maintenance needs, including emergency issues. (\$3m)

The Judiciary 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 disputes which tear at the fabric of their household. Business owners and entrepreneurs rely on the Judiciary to resolve contract or insurance issues 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 speedy trial constitutional rights, and the government must have an opportunity to present its case on behalf of the public.

Thank you for the opportunity to submit these comments in **STRONG SUPPORT** of House Bill No. 382.

Hearing Date: Friday, February 10, 2023, 2:00 p.m.

Committee on Judiciary and Hawaiian Affairs

Submitted by Mediation Services of Maui, Inc.

HB382 – Judiciary Package, Appropriations, Budget

To: Chair David Tarnas, Vice-Chair Greg Takayama, and members of the committee

Mediation Services of Maui, Inc. (MSM) supports HB382 to increase the Judiciary's Budget, including increasing the contract for Statewide Dispute Resolution services by \$85,000.

MSM is one of five community mediation centers across the state collectively known as the Mediation Centers of Hawaii (MCH). Our organization provides effective conflict resolution services through professionally trained mediators. Our process allows participating parties to develop their own best resolutions to conflict in a time-efficient, cost-efficient manner.

MSM is financially supported by a contract that MCH has with the Hawaii Judiciary. The provision of our services significantly reduces the caseload of Hawaii's Second Judicial Circuit. During the fiscal year 2019-2020, 55% of the mediation cases served were referred from Maui County Courts. The following year 56% of our cases were referred from Court. During the fiscal year 2021-2022 MCH played a vital role in stemming the tide of homelessness by providing eviction prevention mediations. Mediation Services of Maui served 1030 cases that year, 699 of which involved landlord/tenant disputes.

The request for our services is great and continues to grow. Our District, Family and Small Claims Courts routinely refer litigants in ever-increasing numbers, and our Judges have shared just how much they appreciate the work that we do. Yet the financial support received from the judicial contract has remained the same for fourteen years.

Routinely, parties who previously have made numerous court appearances completely resolve their disputes the first time they mediated. It is our hope that community mediation continues to have your support and that our services remain available to all. To that end, Mediation Services of Maui respectfully requests that you pass HB382

Thank you for your consideration.

Sincerely,



Bevanne J. Bowers

Executive Director

Mediation Services of Maui, Inc.

Testimony

by

MaBel Ferreiro Fujiuchi

Chief Executive Officer

Kauai Economic Opportunity, Incorporated (KEO)

HB 382

Friday, 2/10/23

to

Committee on Judiciary and Hawaiian Affairs

--Chairperson Representative David A. Tamas, Vice Chair Representative Gregg Takayama, and Committee Members

Good Afternoon Chairperson Tamas, Vice Chairperson Takayama and Members of the Committee:

First, I want to thank you for all of the most important work that you do. Your work affects so many in such great ways addressing vital needs. I want to also express my gratefulness for the many years(decades!) you have allowed me to testify before the Legislature resulting in immeasurable positive outcomes.

My name is MaBel Ferreiro Fujiuchi, Chief Executive Officer of Kauai Economic Opportunity, Incorporated, (KEO), and I come before you to testify in support of HB 382 and in particular in the support of the funding of the Mediation Programs through the Mediation Centers of Hawaii.

Kauai Economic Opportunity, Incorporated (KEO) is the statutorily designated Community Action Agency for Kauai County established in 1965. KEO, has since 1965, provided many services addressing individual and community needs including employment, education for pre school aged to adults, housing, homeless programs, transportation, drug prevention, health, nutrition, outreach, community organization and planning, and many more programs and projects. KEO currently provides services for approximately 3500 individuals annually on Kauai in the areas/programs such as Homeless Emergency and Transitional Shelters, Transitional Housing, Group Homes, Homebound and Congregate Meals for Elderly, Persons in Needs funds, Energy and Weatherization Services, Health Equity Education and Mitigation Services in response to COVID 19, Food and Nutrition, Special Projects, and MEDIATION of which I want to highlight today in my Testimony. KEO administers Federal, State, County and Private funding sources to support all of its programs and it is the State Funds through the Judiciary that I want to garner your support of.

KEO initiated its Mediation Program 40 years ago for the residents of Kauai in 1982 funded Federally via the Law Enforcement Administration Agency and has been able to continue the program in its present time, in a large part, through its partnership, collaboration and membership with the Mediation Centers of Hawaii (MCH). KEO was one of the Founding Partners of MCH 32 years ago which provided quality, stabilization, organization, education, training, and the strength of a statewide organization. The member Mediation Centers located on each of the major islands receive the benefits of MCH including the State of HI Judiciary Contract with MCH for Mediation Services. I understand that all of the membership centers also receive, by application, additional funding from other sources to supplement the funding received through the MCH contract in order to provide needed mediation services for the residents on each island. With all funding received, definitely appreciated and acknowledged, I believe there remain needs unmet with the level of funding received. Specifically, KEO applies for additional funds and receives funds from Kauai United Way, the Hawaii Justice Foundation, the Hawaii Travel and Lodging Tourism Association, donations, and fees from private clients commensurate with their income (fees are waived for economically disadvantaged).

Mediation is a vital need in the community to resolve disputes. As I know that the member MCH Mediation Centers do also provide, KEO provides Mediation Services both in Court, District Court of the 5th Circuit, and the Community at large. Community cases such as landlord/tenant (which recently included the need of the Eviction Diversion Mediation Services to prevent homelessness and promote humanness), employer/employee, family and domestic issues, neighbor disputes, business concerns, civil rights disputes, real estate and condominium disputes, and other disputes---in many cases alleviating the need of legal costs, are provided by KEO Mediation. Of high importance, it is my belief and of many of an accelerated level of understanding and documented research that Mediation is key to preventing escalated results of disputes which at the highest extreme could result in the ultimate loss of life! The process of mediation provides trained mediators, who in most cases are volunteers, assisting and aligning the disputes/disputants towards resolution in a neutral fair process. Specifically, in a year, KEO may serve 800 - 900 individuals in Mediation Services. The extended exponential results are immeasurable.

HB 382 allows for an increase or restoration of funds for the MCH Statewide Mediation Services, and I ask for your support of this bill.

I further support the testimony of Tracey S. Wiltgen, Executive Director of the Mediation Center of the Pacific, Inc. and the Chairperson of the Mediation Centers of HI addressing HB 382.

I thank you for the opportunity to present my testimony to you, humbly ask for your consideration and support of my request and am willing to respond to any questions and comments you may have vis a vis this issue. If I am unable to respond to you immediately, I will do so within 48 hours.

Thank you very much and I wish you and yours be and stay well.

MaBel Ferreiro-Fujiuchi

Chief Executive Officer

Kauai Economic Opportunity, Incorporated (KEO)

The Hawaii Court Bar Association, Attorney Stanly Roehrig

The HCBA supports House bill 382 relating to the judiciary. This bill appears to be both the operating budget and capital improvement budget for the fiscal biennium 2023- 2025.

The HCBA also supports the proposed allocation of staff for the various circuit and district courts as discussed. If the committee has any questions regarding the proposed detail as the HCBA understands them to be, Mr. Roehrig is prepared to comment on the committees questions.

HB-382

Submitted on: 2/9/2023 5:36:13 PM

Testimony for JHA on 2/10/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shauna Kamaka	Individual	Support	Written Testimony Only

Comments:

I support HB 382 to increase the contract for Statewide Dispute Resolution services by \$85,000. Their services are crucial and we appreciate the funds to help families in the State of Hawaii. Thank you for your consideration.