



The Judiciary, State of Hawai'i

**Testimony to the Thirty-Second State Legislature
2023 Regular Session**

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Friday, February 3, 2023, 9:30 a.m.
Hawai'i State Capitol
Conference Room 016 & Videoconference

by
Tom Mick
Policy and Planning Department Director

Bill No. and Title: Senate Bill No. 482, 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 Senate Bill No. 482, 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 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



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\$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 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 Senate Bill No. 482, 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



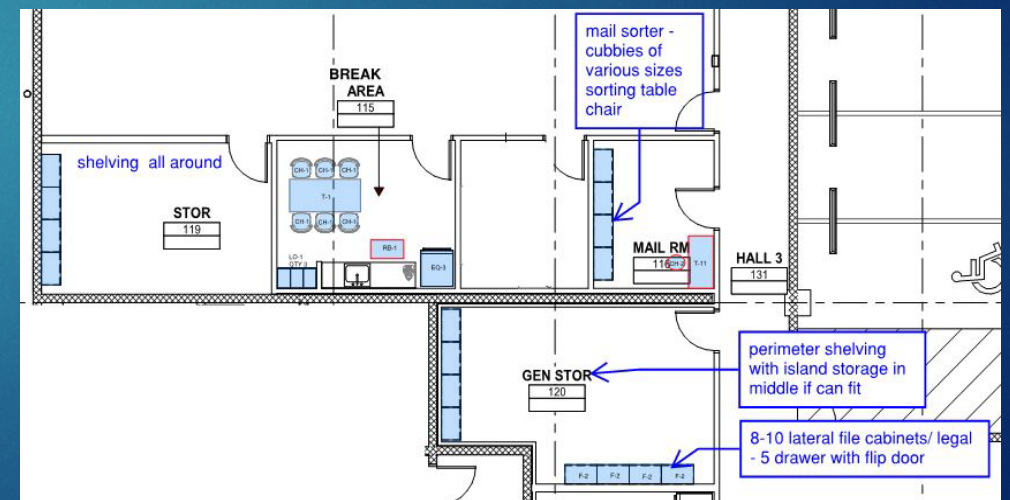
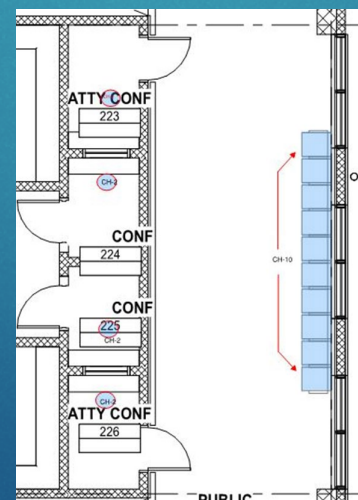
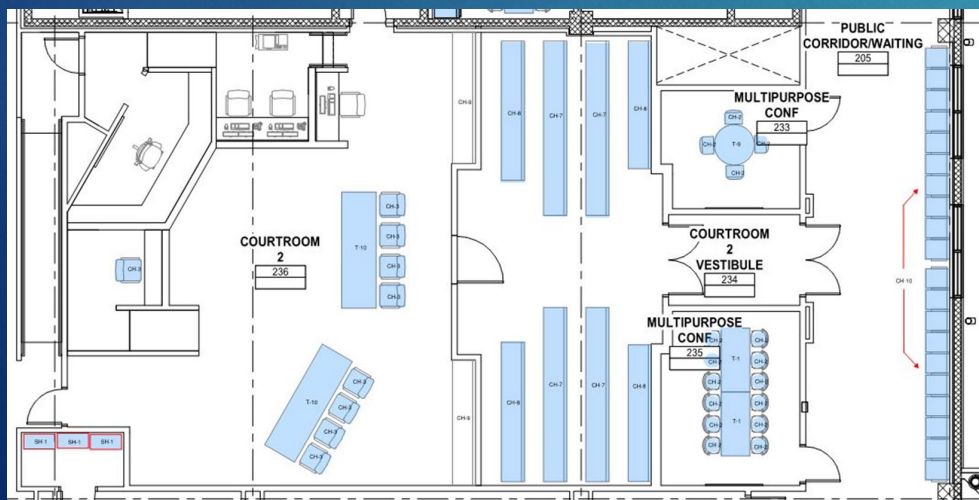
Priority	Circuit	Request	FY 2024
1	First Circuit	Wahiawā District Court – Acquire and install furnishings and equipment (not related to positions) for the new district courthouse on O‘ahu.	\$775K
2	First Circuit	Ka‘ahumanu Hale – Replace two (of eight remaining) obsolete elevators to ensure safety of 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.

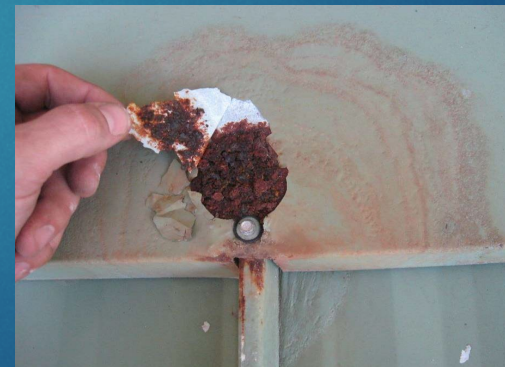
#3: Fifth Circuit - Pu‘uhonua Kaulike Replacement of Leaking Courthouse Roof (Phase 3 of 3)



- ▶ 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



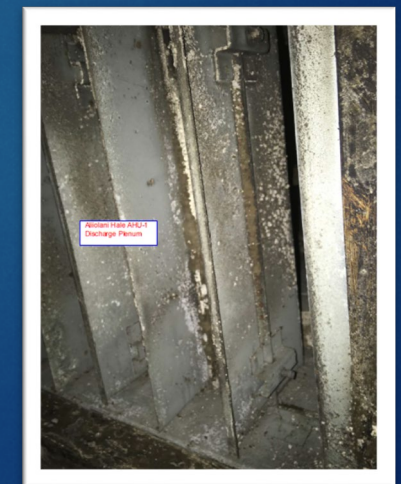
- ▶ Continue critical replacement of failing A/C equipment at Ali‘iōlani Hale. Nearly all of the equipment is between 35 – 45 years old, well past the expected useful service life of 15 – 25 years.
- ▶ The full scope of this project will be accomplished in phases, with prior funding provided for the 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

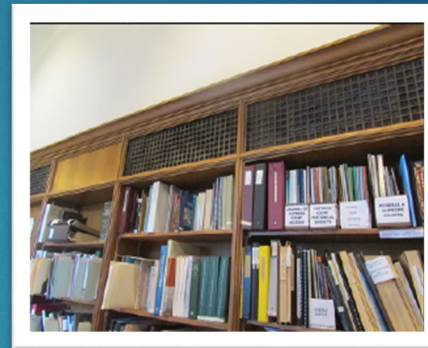
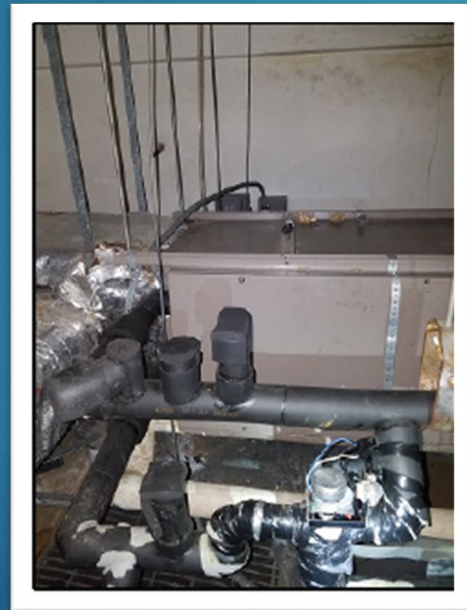


Discharge Plenum

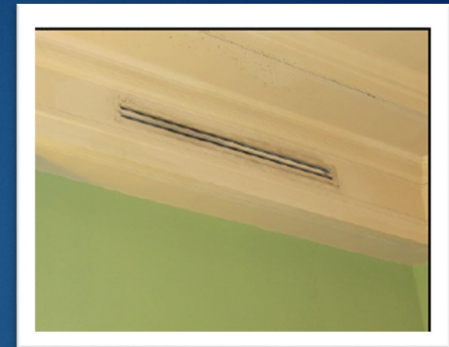
#4: Administration – Ali‘iōlani Hale Air Conditioning Replacement of Critical Parts



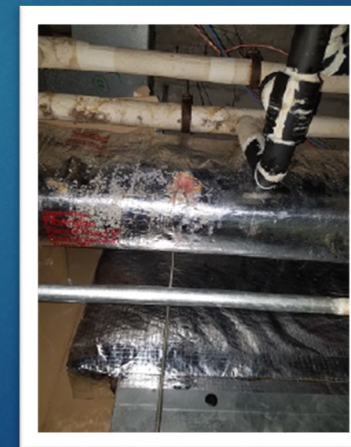
Additional examples of aging A/C system.



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.

SB-482

Submitted on: 2/2/2023 12:07:24 PM

Testimony for JDC on 2/3/2023 9:30:00 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. Karl Rhoads, Chair

Vice Chair: Hon. Mike Gabbard, Vice Chair

Committee: Senate Committee on Judiciary

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Friday, February 3, 2023

Hearing Time: 9:30 a.m.

Place: Conference Room 016 & Videoconference

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

Senate Bill: SB No. 482

Position: Support of SB 482 Relating to The Judiciary

Dear Chair Rhoads and Members of the Senate Committee on Judiciary:

The Hawai'i Access to Justice Commission (Commission) supports Senate Bill 482, 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.



TESTIMONY
Senate Committee on Judiciary
Hearing: Friday, February 3, 2023 (9:30 a.m.)

TO: The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair

FROM: Jesse K. Souki
HSBA President-elect

RE: Senate Bill No. 482
Relating to the Judiciary

Chair Rhoads and members of the Senate Committee on Judiciary, the Hawaii State Bar Association appreciates the opportunity to offer testimony in **STRONG SUPPORT** of Senate Bill No. 482, 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 in 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 Senate Bill No. 482.

Appellate Section Hawaii State Bar Association

Hearing on S.B. No. 482, Relating to the Judiciary
February 3, 2023, at 9:30 a.m.

Senate Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Mike Gabbard, Vice Chair

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

On behalf of our colleagues in the Hawaii State Bar Association's Appellate Section,¹ we write in **strong support** of S.B. 482. Members of the section are appellate practitioners, and we have a keen interest in the proper functioning of the State appellate courts and the State Judiciary as a whole.

S.B. 482 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 S.B. 482.

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.

SB-482

Submitted on: 2/2/2023 8:26:09 AM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnathan C. Bolton	Testifying for HSBA Litigation Section	Support	Written Testimony Only

Comments:

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

My name is Johnathan C. Bolton. On behalf of the Litigation Section of the Hawaii State Bar Association (“HSBA”) and its over 500 members, I am testifying in **strong support of SB482**, which would approve a proposed biennium budget for the Judiciary introduced at the request of the Chief Justice Mark Recktenwald. This bill outlines the appropriations sought for the judiciary from July 1, 2023 through June 30, 2025 in addition to a request for \$16,225,000 for capital improvement projects.

The Judiciary is made up of 1,700 dedicated and hard-working members.

Public service is the lifeblood of the Judiciary. The Judiciary’s role is to decide cases fairly and impartially in accordance with the law.

However, the Judiciary also implements programs to address the root causes of recidivism, such as drug use and mental illness, and to respond to other urgent community needs.

The pandemic created immense challenges to the Hawaii court system accustomed to conducting business in-person.

The Judiciary is requesting for its operating budget a modest increase of 4.4% in the coming fiscal year, and 4% the year after. Most critically, the Judiciary is seeking restoration of funding for more than 30 positions statewide that were de-funded early in the pandemic.

The Judiciary is also seeking a new district court judge in the First Circuit to provide stability and continuity for rural courts on Oahu, funding for programs in the community, including the new juvenile resource center at Hale Hilina’i, and funding for court-appointed counsel, guardians ad litem, and to permit children to stay with their mothers undergoing residential treatment.

The Judiciary’s capital improvement requests total \$16.225 million, summarized as follows:

- First Circuit Wahiawā District Court Furniture Fixtures & Equipment - \$775k
- 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

- Fifth Circuit Pu‘uhonua Kaulike – Phase 3 of replacement of leaking courthouse roof - \$4.15M
- 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 30–40 years, is long past the expected useful service life of 15–25 years - \$3M
- Second Circuit Hoapili Hale – Plan and design redirection of A/C condensate discharge from wastewater system to a Maui County Code compliant outflow - \$300K
- Administration Lump Sum CIP – Continue to address the widespread upkeep of Judiciary facilities, and any emergency repairs or maintenance issues - \$3M

These requests are needed to restore the services impaired by the pandemic, and to forge ahead with new initiatives to serve the community.

Thank you for the opportunity to testify in **strong support of SP482.**

Johnathan C. Bolton
Chair, HSBA Litigation Section



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

M. Nalani Fujimori Kaina, Esq.
Executive Director

TESTIMONY ON SB482

Committee on Judiciary

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice-Chair

February 3, 2023 at 9:30 a.m.

The Legal Aid Society of Hawaii submits testimony in strong support of SB482 – 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

Trever Asam
Board President

Rachel Figueroa
Executive Director



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**TESTIMONY IN SUPPORT OF S.B. 482
RELATING TO THE JUDICIARY
Committee on Judiciary – February 3, 2023 9:30 a.m.**

CHAIR RHOADS, VICE CHAIR GABBARD AND MEMBERS OF THE COMMITTEE ON JUDICIARY:

Volunteer Legal Services Hawaii supports the passage of S.B. 482.

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 provides 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 S.B. 482. Thank you for this opportunity to provide testimony.

Sincerely,
Rachel Figueroa, Executive Director

THOMAS D. FARRELL

Attorney at Law, LLLC. Certified Family Law Specialist*

Testimony Regarding SB482, Relating to the Judiciary
Committee on Judiciary
Sen. Karl Rhoads, Chair/Sen. Mike Gabbard, Vice Chair
Friday, February 3, 2023 9:30 a.m.

Good morning Chair Rhodes, Vice Chair Gabbard, and members of the committee.

I'm Tom Farrell and I have practiced law in Hawaii for forty-two years, the last twenty-eight of them almost exclusively in Family Court. I support SB 482, the Judiciary's budget bill, and I'd like to particularly highlight some of the provisions that would benefit the Family Courts of the various circuits.

First, I note that this year there are no significant CIP requests that are exclusive to Family Court. Perhaps that's good news.

Let me next address positions that were de-funded during the COVID pandemic and which the Judiciary is now asking to have restored.

On Oahu, there are two positions, a social worker and a court clerk, both to assist with domestic violence cases. I can tell you that the *Petition for Protection* calendar is probably the most used of any calendar in our courts. People need help writing petitions, the court needs clerks to expeditiously process them, and both sides in these cases deserve a prompt hearing. One common thing we see is that both parents will file cross-petitions naming the children as protected persons. When temporary orders are granted on both parties' petitions, children go into foster care until a hearing can be held, and that impacts the DHS foster care budget. So, moving these cases quickly may save the taxpayers more on foster board and emergency shelter costs than the salaries of a social worker and a court clerk.

Another request is for two courtroom clerks to assist Family Court judges. Generally, every Family Court judge has two courtroom clerks: one for the morning calendar, and one for the afternoon session. Does that mean that these folks are only working half a day? Absolutely not! The clerk who was in court all morning, spends the afternoon processing and filing orders, setting hearings, posting the minutes to the electronic filing system, and a myriad of other chores. If a clerk is in court all day, these things just don't get done.

On Maui, restoration funding is sought for one Family Court judge position. The legislature previously recognized that two judges are not enough for the Maui Family Court when it originally funded this position, and that is still the case today.

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*Certified by the National Board of Trial Advocacy. The Supreme Court of Hawaii grants Hawaii certification only to lawyers in good standing who have successfully completed a specialty program accredited by the American Bar Association.

On Hawaii Island, there are two Family Court clerk positions that are sought to be restored. One is a clerk that will assist with processing *Petitions for Protection*, and I don't need to repeat how vital that is. The other will clean up the mess in the Waimea courthouse, where minutes haven't been posted to the electronic filing system for months. This is a real problem, because judges and lawyers rely on the clerk's minutes to understand what is going on in a case and to draft orders.

On Kauai, there is a request to re-fund another clerk position to handle legal document processing, primarily for Family Court. At long last, electronic filing came to Family Court in 2022, but it requires clerks to actually monitor and act on electronic filings.

While it is not directly related to Family Court, I'd like to mention the restoration of defunded positions in the Office of Public Guardian. Many years ago, I served as a deputy attorney general, and one of my assignments was adult abuse and neglect. The creation of OPG was enormously helpful in dealing with incapacitated adults who were unable to handle their finances. In his recent State of the Judiciary message, the Chief Justice talked about how the Judiciary has partnered with the Legislature and other stakeholders to address homelessness in Hawaii. I am convinced that OPG plays a vital role in helping incapacitated and elderly persons from being evicted and on the streets, so I urge you to support this request.

New positions are always a harder sell. Here, the Family Court has a very modest request: one additional bailiff in Hilo. Bailiffs are as essential as clerks to the running of a courtroom. They marshal the parties and witnesses, coordinate which cases go in when, and generally keep order in the asylum. They are a conflation of maître d' and bouncer.

Finally, I would note that there is a \$2.3M request for payment of *guardians ad litem* and court appointed counsel in child abuse cases. Perhaps some of you have read the recent article in *Civil Beat* about the poor quality of court appointed counsel in these cases. I've heard that these attorneys are capped at \$1,800 per case per year. I've done some back of the envelope computations, and you would need to have a current caseload of over 100 to make a decent living doing these cases. Managing a caseload of that size is absolutely insane. No wonder these attorneys can do little more than show up. In my opinion, you could double or triple that \$2.3M request and it still wouldn't be enough.

So, I urge your favorable action on SB482 and I thank you for your time and consideration.

SB-482

Submitted on: 2/1/2023 3:40:18 PM

Testimony for JDC on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Stanley Roehrig	Individual	Support	Remotely Via Zoom

Comments:

My name is Stanley Roehrig. I am an attorney in Hilo and have been practicing in Hawaii County since 1965. I submit this testimony on SB482 on behalf of the Hawaii County Bar Association as its representative. The Hawaii County Bar Association supports SB482. It supports both the operating budget request and Capitol budget request in the bill.

We support the two baliff positions being requested for the Third Circuit. We also support the requests for GAL/CAC services.

We also support requests for the Alternative Dispute Resolution (CADR). We support the request for the CADR , and the purchase of the POS mediation contract and funds for the residential program for women on probation that allows minor children to live with their mothers.

We also support restoration of funding for a janitor supervisor for Hale Kaulike, an account clerk for the Hilo fiscal office. In addition we support an additional court clerk for South Kohala, and three judicial clerk positions here in Hilo.

Thank you for your support in these matters.

Sincerely,

Stan Roehrig