



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 979 , MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**DATE:** Thursday, February 9, 2023      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Caron M. Inagaki, Deputy Attorney General

---

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

The purpose of this bill is to seek appropriations to satisfy claims against the State, its officers, or its employees, including claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The bill contains nine claims that total \$1,721,396.50. Of this total, \$1,221,396.50 are general funds appropriation requests allocated among eight claims, and \$500,000.00 is an appropriation request from a departmental fund. Attachment A provides a brief description of each claim in this bill.

Since the bill was introduced, three new claims were resolved for an additional \$721,634.25. An appropriation is needed from the general fund to satisfy these claims. Attachment B provides a brief description of the new claims.

Including the new claims, the appropriation request totals \$2,443,030.75 allocated among twelve claims. Of this total, \$1,943,030.75 is a general fund appropriation request and \$500,000.00 is an appropriation request from a departmental fund.

The Department has had a longstanding policy of advising agencies as to how to avoid claims such as those in this bill. The Department also has complied with section

37-77.5, Hawaii Revised Statutes, which requires the Attorney General to develop and implement a procedure for advising our client agencies on how to avoid future claims.

We respectfully request passage of this bill with amendments to add the new claims.

**ATTACHMENT "A"**

**DEPARTMENT OF THE ATTORNEY GENERAL:**

**Honolulu Civil Beat Inc. v. Department of  
the Attorney General  
SCAP 21-0000057  
Civil No. 1CC-16-1-001743 JMT**

**\$ 79,199.38 (General Fund)  
Judgment**

Honolulu Civil Beat Inc. brought a lawsuit against the Department of the Attorney General to force disclosure of a 2016 Attorney General Investigative Report concerning the Auditor's Office. The Hawaii Supreme Court ruled that the report should be disclosed with certain information redacted. Under section 92F-15(d), Hawaii Revised Statutes, a successful plaintiff in a public records lawsuit is entitled to reasonable attorney's fees and costs incurred in the litigation to force disclosure of the records. Final judgment in the amount of \$78,120.00 in attorney's fees and \$1,079.38 in costs, totaling \$79,199.38, was entered on September 30, 2022.

**DEPARTMENT OF EDUCATION:**

**Kristen Kam, et al. v. State of Hawaii  
Board of Education, et al.  
Civil No. 21-00211 JAO-KJM, USDC**

**\$ 250,000.00 (General Fund)  
Settlement**

Plaintiff Kristen Kam alleges that from November 2018 through February 26, 2019, her daughter, K.K., was repeatedly sexually assaulted, sexually abused, harassed, or bullied at Konawaena High School (KHS) by a male high school student after school hours. K.K. was a middle school student at Konawaena Middle School, which was located adjacent to KHS and shared the same plot of land. Plaintiff claims that the State of Hawaii Board of Education, Department of Education, and KHS's principal failed to take actions to protect K.K. from the male student despite having received reports that the male student had previously engaged in misconduct prior to November 2018.

**Cipriano Millano, et al. v. State of Hawaii, et al.  
Civil No. 2CC-13-1-000031, Second Circuit**

**\$ 750,000.00 (General Fund)  
Settlement**

A lawsuit was filed by the father of a six-year-old student, L.J.M., who injured his eye when he ran into a pedestrian gate while walking with his father on a walkway to his classroom at Lihikai Elementary School in Kahului, Maui. The Department of Education owns the school grounds and operates the school. There is a perimeter fence that surrounds the school grounds. In the fence there is a pedestrian gate that separates a classroom area from the school staff parking stalls. The gate has a common U-latch. Trial proceeded on liability only. The father testified that when he pushed the U-latch up



upgraded to meet illumination guidelines that were current at the time of the accident. The DOT had a statewide contract to replace the lights with Light Emitting Diode (LED) lights. DOT mistakenly believed that it owned the street lights on its highways on Maui and included the lights at this intersection in the statewide contract. DOT and MECO disputed ownership of the street lights but because DOT included the replacement of these lights in the contract, the trial court could have determined that this was indicia of control of the lights by the State. Plaintiff Simmons is the decedent's natural mother. Ms. Simmons sued the driver for negligent operation of his vehicle as well as the State and MECO for negligent design, maintenance, repair, and operation of the street lights. After the lawsuit was filed, the driver passed away of causes unrelated to the accident. Plaintiff settled her claims against the driver's estate in 2021. More recently, Plaintiff settled her claims with MECO.

**MISCELLANEOUS CLAIMS:**

**Kelly and Robert Armstrong** **\$ 100,333.33** *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS.

**Mercedes Nakaza** **\$ 94.46** *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS.

**Jyron Salamanca** **\$ 1,992.30** *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS.

**Estate of Take Yamashiro** **\$ 4,777.03** *(General Fund)*

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS.

**ATTACHMENT “B”**

**DEPARTMENT OF EDUCATION:**

**Roe No. 113 v. State of Hawaii  
Civil No. 1CC191000460, First Circuit**

**\$ 450,000.00 (General Fund)  
Settlement**

Plaintiff alleged that in 1977, when he was a minor student at Highlands Intermediate School, he was repeatedly sexually abused by school security officer, Joseph Moisa. He alleged that the abuse occurred on school grounds, and at a camping trip allegedly arranged by Moisa for participants in the Campus Police Officer (CPO) program. Because the records retention period had long since lapsed, the State was unable to find any relevant records to confirm or refute Plaintiff’s allegations other than school yearbooks that seemed to support the claim that Moisa was working at the school as a security officer and was involved in the CPO program. Due to the passage of section 657-1.8, Hawaii Revised Statutes, the statute of limitations was waived for adult survivors of child sexual abuse if they could prove gross negligence on the part of the State. All the State employees who would have been in any position to know any facts or information regarding this matter are dead. Therefore, the Department of Education was unable to offer evidence to contradict Plaintiff’s claims and decided to settle for \$450,000.00 rather than risk an adverse judgment of a much higher amount if the case went to trial.

**MISCELLANEOUS CLAIMS:**

**Community Empowerment Resources**

**\$ 153,110.25 (General Fund)**

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS.

**Ding Jing**

**\$ 118,524.00 (General Fund)**

Claimant requests reissuance of an outdated check that was misplaced or lost. The legislative claim was filed with the Attorney General within six years from the date on which the claim for payment matured, within the period specified by section 37-77, HRS.

JOSH GREEN, M.D.  
GOVERNOR



**TESTIMONY BY:**  
EDWIN H. SNIFFEN  
DIRECTOR

Deputy Directors  
DREANALEE K. KALILI  
TAMMY L. LEE  
ROBIN K. SHISHIDO  
JAMES KUNANE TOKIOKA

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 9, 2023  
2:00 P.M.  
State Capitol, Room 325 & Videoconference

**H.B. 979**  
**RELATING TO MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE,**  
**ITS OFFICERS, OR ITS EMPLOYEES**

House Committee on Judiciary and Hawaiian Affairs

---

The Department of Transportation supports H.B. 979 that authorizes judgements for claims against the State.

Thank you for the opportunity to provide testimony.

**Written Only**

JOSH GREEN, M.D.  
GOVERNOR



KEITH T. HAYASHI  
SUPERINTENDENT

STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
KA 'OIHANA HO'ONA'AUAO  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 02/09/2023

**Time:** 02:00 PM

**Location:** 325 VIA VIDEOCONFERENCE

**Committee:** House Judiciary & Hawaiian  
Affairs

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Title of Bill:** HB 0979 MAKING APPROPRIATIONS FOR CLAIMS AGAINST  
THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

**Purpose of Bill:** Makes appropriations and approves payments for claims against  
the State, its officers, and its employees.

**Department's Position:**

The Hawaii State Department of Education (Department) supports passage of HB 979.

The Department appreciates the Legislature's support in providing the funding to settle these  
claims against the Department.

Thank you for the opportunity to provide testimony in support of this measure.



**HB-979**

Submitted on: 2/7/2023 5:16:03 PM

Testimony for JHA on 2/9/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support