

ACT 315

H.B. NO. 189

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

PART I. GENERAL PROVISIONS

SECTION 1. Short Title. This Act shall be known as the Judiciary Appropriations Act of 1989.

SECTION 2. In accordance with Article VII, Section 9, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1989-90 to be exceeded by \$67,810,180, or 2.89 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 3. Definitions. Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the judiciary (JUD) followed by a designated number for the program.

(b) "Means of Financing," or "MOF," means the source from which funds are appropriated or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

- A General fund
- B Special fund
- N Other federal funds
- C General obligation bond fund

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

PART II. PROGRAM APPROPRIATIONS

SECTION 4. Appropriations. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1989, and ending June 30, 1991. The total expenditures and the number of permanent established positions in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

PROGRAM APPROPRIATIONS				APPROPRIATIONS			
ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	FISCAL YEAR 1989-90	M O F	FISCAL YEAR 1990-91	M O F
The Judicial System							
1.	JUD101	Courts of Appeal					
	OPERATING		JUD	67.00 *		67.00 *	
				3,546,821	A	3,526,519	A
2.	JUD111	Circuit Courts					
	OPERATING		JUD	370.00 *		375.00 *	
				16,467,194	A	16,387,621	A
3.	JUD112	Family Courts					
	OPERATING		JUD	351.50 *		373.50 *	
				18,837,993	A	19,896,673	A
4.	JUD121	District Courts					
	OPERATING		JUD	638.50 *		641.50 *	
				17,566,524	A	17,677,246	A
			JUD	53.00 *		53.00 *	
				1,461,124	B	1,472,096	B
5.	JUD201	Admin. Director Services					
	OPERATING		JUD	218.00 *		230.00 *	
	INVESTMENT CAPITAL		JUD	11,391,648	A	11,810,033	A
				2,553,000	C	2,837,000	C

SECTION 5. Provided that of the general fund appropriation for courts of appeals (JUD 101), the sum of \$87,884 in fiscal year 1989-90 and \$80,388 in fiscal year 1990-91, shall be expended to employ one assistant bar administrator, one document clerk, and two clerk typists.

SECTION 6. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$48,796 in fiscal year 1989-90 and \$44,496 in fiscal

year 1990-91 shall be expended to employ one building maintenance worker and one assistant facility manager for the second circuit.

SECTION 7. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$335,324 in fiscal year 1989-90 and \$275,324 in fiscal year 1990-91 shall be expended by the first judicial circuit for the assessment and treatment of convicted, adult sex offender felons.

SECTION 8. Provided that of the general fund appropriation for the circuit courts (JUD 111), the sum of \$25,000 in fiscal year 1989-90 shall be allocated for the purpose of evaluating the effectiveness of the proposed JAVS automatic court recording system in courtroom proceedings.

SECTION 9. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$400,000 in fiscal year 1989-90 and \$400,000 in fiscal year 1990-91 shall be expended to provide judicial services, which the legislature finds to be a public purpose, through purchase of services agreements under chapter 42, Hawaii Revised Statutes.

SECTION 10. Provided that in the circuit courts (JUD 111), for the fiscal 1989-91 biennium the employment status of the chief clerk position for the third judicial circuit shall be changed from exempt to permanent civil service SR 30 rating; provided further that the employee whose employment status is changed as a consequence of this section of this Act shall become a permanent civil service SR 30 rating employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided further that the general fund appropriations for this position shall be continued through the 1989-91 biennium.

SECTION 11. Provided that of the general fund appropriation for family courts (JUD 112), the sum of \$133,392 in fiscal year 1990-91 shall be expended to employ the following positions in the third circuit: one district/family judge, one bailiff, and two circuit court clerks.

SECTION 12. Provided that of the general fund appropriation for family courts (JUD 112), the sum of \$5,427,031 in fiscal year 1989-90 and \$5,896,266 in fiscal year 1990-91 shall be expended to provide judicial services, which the legislature finds to be a public purpose, through purchase of services agreements under chapter 42, Hawaii Revised Statutes.

SECTION 13. Provided that of the general fund appropriation for purchase of services for family courts (JUD 112), for the fiscal biennium which are as provided in chapter 42, Hawaii Revised Statutes for a public purpose the following agencies shall be allocated additional or new funding as follows:

<u>Circuit</u>	<u>Program</u>	<u>FY 1989-90</u>	<u>FY 1990-91</u>
First	Child & Family Svc	\$ 60,000	\$ 60,000
First	Waikiki Com Ctr	300,000	300,000
Second	Sal Army-High Control Ctr	350,000	350,000
Second	Women Helping Women	60,000	60,000
Third	Family Crisis Shelter W	100,000	100,000
	HI		
Third	Family Crisis Shelter E HI	82,676	82,676
Third	Hawaiian Wilderness	314,478	330,202
	Project		
Fifth	YWCA-Kauai Alt to Violence	50,000	50,000

SECTION 14. Provided that of the general fund appropriation for district courts (JUD 121), the sum of \$60,204 in fiscal year 1989-90 and \$32,636 in fiscal year 1990-91 shall be expended by the third judicial circuit to establish one account clerk III in Hilo and one clerk typist III in Kona.

SECTION 15. Provided that of the general fund appropriation for district courts (JUD 121), the sum of \$83,156 in fiscal year 1989-90 and \$73,956 in fiscal year 1990-91 shall be expended by the first circuit to establish the following four positions: one inventory clerk; one accountant III; one account clerk V; and one account clerk IV.

SECTION 16. Provided that of the general fund appropriation for district courts (JUD 121), the sum of \$200,000 in fiscal year 1989-90 and \$200,000 in fiscal year 1990-91 shall be expended for a Magna Scanner Contract.

SECTION 17. Provided that of the general fund appropriation for administrative director services (JUD 201), the sum of \$45,336 in fiscal year 1989-90 and \$45,336 in fiscal year 1990-91 shall be used to establish the position of chief information officer; provided further that this position shall be responsible for and have primary authority for all information systems development and administration.

SECTION 18. Provided that of the general fund appropriation for administrative director services (JUD 201), the sum of \$125,000 in fiscal year 1989-90 shall be expended for the judiciary's annual financial audit; provided further that the auditor's report shall include, but not be limited to, financial statements, a management letter, and a review of internal controls; provided further that the auditor's report shall be submitted to the legislature twenty days prior to the convening of the 1991 regular session.

SECTION 19. Provided that the positions of arbitration director, arbitration assistant director, and administrative assistant in the alternative dispute resolution (ADR) program contained in the general fund appropriation for administrative director services (JUD 201), for the fiscal biennium are to be temporary positions.

SECTION 20. Provided that the authorized position count for administrative director services (JUD 201), shall be increased by one to permanently establish a clerk typist III position in the children's advocacy center.

SECTION 21. Provided that of the general fund appropriation for administrative director services (JUD 201), the sum of \$376,234 in fiscal year 1989-90 and \$413,619 in fiscal year 1990-91 shall be expended to provide judicial service, which the legislature finds to be a public purpose, through purchase of services agreements under chapter 42, Hawaii Revised Statutes.

SECTION 22. Provided that prior to the start of the 1990 legislative session, in order to properly monitor the expenditure of appropriated funds, the judiciary shall provide the legislature with a complete detailed plan as to how the judiciary will monitor all purchase of services providers for fiscal year 1991 and thereafter; provided that this plan shall include a standardized monitoring procedure with standardized criteria for similar programs, so as to evaluate the functions and effectiveness of all programs covered by purchase of services contracts; provided further that failure to provide an effective evaluation plan shall result in the reduction of funds related to purchase of services for fiscal year 1991 and thereafter.

SECTION 23. Provided that the position of fiscal officer currently established in the judiciary shall be reviewed for potential reclassification to a higher rating under the civil service classification system.

SECTION 24. Whenever the expending program of the judiciary, to which an appropriation is made, is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the chief justice shall transfer the necessary funds and positions to the proper expending program; provided further that a report identifying all transfers implemented during the previous fiscal year shall be submitted to the legislature twenty days prior to the convening of each regular session.

SECTION 25. Whenever the need arises, the chief justice, in administering an equitable and expeditious judicial process, is authorized to transfer sufficient funds and positions between programs for research and development and operating purposes; provided that such transfer shall not be made to implement any collective bargaining contracts signed after this legislature adjourns sine die; provided that a report of all such transfers shall be made to the legislature twenty days prior to the convening of each regular session.

SECTION 26. Where the chief justice or any agency or any government unit is able to secure federal funds or other property made available under any act of Congress, or any funds or other property from private organizations or individuals which are to be expended in connection with any program or works authorized by this Act, or otherwise, the chief justice or agency with the chief justice's approval shall have the power to enter into such undertaking with the proper offices or agencies of the federal government or private organizations or individuals. While most federal aid allocations are known and state matching funds are provided in this Act, there may be programs for which federal-state cost sharing is not yet determined. In such instances, the availability of federal funds shall be construed as a proportionate reduction of state costs whenever possible.

SECTION 27. Provided that the judiciary is authorized to transfer savings from its general fund appropriation to the driver education special fund to accommodate any temporary cash flow deficits; provided further that a report of all transfers shall be submitted to the legislature twenty days prior to the convening of each regular session.

SECTION 28. Provided that, in order to ensure the efficient expenditure of funds, the judiciary shall submit a report to the legislature containing a detailed breakdown for each program reflecting funds expended for services on fees, and all service contracts for the prior fiscal year; provided further that the total amount of the contract fees and services on fees reflected in this report shall correspond to the amount of each line item shown on the budget details table; provided further that this report shall be submitted to the legislature twenty days prior to the convening of each regular session.

SECTION 29. Provided that in order to properly expend funds the legislative auditor shall review all actions, including the development of implementation timetables, that the judiciary has taken to implement each recommendation in the legislative auditor's report no. 89-5, Management and Financial Audit of the Judiciary; provided further that the legislative auditor shall have full authority to review with specificity the progress made by the judiciary in implementing the recommendations of the legislative auditor; provided further that the legislative auditor shall have the authority to obtain any material and information from the judiciary necessary to complete its report. The legislative auditor shall submit a report to the legislature twenty days prior to the 1990 regular session on the judiciary's implementation of the recommendations and its development of timetables for implementing each recommendation in the legislative auditor's report no. 89-5.

ACT 315

SECTION 30. Provided that, in order to properly budget funds for the judiciary's management information system, the judiciary shall create a preliminary action plan to address the recommendations of the legislative auditor's report no. 89-5, Management and Financial Audit of the Judiciary, relating to the management information system; provided further that the legislative auditor shall review the preliminary action plan and other actions taken to implement the recommendations, and that the judiciary shall update the auditor on the actions taken and respond to requests for information; provided further that the legislative auditor shall submit a report of its review to the legislature twenty days prior to the convening of the 1990 regular session.

PART III. CAPITAL IMPROVEMENT PROJECTS

SECTION 31. Capital Improvement Projects. The sum of \$5,390,000 appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such a combination is advantageous or convenient, for land acquisition, design, and construction purposes; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. The amount after each cost element and the total funding for each project listed in this Part are in thousands of dollars and are to be expended by the judiciary.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1989-90 F	FISCAL M YEAR O 1990-91 F
The Judicial System					
JUD201 - Admin. Director Services					
1.		PLANNING AND LAND ACQUISITION OF A FAMILY COURT CENTER, OAHU.			
		PLANNING AND LAND ACQUISITION OF A FAMILY COURT CENTER.			
		PLANS		300	
		LAND		100	
		TOTAL FUNDING	JUD	400 C	C
2.		HILO JUDICIARY COMPLEX, HAWAII			
		PLANNING AND DESIGN OF A JUDICIARY COMPLEX IN HILO TO ACCOMMODATE THE CIRCUIT, FAMILY AND DISTRICT COURTS.			
		PLANS		60	
		DESIGN		993	537
		TOTAL FUNDING	JUD	1,053 C	537 C
3.		KOOLAUPOKO DISTRICT COURT, KANEOHE, OAHU			
		PLANNING, LAND ACQUISITION, AND DESIGN FOR KOOLAUPOKO DISTRICT COURT.			
		PLANS		200	
		LAND			1,695
		DESIGN			105
		TOTAL FUNDING	JUD	200 C	1,800 C
4.		KONA JUDICIARY COMPLEX, KONA, HAWAII			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1989-90 F	FISCAL M YEAR O 1990-91 F
		PLANNING FOR THE KONA JUDICIARY COMPLEX.			
		PLANS		100	
		TOTAL FUNDING	JUD	100 C	C
5.		KAUAI JUDICIARY COMPLEX, KAUAI			
		PLANNING FOR THE KAUAI JUDICIARY COMPLEX.			
		PLANS		100	
		TOTAL FUNDING	JUD	100 C	C
6.		MOLOKAI DISTRICT COURT, MOLOKAI			
		PLANNING FOR THE MOLOKAI DISTRICT COURT.			
		PLANS		100	
		TOTAL FUNDING	JUD	100 C	C
7.		WAHIAWA DISTRICT COURT, OAHU			
		PLANNING FOR THE WAHIAWA DISTRICT COURT.			
		PLANS		100	
		TOTAL FUNDING	JUD	100 C	C
8.		REMODELING AND UPGRADING JUDICIARY BUILDINGS, STATEWIDE			
		DESIGN, CONSTRUCTION AND FURNISHING OF EQUIPMENT TO REMODEL AND UPGRADE JUDICIARY BUILDINGS, STATEWIDE.			
		DESIGN		75	75
		CONSTRUCTION		300	400
		EQUIPMENT		25	25
		TOTAL FUNDING	JUD	400 C	500 C
9.		JUVENILE DETENTION CENTER, OAHU			
		PLANS		100	
		TOTAL FUNDING	JUD	100 C	C

SECTION 32. Provided that of the general obligation bond fund appropriation for the judiciary, the sum of \$1,053,000 in fiscal year 1989-90 and \$537,000 in fiscal year 1990-91 shall be provided for plans and design of a Hilo judiciary complex to be situated on State lands adjacent to the existing Hilo judicial facilities.

SECTION 33. Any law to the contrary notwithstanding, the appropriations under Act 375, Session Laws of Hawaii 1987, section 24, as amended by Act 318, Session Laws of Hawaii 1988, in the amounts indicated are lapsed:

<u>Item No.</u>	<u>Amount(MOF)</u>
JUD 101-1	\$2,000,000 A
JUD 201-3	\$2,000,000 A

PART IV. ISSUANCE OF BONDS

SECTION 34. General Obligation Bonds. General obligation bonds may be issued, as provided by law, to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part III of this Act, provided that the sum total of the general obligation bonds so issued shall not exceed \$5,390,000.

PART V. SPECIAL PROVISIONS

SECTION 35. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in Part II and listed in Part III of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations made to be expended in fiscal biennium 1989-91 which are unencumbered as of June 30, 1992, shall lapse as of that date.

SECTION 36. The judiciary is authorized to delegate to other state or county agencies the acquisition of land, planning, design, and construction of any capital improvement project when it is determined by the judiciary that it is an advantage to do so.

SECTION 37. All unrequired balances, after the objectives of appropriations made in Part II for capital investment purposes from the general obligation fund and listed as projects in Part III have been met, shall be transferred to the judiciary project adjustment fund.

SECTION 38. In the event that the amount specified for a capital investment project listed in Part III is insufficient and where the source of funding for the project is designated as the general obligation bond fund, the chief justice may make supplemental allotments from the project adjustment fund; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that a report of such supplemental allotments and transfers for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

SECTION 39. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a project listed in Part III, the chief justice may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the appropriation for the project is insufficient.

SECTION 40. The chief justice shall determine when and the manner in which the authorized projects shall be initiated. The chief justice shall notify the governor from time to time of the specific amounts required for the projects, and the governor shall provide for such amounts through the issuance of bonds authorized in Part IV.

SECTION 41. Any law or any provision to the contrary notwithstanding, the chief justice may supplement funds for any early-phased cost element for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for later-phased cost elements for the same project authorized by the legislature in this Act or in a prior year or which

may be authorized by the legislature in the future, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total appropriations for that project.

PART VI. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE

SECTION 42. Severability. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective and intent of such appropriation to the extent possible.

SECTION 43. Manifest errors. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the chief justice is authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 44. Effective date. This Act shall take effect on July 1, 1989.
(Approved June 13, 1989.)