



The Judiciary, State of Hawaii

Testimony to the House Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair

Tuesday March 1, 2016 2:00 p.m.
State Capitol, Conference Room 325

by

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BILL TITLE: House Bill No. 1581, H.D. 1, Relating to Judicial Proceedings.

PURPOSE: Requires contested case hearings of the Land Use Commission, Hawai'i Community Development Authority, and those involving conservation districts, to be appealed directly to the supreme court.

JUDICIARY'S POSITION:

The Judiciary recognizes and appreciates that allowing direct appeals from agencies to the Hawai'i Supreme Court will expedite the appellate resolution of cases. Presently, there are direct appeals to the Intermediate Court of Appeals (ICA) from the Public Utilities Commission, the Water Commission, and the Labor and Industrial Relations Appeals Board. These appeals are subject to review by the Supreme Court by an acceptance of transfer or an application for writ of certiorari.

The Judiciary proposed a measure in 2010 that would have allowed direct appeals of certain categories of cases from the circuit court to the Supreme Court rather than to the ICA in order to streamline the appellate process. The bill also proposed that two categories of cases that could already be directly appealed from an administrative agency to the ICA would instead proceed directly to the Supreme Court.

The present bill would provide that contested case appeals from decisions of the Land Use Commission, the Hawai'i Community Development Authority, and those involving conservation districts proceed directly from the agency level to the Supreme Court.



The Judiciary offers the following comments and suggestions:

1. The bill requires the court, upon request of any party, to hear oral arguments and receive written briefs. There may be situations, however, where the court determines that oral argument is not necessary, as the court is able to make a ruling based on the written briefs. Requiring oral argument in such situations could delay the disposition of the case. Consequently, we suggest that the bill be amended to provide the court discretion to hold oral arguments in accordance with its own rules. Giving the court discretion in this matter would appear to be consistent with the intent of this bill.
2. The proposed new subsection (j) to H.R.S. § 91-14 provides that the court shall give priority to contested appeals of significant statewide importance or where constitutional issues are raised. The Judiciary respectfully suggests that the reference to cases raising constitutional issues be deleted. Such cases do not always merit the priority handling that this bill envisions. To the extent they do, they could be given priority as involving questions of “significant statewide importance.” The Judiciary also respectfully suggests that civil appeals involving determination of parental rights under HRS chapter 587 be given equal priority under this bill, given the importance of the prompt disposition of such cases to the well-being of the children who are involved.
3. The Judiciary notes that under section 4 of the bill, appeals governed by this measure will bypass the environmental courts. These courts were established by Act 218 of the 2014 legislative session in order to promote consistency and uniformity in decision making related to environmental issues.

Thank you for allowing the Judiciary to submit testimony on this bill.