



The Judiciary, State of Hawai'i

Testimony to the House Committee on Finance

Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair

Wednesday, March 6, 2013, 2.00 p.m.
Conference Room 308

by
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Bill No. and Title: House Bill No. 197, H. D. 1, Relating to the Judiciary.

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2014 and 2015.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 197, H. D. 1, which reflects the Judiciary's resource requirements for FYs 2014 and 2015. During the informational budget briefings to the members of the Senate Committee on Ways and Means on January 3, 2013 and the House Committee on Finance on January 10, 2013, we provided detailed information on our supplemental budget request, our current appropriation and expenditures, and on our caseload and revenue contributions to the State. Consequently, our testimony today will address only the highlights.

The Judiciary is aware of the fact that the economy and economic outlook for Hawai'i have improved and are on a significant upswing from the devastating effects of the prior three years. But we are also very cognizant of concerns related to the Federal budget (i.e., fiscal cliff, sequestration, and Senator Inouye's passing) and their potential impact on Hawaii's economy; the State's unfunded pension and other post-employment benefit liabilities; and the need for and potential costs associated with the State Information Technology initiatives and the recapitalization of the Emergency Budget and Reserve and Hurricane Relief Funds. We are also quite mindful of the many competing demands for the limited resources available, and that other



State departments and agencies have important needs and desires as well. Therefore, we have tried to be quite prudent with our biennium budget request and focus on those items required by law or where we felt that there was a pressing, demonstrated need to better serve the public, our employees, and our clients. To that end, the Judiciary is requesting 40 new permanent positions, of which 20 are no-cost conversions, and additional funding of \$10.8 million and \$11.5 million in FYs 2014 and 2015, respectively.

Our two highest priority budget requests, which together total \$8.6 million, seek to properly and fairly compensate our employees for their work and for the services they provide to the community and the public as a whole. Specifically, these requests are to provide funding to cover the restoration of salaries to the levels prior to the five percent pay cut experienced by all Judiciary employees in FYs 2012 and 2013, and to restore judges' salaries to the legislatively mandated pay levels set by the 2006 Commission on Salaries. Another very important request is for \$1.1 million to move from Honolulu and lease space in Kapolei for 81 employees in the Juvenile Client Services Branch (i.e., Juvenile Intake and Probation Services, Girls Court, Juvenile Drug Court, and Family Drug Court). Having this Branch in Kapolei will: (1) improve communication and coordination among Family Court divisions as they will all be in geographical proximity of each other, (2) eliminate travel time (lost time) between Honolulu and Kapolei, (3) result in workers being more productive and efficient and in spending more quality time with juveniles and their families, (4) improve morale and performance by reducing travel stress and fatigue, and (5) free up second floor space in Ka'ahumanu Hale, the Circuit Court Building in Honolulu, for additional courtrooms and related offices. Purchase of Services (POS) contracts for Judiciary clients are another important area/function requiring attention. Much like the Executive Branch and its need to begin recapitalizing its Emergency and Hurricane Funds, the Judiciary likewise needs to begin restoring funds for its POS contracts, which were reduced by \$3.6 million or almost 30% Judiciary-wide during the economic downturn and related lump-sum budget reductions. Restoration will allow the Judiciary to better serve those in need of assessment, treatment, counseling, and shelter services. To that end, the Judiciary has two requests, one for \$536K in the First Circuit and a second for \$75K in the Third Circuit, which together are a first step in this restoration process. We are most appreciative and strongly support the additional \$107K in funding provided to First Circuit by the House Committee on Judiciary to support this POS restoration.

While the Judiciary is requesting 40 new permanent positions, as noted above, 20 are no-cost conversions of budgeted temporary to budgeted permanent (thus requiring no new funding) and only the other 20 are completely new permanent positions requiring funding. The 20 conversions are for Hawai'i Girls Court, which began operations in 2004 (seven positions); Mental Health Court, which began taking clients in 2005 (two positions); Project HOPE (Hawaii's Opportunity Program with Enforcement), which began in 2004 (seven positions); one Traffic Violations Bureau clerk position created in 2005 in Third Circuit; and three law clerk



positions created in 1981, 1984, and 1988 in the Legal Research and Adoption Records Unit for Family Court judges in the First Circuit. These programs and related positions have now been established for a long enough period so that they really cannot still be considered as temporary. Making the positions permanent would provide stability and avoid the continual turnover that now occurs as people seek and leave for permanent positions elsewhere, and avoid the costs and inefficiencies that occur with the personnel turnover in these temporary positions. It should be noted that the Hawai'i Women's Legislative Caucus has indicated especially strong support for the conversion of the Hawai'i Girls Court positions and for the work being done by Girls Court.

For the 20 new, funded, permanent positions being requested, one is in the Courts of Appeal, five are in First Circuit, three are in Second Circuit, two are in Third Circuit, one is in Fifth Circuit, and eight are in Administration. Specifically, a Fiscal Office Clerk is needed in Courts of Appeal to assist the one Fiscal Officer position in that office, to ensure that the Fiscal Office is staffed when the Fiscal Officer is absent, and to provide proper and adequate internal controls for all fiscal matters. This position was abolished in 2009, along with 78 other positions vacant at that time. First Circuit requests include two social worker positions to establish, coordinate, and operate a juvenile restitution program and a weekend program for juvenile probation violators; one additional social worker position to support Project Hope (along with two part-time temporary research aide positions); and two clerk positions, one at Kapolei and one at Honolulu Circuit Court/Family Court Service Center for the Ho'okele Program, which assists the public, makes the court experience more accessible and less stressful, and is especially important as more and more people turn to self-litigation. In fact, this program served more than 100,000 people at four locations last year. In the Second Circuit, three Social Service Assistant positions are needed – two so that we can fully implement the Community Service Sentencing Program on Maui and thereby allow the Maui judges a complete array of sentencing options, and one to establish a randomized urinalysis program applicable to high risk offenders, modeled after Project Hope on O'ahu. For the Third Circuit, two bailiff positions are being requested – one for Kohala and one for Hilo. These positions help with security and maintain order in courts, among other things. The lack of such a position in Kohala requires bailiffs from Hilo or Kona to travel two hours round trip to assist whenever court is in session. In the Fifth Circuit, one additional Judicial Clerk is needed in the Legal Documents Section to assist with the increased workload, especially in the criminal area where the number of new case filings has increased by 25% over the last four years. Lastly, Administration is requesting a Capital Improvement Program (CIP) Specialist position to help initiate, monitor, manage, and coordinate the two new courthouses being built and the myriad of other repair, maintenance, alteration, and improvement projects the Judiciary is undertaking with legislative provided CIP funds; four forensic interview positions for neighbor island branches of the Children's Justice Center (one each on Maui and Kaua'i, and two on the Big Island) to ensure timely and consistent interviews by well-trained personnel for these especially sensitive cases; one Judicial Education Specialist position to assist in expanding training for Judiciary employees, a Chief Justice focus item; one supervisory position in the



Office of Public Guardian to oversee and supervise eight O'ahu guardians; and one information technology position to help provide support in a wide range of applications from email to internet/intranet to mainframe work to system support.

The Judiciary also has a number of other non-personnel but just as important requests. These include funds to expand Judiciary-wide training for judges and employees, a priority identified on a recent survey by the 20/20 Strategic Planning Committee of all employees and a specific focus item of the Chief Justice, as mentioned previously; to cover significantly increased utility costs at Kapolei, especially for water/sewage and gas; to replace six x-ray machines used for security and protection of the public, employees, and judges at the District Courts in the First Circuit and 10 steno machines used by the Court Reporters Branch as these units have become old and outdated, out of warranty, and increasingly costly to maintain and difficult to find replacement parts/supplies and servicing for; and to implement an electronic scheduling/time/attendance system for the Detention Home at Kapolei and thereby eliminate the current labor intensive, manual, shift scheduling and leave record system.

To summarize, our total general fund budget request is 40 new permanent positions (of which 20 are no-cost conversions) and approximately \$145.3 million in FY 2014 and \$146.1 million in FY 2015. While this is about \$11 million more than our current budget base, \$8.6 million, or more than 75% of this \$11 million, relates to restoration of salaries for Judiciary employees. We believe that the additional \$2.4 million is a relatively small amount to enhance court and client services; ensure the protection of the public, employees, and clients alike; continue our emphasis on access to justice; and provide for employee training, productivity, and morale concerns and needs.

In addition to our general fund supplemental budget request, the Judiciary has one special fund supplemental budget request. Specifically, an increase of \$1 million in the Indigent Legal Assistance Fund (ILAF) expenditure ceiling to \$1.55 million is being requested to accommodate the significant increase in revenues expected due to Act 180, SLH 2011. Provisions in Act 180 more than doubled the ILAF surcharge rates and greatly expanded the types of filings to which the ILAF surcharge rates would be assessed, effective January 1, 2012. Another round of rate increases will go into effect on January 1, 2014. Funds in the ILAF are used to provide indigent residents with access to civil legal services. Without the ceiling increase, the projected increase in revenues will remain inaccessible, the funds will just sit in the account and not be used for the purposes collected, and the intended beneficiaries (low and moderate income families) will be precluded from receiving the legal services they require.

With regard to Capital Improvement Program (CIP) requirements, the Judiciary is very mindful of the interest of the Governor and the Legislature in funding CIP projects to help stimulate the economy and respond to the needs of the community. The Judiciary believes that



its projects fall right into this mode, as well as address concerns with its facilities and components that continue to age and deteriorate. Specifically, the Judiciary is requesting funds to construct a new judiciary complex in Kona. There is an urgent need for a new courthouse in Kona, since we are currently holding court in three different locations there, in buildings that were not designed for that purpose, and that are accordingly difficult to secure. We have completed a detailed environmental study, selected a site on state-owned land, and are moving forward with design work. Construction funding is the next step in the process and will allow us provide our citizens in Kona with a secure, efficient, and modern court facility. It should also be noted that the House Committee on Judiciary in House Bill 197, H. D. 1, included an additional unspecified appropriation amount for JUD 601 (Administration) CIP, specifically the Kona Judiciary Complex, for the design and construction of an adjacent correctional facility. While we certainly concur in the need for a new correctional facility in the Kona area, we respectfully submit that the Judiciary generally does not manage nor construct such correctional facilities. Rather, the responsibility for such correctional facilities in Hawai'i lies solely with the Department of Public Safety (PSD) and such funding would seem more appropriately directed towards them. We would definitely support any provisions in the PSD budget to construct such a facility in Kona. One other point – the land selected by the Judiciary to build its courthouse is not large enough to also build a correctional facility, and the land adjacent to it, west and south, is currently being planned for a regional park by the County of Hawai'i. It may not be appropriate to have a correctional facility next to a regional park.

We are also seeking funding for a new District Court facility in Wahiawā, where design and construction funding will provide the community with a permanent facility that will be part of the existing redevelopment of the existing Wahiawā Civic Center site, solidify the Judiciary's presence in the Wahiawā community, and permit the Judiciary to discontinue leasing court space in Wahiawā in a former retail building unsuited for court operations usage. CIP funds are also being requested for renovations in Ka'ahumanu Hale primarily related to spaces vacated by the planned Juvenile Client Services Branch move to Kapolei. Renovation of this area would allow creation of a minimum of four courtroom "sets", that is, courtrooms, chambers, and office space for four circuit court judges and staff that would move from Kauikeaouli Hale, the District Court Building, and result in the First Circuit's long term goal of having all its circuit court divisions in one location. CIP planning funding has also been included for an environmental assessment at Alder Street so as to begin the process of providing a juvenile services center at this site along with the co-located existing status offender shelter Home Maluhia. This facility is vital to ensuring the continuum of services necessary to provide for Hawai'i's juveniles that exhibit behaviors that could potentially lead to more serious problems with the law as they grow older and become adults. Lastly, we are requesting CIP funds for two important two safety related projects for Hoapili Hale, the main court building on Maui – structural repairs/exterior remedial improvements, and replacement/upgrade of the carbon monoxide monitoring and garage ducting systems.



House Bill No. 197, H. D. 1, Relating to the Judiciary
House Committee on Finance
Wednesday, March 6, 2013
Page 6

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. 197, H. D. 1, the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.