



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Energy and Environment
The Honorable Mike Gabbard, Chair
The Honorable Russell E. Ruderman, Vice Chair

Thursday, January 31, 2013, 2:45 p.m.
State Capitol, Conference Room 225

by

Elizabeth Zack
Supreme Court Staff Attorney

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 632, Relating to the Environmental Courts.

Purpose: Establishes environmental courts as divisions within the circuit court to hear all proceedings, including chapter 91, Hawaii Revised Statutes, proceedings arising from environmental laws. Requires the Judiciary to report to the Legislature on the total number of environmental-related cases filed in the last five years.

Judiciary's Position:

The Judiciary must respectfully oppose Senate Bill No 632.

Senate Bill No. 632 would establish within each circuit an environmental court with separate rules, based upon the misunderstanding that “environmental disputes are currently dealt with in a variety of courts” and “this organizational structure inadvertently promotes inconsistent application of the wide variety of environmental laws.” Although the Judiciary does not maintain statistical information regarding the application of environmental laws, all agency appeals to the circuit court, including agency appeals covering environmental issues, are now assigned regularly to one designated judge in the first judicial circuit and are rotated among the civil judges in the second, third, and fifth judicial circuits, and are handled in due course.



Senate Bill No. 632, Relating to the Environmental Courts
Senate Committee on Energy and Environment
January 31, 2013
Page 2

Senate Bill No. 632 attempts to address the perception that environmental cases are dealt with by a variety of courts by requiring the chief justice to designate circuit judges in each circuit to hear environmental cases. Our research has not indicated that the present court system fails to provide uniform application of environmental laws. Furthermore, if any party in an environmental case is dissatisfied with the outcome, that party has a remedy by way of appeal to the Intermediate Court of Appeals and then to the Supreme Court. This appellate process insures consistent application of environmental laws for the trial courts are bound to follow the appellate court decisions.

In other jurisdictions, environmental courts have been established after increases in environmental violations, housing/safety code violations, and/or an increase of abandoned residences or littered properties. In the City and County of Honolulu, environmental cases, such as improper grading and major runoff issues, have been resolved in the circuit courts. We have not been able to find data that demonstrates that the establishment of environmental courts will serve to deter further violations of environmental laws, or resolve environmental cases more expeditiously than the present circuit court system. Accordingly, we do not believe that the establishment of special environmental courts is necessary at this point in time.

Thank you for the opportunity to comment on Senate Bill No. 632.