



The Judiciary, State of Hawai'i

**Testimony to the
Senate Committee on Water, Land and Agriculture**

Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair

and

Senate Committee on Commerce, Consumer Protection and Health

Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair

Monday, March 21, 2016, 9:30 a.m.
State Capitol, Conference Room 224

By

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Administrative Director of the Courts

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

PURPOSE: Requires contested case hearings of the commission on Water Resource Management, Land Use Commission, Public Utilities Commission, Hawaii 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 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 application of writ of certiorari. With the House Draft 1 version of the present bill, appeals from the Public Utilities Commission and the Water Commission will bypass the Intermediate Court of Appeals and go directly to the Supreme Court. This is similar to a proposal the Judiciary submitted to the Legislature in 2010.



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In the Judiciary's initial testimony on this bill, the Judiciary offered suggested amendments to the section of the bill relating to required oral arguments and the section of the bill giving priority to cases raising constitutional issues. In discussing both sections of the bill, the Judiciary suggested providing the Supreme Court with discretion on these two matters. House Draft 1 incorporates the Judiciary's suggestions regarding both issues. The Judiciary continues to believe that giving the court discretion on these matters is consistent with the intent of the bill.

At this point in time, it is difficult to assess the number of appeals that will move directly to the Supreme Court under the present version of the bill and the impact the direct appeals will have on the court's caseload and ability to resolve matters in a timely fashion. Therefore, the Judiciary respectfully requests that the bill contain a sunset deadline of three years which will provide sufficient time to assess the impact the direct appeals will have on the caseload of the Supreme Court. If the legislature includes a sunset deadline in the bill, the Supreme Court can submit a report to the 2019 Legislature at which time the Legislature can determine future action.

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