



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Judiciary

The Honorable Brian T. Taniguchi, Chair

The Honorable Karl Rhoads, Vice Chair

Tuesday, February 13, 2018, 10:00 a.m.

Room 016

by

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Bill No. and Title: Senate Bill No. 2150, Relating to the Judiciary.

Purpose: To provide supplemental operating and capital improvement appropriations for FY 2019.

Judiciary's Position:

The Judiciary strongly urges your support of Senate Bill No. 2150, which reflects the Judiciary's resource requirements for FY 2019.

The Judiciary recognizes that the Hawai‘i economy continues to be strong and the overall economic outlook is relatively stable at the moment. However, even with that, the Hawai‘i Council on Revenues at its most recent meeting expressed some uncertainty about the future and had particular concerns that the economy may be reaching the end of its current expansionary cycle. While the Council noted that visitor arrivals and expenditures, job counts, and construction activities continued to be strong and growing, it also noted that the low rate of unemployment and other factors such as rising energy prices could result in an inflation increase and adversely impact revenues. We are also aware that even with a projected budget surplus, funds will continue to be tight as there are many outstanding funding issues that need to be addressed, such as increasing health care costs and their effect on premiums. Accordingly, in our supplemental budget request, the Judiciary has been very prudent and focused only on its most pressing needs, primarily in the areas of essential staffing for court and administrative operations, and client services. Specifically, with these factors in mind, the Judiciary is requesting 30.5 new permanent positions and additional funding of \$1.57 million for FY 2019, which is less than one percent of its current budget.



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The need for additional essential staffing is a major concern for the Judiciary, especially as workload continues to increase and becomes more detailed and complex, as the number of pro se (i.e., self-represented) litigants continues to increase and require the attention and time of judges and staff, and as additional requirements and demands are placed on judges and staff. This concern especially relates to First Circuit which is requesting additional funding for an already authorized Family Court judge and three support staff positions; to Second and Fifth Circuits which are requesting positions and funding for a District Court judge and a District Family Court judge, respectively, as well as related support staff; to Third Circuit which is requesting two bailiff positions; and to the Intermediate Court of Appeals (ICA) which is requesting an additional Staff Attorney position.

Funding of \$330K is being requested by First Circuit for a District Family Court judge and related staff positions provided by the 2007 Legislature. This would help address the heavy Family Court workload and the continual increase in the number and complexity of Family Court cases, as well as the backlog and delays in scheduling/hearing cases. Domestic Division cases have increased from 6,700 in FY 2014 to 7,800 cases in FY 2017 and Special Division cases (which include Temporary Restraining Orders (TROs), paternity, and adoption) have gone from 8,700 cases to 9,500 over this period. Further indicative of the need is the increased use of per diem judges for Family Court, going from 587 incidences in FY 2012 to 1,099 incidences in FY 2017.

Second and Fifth Circuits are requesting an additional District Court judge and District Family Court judge, respectively, along with staff to address workload issues, case complexities, delays in scheduling and hearing cases, and the additional time required to handle the increasing numbers of self-represented litigants. For Second Circuit, the last District Court judge was added in 1982, more than 33 years ago, and the population in Maui County has more than doubled from 77,000 to 160,000 plus since then. Further, since FY 2011, while the population in Maui County has increased by about 10%, new traffic filings have increased by 30% from 21,694 to 28,276 and criminal filings by 16% from 2,859 to 3,322. A new judge would also help address the growing needs and case numbers of the rural communities (Hāna, Lānaʻi, and Molokaʻi) that are currently underserved, and allow Lahaina District Court to increase from a three day to a five day a week rural court. Fifth Circuit has only one District Court judge and one District Family Court judge, with the last judge being added in 1984. Compared to the Second Circuit on Maui and the Third Circuit on the Big Island, the current Kauai Family Court caseload per judge is much higher; specifically, for FY 2017, the one Family Court judge on Kauai was responsible for more than 4,486 cases as compared to 1,837 and 2,918 cases per Family Court judge in Second and Third Circuits, respectively. New filings were also significantly higher for the Fifth Circuit Family Court judge at 1,783 cases as compared to 1,215 and 1,306 cases per Second and Third Circuit Family Court judge, respectively. Funding requested for the Second Circuit judge and staff is \$342K and for the Fifth Circuit judge and staff is \$335K.



Two bailiff positions costing \$81K are requested for Third Circuit – one for the Family Court in Hilo which has one bailiff for two Family Court judges, and one for the South Kohala Division which must either rely on clerks to perform bailiff duties or on a bailiff from Kona traveling more than 50 miles roundtrip. Bailiffs help with the processing of cases in court, and assist with and enhance courtroom security and safety, especially when sheriffs are not present for any reason. It should be noted that the bailiff position was authorized in 2008 but was later abolished due to budget constraints during the recession.

The Staff Attorney position being requested for the ICA in FY 2019 would cost \$108K. With the restructuring of the appellate court system in 2006, almost all appeals are filed with and resolved in the first instance by the ICA. Under the restructured system, the ICA is responsible for a significantly greater number of appeals and motions, and has an increased number of complex appeals, which together impose greater demands on judicial resources and demonstrate the need for an additional Staff Attorney position. Indeed, when compared to its caseload prior to the restructuring, the ICA's appeals caseload has almost doubled and its motions caseload has increased by more than ten times to some 2,500 procedural and substantive motions annually.

For client services, the Judiciary has three budget requests – one for First Circuit related to the Interagency Council on Intermediate Sanctions (ICIS) and Hawaii Opportunity Probation with Enforcement (HOPE) programs, and two for Second Circuit related to Adult Client Services Branch probation officer workload and the Maui/Molokai Drug Court. Specifically, First Circuit is requesting twelve no-cost temporary to permanent position conversions for its very successful ICIS and HOPE programs. ICIS was created with a vision to reduce recidivism by 30% among adult offenders across the criminal justice system, with a focus on higher risk offenders, while HOPE was designed to target higher risk, higher need probationers to effect behavioral change to reduce recidivism. With ICIS, overall recidivism has been reduced by 27.6% to date. HOPE, which began in 2004 with 34 felony probationers, now has 2,600 probationers on active supervision with the latest study showing that HOPE probationers were arrested for new crimes 23% less often and were sent to prison 50% less often than those in a control group. Permanent positions for these programs would play a vital role in their continued success and longevity, and help stabilize these very successful and life changing programs that are geared to monitor the high risk offender.

Second Circuit is requesting \$172K for three Social Worker Probation Officer positions for its Presentence Investigation, Special Services, and Domestic Violence Units to reduce caseload to a more manageable size; i.e., from 157 to 135 cases in the Presentence Investigation Unit, from 167 to 139 cases in the Special Services Unit, and from 182 to 146 cases in the Domestic Violence Unit. This would result in clients receiving more timely, efficient, and comprehensive services. Second Circuit is also requesting \$80K in purchase of service contract funding for its Maui/Molokai Drug Court to ensure the availability of continued treatment services with the contractor and to possibly expand the number of clients served.



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Our last two general fund supplemental budget requests are for janitorial and facilities maintenance type positions for Lahaina in the Second Circuit and Kona in the Third Circuit. A part-time janitorial position for the Lahaina Rural Court is being requested in response to the Hawaii Supreme Court *Konno vs Hawaii* ruling regarding privatization of services “customarily and historically” provided by civil servants. No funds are being requested as the part-time janitorial position would replace existing janitorial and landscaping contracts for these services. The janitorial positions for Kona facilities are also partly in response to *Konno vs Hawaii*, but are also needed along with a Facilities Manager position and a Building Maintenance Worker position for the new Kona Judiciary Complex scheduled to open in late summer 2019. These latter two facilities related positions are requested to begin in March 2019, some six months in advance of the scheduled opening so that they can familiarize themselves with and receive on-site training from the specialized contractors/vendors on the building and its new operating and mechanical systems. Total FY 2019 funding being requested for the four positions is \$119K.

Capital Improvement Project (CIP) requirements remain a major item of concern as the Judiciary’s infrastructure continues to age and deteriorate, and as the population served and services provided by the Judiciary keep expanding. Our top priority CIP funding request is for \$5.8 million for furniture, fixtures, and equipment (FF&E) for our new Kona Judiciary Complex. Construction of the new courthouse is currently ongoing, with the project on schedule for opening in late summer 2019 so it is extremely important that the procurement process for the new FF&E begin early in FY 2019. Another \$10.1 million in CIP funding is being requested for FY 2019 to address certain critical needs in First and Fifth Circuits related to the health and safety of Judiciary employees and the public. Specifically, the Judiciary is requesting \$9 million to upgrade and modernize fire alarm systems and elevators at Ka’ahumanu Hale in First Circuit, both of which are more than 30 years old and which continue to malfunction with greater frequency. These fire alarm systems do not function at full capacity nor comply with current fire codes, and elevator codes now require that all fire alarm systems be updated to current levels so that all systems are compatible with each other thereby necessitating that these projects be tied together. An additional \$1.1 million is requested to move forward with Phase two on the reroof and repair of leaks and damages at Pu’uhonua Kaulike in the Fifth Circuit. Lastly, CIP lump sum funding of \$3 million is being requested so that we can address both continuing and emergent building issues.

The proposed supplemental 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 Senate Bill No. 2150, the Judiciary’s supplemental budget request.

Thank you for the opportunity to testify on this measure.