



## *The Judiciary, State of Hawai'i*

### **Testimony to the House Committee on Judiciary**

Representative Scott Nishimoto, Chair

Representative Joy A. San Buenaventura, Vice Chair

Wednesday, March 21, 2018, 2:15 p.m.

Conference Room 325

by

Tom Mick  
Policy and Planning Department Director

---

**Bill No. and Title:** Senate Bill No. 2150, S. D. 2, 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, S. D. 2, 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, but even with that and a projected budget surplus, funds will continue to be tight as there are many outstanding issues that need to be addressed such as 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.



Senate Bill No. 2150, S. D. 2, Relating to the Judiciary  
House Committee on Judiciary  
Wednesday, March 21, 2018, 2:15 p.m.  
Page 2

The Judiciary is very grateful to the Senate Committee on Ways and Means (WAM), and previously the Senate Committee on Judiciary (JDC), for providing 24.5 new permanent positions (two of which are for late FY 2019) and funding of \$1.06 million in FY 2019 for our supplemental budget requests. The requests supported specifically relate to: (1) a Family Court judge and three support staff in Fifth Circuit; (2) two janitorial and two facilities staff for the new Kona Judiciary Complex in Third Circuit; (3) funding only for a Family Court judge and three support staff in First Circuit for which positions were previously authorized; (4) additional purchase of service contract funding for the Maui Drug Court; (5) two court bailiff positions in the Third Circuit, one for Hilo Family Court and one for South Kohala; (6) no-cost conversion of 12 temporary positions to permanent positions in First Circuit – two for the Interagency Council on Intermediate Sanctions (ICIS) program and ten for the Hawai‘i Opportunity Probation with Enforcement (HOPE) program; (7) a part-time janitorial position for Lahaina District Courthouse in Second Circuit; and (8) two of the three social worker/probation officer positions requested for the Adult Client Services Branch (ACSB) in Second Circuit. With respect to the lack of support for the third social worker/probation officer position requested for ACSB, we are concerned that the Second Circuit will not be able to reduce average probation officer workload to a more manageable size in one of the three units (Domestic Violence, Special Services, or Pre-Investigation) where caseload has increased significantly over recent years.

Neither WAM nor JDC supported our request for a District Court judge and support staff for the Second Circuit. 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. The lack of a new judge will make it more difficult to address the growing needs and case numbers of the rural communities (Hāna, Lāna‘i, and Moloka‘i) that are currently underserved, and will not allow Lahaina District Court to increase from a three day to a five day a week rural court. Also, Second Circuit may not be able to pursue several new initiatives it was considering with an additional judge, initiatives such as a Community Outreach Court, a Driving Under the Influence (DUI) Court, and a dedicated District Court Mental Health docket to respond to the needs of those in the criminal justice system who suffer with mental health issues.

Also not supported by WAM or JDC was the request for an additional Staff Attorney position for the Intermediate Court of Appeals (ICA). 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



Senate Bill No. 2150, S. D. 2, Relating to the Judiciary  
House Committee on Judiciary  
Wednesday, March 21, 2018, 2:15 p.m.  
Page 3

caseload has almost doubled and its motions caseload has increased by more than ten times to some 2,500 procedural and substantive motions annually. With this Staff Attorney position, the ICA would have the additional resources to address its increased caseload and responsibilities under Hawaii's restructured appellate system, to decide more appeals more expeditiously, to improve its service to the public and the administration of justice, and to provide more support to programs such as the Appellate Mediation Program which enhances access to justice for appellate litigants.

It should be noted that JDC added \$250K for civil legal services in SD1 and WAM retained this support in SD2. While we support and understand that funding for civil legal services is essential to continuing work and programs that are critical for those in the need of such services in the community, we request that such funding not come at the expense of other items in the Judiciary's supplemental budget request.

With regard to Capital Improvement Project (CIP) requirements, the Judiciary is very appreciative of WAM's support and funding of \$1.1 million for Phase 2 of the Kaua'i Courthouse reroof and repair project. However, we are also quite concerned with WAM providing only partial support or no support for our other three CIP requests:

- **Furniture, Fixtures, and Equipment (FF&E) for the New Kona Judiciary Complex** – WAM provided just \$1.9 million of the \$5.8 million requested for FF&E for the new Kona Judiciary Complex. Without the full funding requested, it is unlikely that the Judiciary will be able to equip and move into the new courthouse as scheduled in late summer 2019, thereby depriving West Hawai'i people of the central, one-stop court services location that they deserve and are waiting for and prolonging the inefficient and unsatisfactory services that current conditions dictate. The \$5.8 million was already pared down from an initial \$9 million estimate, and is the minimum needed to replace old, worn, outdated items with appropriate quality and value products that accommodate transforming information technologies and that enhance the safety, security, and comfort of employees and the public. Further, new FF&E will provide for continuity of operations in West Hawai'i as it takes months to furnish, install, test, and ready a new facility for use while existing facilities still must remain in operation.
- **Ka'ahumanu Hale Fire Alarms/Elevator System Upgrades** – While JDC funded \$1.2 million of the \$8.98 million requested for this project, WAM provided no funding. Both the fire alarm and elevator systems are over 30 years old and obsolete, continue to malfunction with greater frequency, and have become increasingly difficult to keep in safe working order. The fire alarm system does not meet current fire codes or ADA requirements in various locations. Elevator replacement parts are



Senate Bill No. 2150, S. D. 2, Relating to the Judiciary  
House Committee on Judiciary  
Wednesday, March 21, 2018, 2:15 p.m.  
Page 4

unavailable and must be drawn from other decommissioned elevators. The fire alarm upgrade must be done before proceeding with the nine elevator replacements. This is the fourth year requesting funding, and during the last two years, the annual maintenance cost for the fire alarm system increased by 35% and the elevator maintenance cost by 28%. Further, construction costs are increasing 11% annually.

- **Lump Sum CIP** - WAM funded \$1.5 million of the \$3 million requested. Such funding is needed to address both continuing and emergent building issues, as well as our deferred repair and maintenance backlog estimated to be in the \$60 to \$70 million range. Most of the maintenance issues relate to water intrusion and/or air conditioning issues, which contribute to mold growth and poor indoor air quality. The lack of additional funding may affect our flexibility in responding timely to some of these issues and needs.

In summary, the Judiciary is extremely grateful for all the support provided by WAM, but also respectfully requests restoration of support and full funding for the District Court judge and support staff, as well as the ACSB social worker, in the Second Circuit, the Staff Attorney for the ICA; and the Kona Judiciary Complex FF&E, Ka‘ahumanu Hale, and lump sum CIP projects. With the restoration of positions and funding, the Judiciary respectfully requests your support of Senate Bill No. 2150, S. D. 2, the Judiciary’s supplemental budget request.

Thank you for the opportunity to testify on this measure.