



*The Judiciary, State of Hawai'i*  
**Testimony to the House Committee on Finance**  
Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

Tuesday, April 4, 2017, 2:00 p.m. (Agenda #3)  
Room 308

by  
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**Bill No. and Title:** Senate Bill No. 469, S.D. 2, H.D. 1, Relating to the Judiciary.

**Purpose:** To provide biennium operating and capital improvement appropriations for FYs 2018 and 2019.

**Judiciary's Position:**

The Judiciary urges your support of Senate Bill No. 469, S.D. 2, H.D. 1, which reflects the Judiciary's resource requirements for FYs 2018 and 2019.

The Judiciary recognizes there are many competing priorities for funding, and that resources are limited. Accordingly, in our biennium budget request, the Judiciary has focused only on requirements related to past legislation and to its most pressing needs, primarily in the areas of essential staffing for court operations and client services. Specifically, with these factors in mind, the Judiciary is requesting 34 new permanent positions and additional funding of \$2.3 million for FY 2018, and 37 positions and \$3.2 million for FY 2019, some 1.4% and 2% more, respectively, than our current budget base of \$163 million.

The Judiciary is grateful to the House Committee on Judiciary (JUD) for providing funding of \$712K in FY 2018 and \$729K in FY 2019 for our biennium budget requests related to: (1) salary adjustments for the justices and judges to cover the annual two percent salary increase set by the 2013 Commission on Salaries, and for the Administrative Director and Deputy Administrative Director of the Courts based on a bill passed by the 2014 Legislature; and (2) to upgrade the PeopleSoft Human Resource Management System. We are also pleased that



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JUD provided more than \$4 million in general fund monies and \$157K in special fund monies related to past collective bargaining increases.

The Judiciary's biennium budget request for FYs 2018 and 2019 includes requests for three judgeships and related staffing – funding for a District Family Court judge and staffing in First Circuit as the positions were previously provided by the 2007 Legislature, and funding and positions for a District Court judge in Second Circuit and a District Family Court judge in Fifth Circuit. While the Senate Ways and Means Committee (WAM) eliminated the appropriations for these judges and staff in each of the circuits in Senate Bill No. 469, S.D. 2, it did provide funds in the Administration Program for one of these three judgeships, stating that this funding was "...to establish one judgeship at the discretion of the Chief Justice". However, JUD in Senate Bill No. 469, S.D. 2, H.D. 1, eliminated this funding. We believe that it is important to stress that all three judgeships are important to and needed by the island and/or community in which they are located. In all three circuits/locations, workload has been increasing and the cases have become more complex and time consuming, especially as the number of self-represented litigants has been growing. Further, neither the Second Circuit (Maui) nor the Fifth Circuit (Kauai) has had a new District judgeship position in more than 30 years, yet over this period of time, the population has more than doubled on Maui and increased by more than 70% on Kauai. In addition, it should be noted that First Circuit Family Court is located in Kapolei, one of the fastest growing areas on Oahu.

WAM also provided two of three requested positions to establish a Mental Health Unit (MHU) in First Circuit and funding to cover overtime costs for the First Circuit Temporary Restraining Order (TRO) Unit; however, these positions and related funding were deleted by JUD in Senate Bill No. 469, S.D. 2, H.D. 1. Without these positions and funding, First Circuit will not be able to establish the MHU and expand its services (i.e., mental health assessments, emergency housing, and mental and dental care) as much as it would like to Mental Health Court clients, Conditional Release clients with severe mental illness, and general population clients dual-diagnosed with drug addiction and mental health issues. For the TRO Unit, while the funds to cover overtime costs would have been helpful, without the three positions and related funding initially requested, all day staff coverage at Kaahumanu Hale in Honolulu and the Ronald T.Y. Moon Judiciary Complex in Kapolei may not be possible and public access to TRO services could be hindered. Applicants and petitioners may not be able to receive assistance, court orders, and related documents timely, and may have to be referred to another agency for help.

JUD also did not support eight no-cost temporary position conversions to permanent status which WAM had approved in Senate Bill No. 469, S.D. 2. Seven of these positions were for First Circuit Girls Court to provide permanency and stability to the Court and make it easier to recruit and retain people for these positions, some of which have experienced high turnover. Since its inception in 2004, 458 girls have completed the Girls Court program. The other



conversion was for a Fiscal Account Clerk position in the Courts of Appeal to help ensure service level continuity in the two person Fiscal Office in the event the permanent Fiscal Officer retires, resigns, or is on extended leave of absence for any reason, and thereby avoid leaving the office and its responsibilities in the hands of a temporary position, SR-11, Fiscal Account Clerk.

While, as mentioned previously, the Judiciary is appreciative of what JUD provided in Senate Bill No. 469, S.D. 2, H.D. 1, we are also concerned about the impact on Judiciary operations, clients, and the public by the lack of support for any of the 37 positions requested, and for any funding other than the approximately \$700K provided for each year of the fiscal biennium. Our concerns relating to the lack of funding for the three judgeship requests, which equates to eight positions, for the MHU (three positions) and the TRO Unit (three positions), and for the eight position conversions were discussed in previous paragraphs.

Three specialty court requests were not supported. The Driving While Impaired (DWI) Court in First Circuit and the Veterans Treatment Court (VTC) in Third Circuit both have grant funds expiring in September 2017. Without the additional positions and funding requested to make these courts permanent within the Judiciary, these courts may have to be discontinued once the grant funding ends. The DWI Court is a nationally recognized and a US Department of Transportation award winning program that focuses on repeat, hard-core offenders, with 34 graduates to date, of which just two have reoffended. The VTC, which began operation in November 2014 and would like to expand to a maximum of 24 clients in Kona and 24 in Hilo if positions and funding are provided, currently has 22 participants and 2 graduates to date. The third specialty court request not supported was for POS contract funding for long-term residential and substance abuse and mental health treatment for the First Circuit VTC. Without this funding, those veterans assigned to the VTC with the strongest addictions and most severe mental health problems will not have access to nor receive the treatment they need in the supportive and structured environment of a residential program.

JUD also did not support two requests related to client services and Social Workers, that is, three Social Worker IV positions for the Adult Client Services Branch (ACSB) in the Second Circuit and two Social Worker IV positions for the Adult Client Probation Services (ACPS) Branch in the Fifth Circuit. Without the additional three Social Worker IV positions requested, ACSB will not be able to reduce average probation officer caseload in three of its units to more manageable levels – from 202 to 162 cases in the Domestic Violence Unit, from 133 cases to 110 cases in the Special Services Unit, and from 183 to 157 investigations in the Pre-Sentence Investigation Unit. The current high caseload in each of these units severely limits the amount of time each probation officer can spend with the offender, causes delays in offenders being referred for appropriate treatment services and in obtaining rehabilitative services, results in not completing pre-sentence investigations timely which can delay court proceedings and sentencing, and together, may be contributing to the continuing increase in the rate of recidivism



in the Second Circuit. The lack of two additional Social Worker IV positions with mental health backgrounds in the Fifth Circuit means that ACPS Branch will continue to be challenged in providing appropriate and necessary services for clients with mental health issues, and may result in these clients not receiving the proper attention, guidance, and level of supervision needed to provide them with a better opportunity and/or alternative of staying out of the costly incarceration or mental health institution systems.

The last two biennium budget requests not supported by JUD were for a Staff Attorney position for the Intermediate Court of Appeals (ICA), and for three facilities related positions in the latter part of FY 2019 for the new Kona Judiciary Complex prior to its opening in early FY 2020. 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. The number of appeals and motions filed has been increasing, as has the complexity and fundamental importance of the appeals, which together impose greater demands on judicial resources and the need for the additional position. Indeed, since the restructuring, the ICA's appeals caseload has almost doubled and its motions caseload has increased by more than ten times. For the Kona Judiciary Complex, it is extremely important to have a Facilities Manager, Building Maintenance Worker, and Janitor on board six months prior to opening so that they can become familiar with the project and building and receive direct training by specialized contractors on the operations of the elevators, security systems, fire suppression systems, mechanical plant, and other critical systems, as well as other areas involving facility maintenance and repair. This will help ensure a seamless transition from the old buildings/locations in Kona to the new Judiciary Complex.

During the last two legislative sessions, the Legislature added to the Judiciary's budget \$600K in FY 2016 and \$750K in FY 2017 for civil legal services funding; WAM, in Senate Bill No. 469, S.D. 2, again added \$750K for each year of the upcoming biennium. However, JUD did not include this funding needed to continue work and programs so important for those in need of such services in our community. In fact, three civil legal service providers have provided more than 1,500 people with civil legal services during the first three months of the current contract period.

With regard to Capital Improvement Project (CIP) requirements, the Judiciary is thankful for JUD's funding of Second Circuit's request to make improvements to the parking structure and enhance security at Hoapili Hale; however, we are deeply concerned about the lack of support for any of the other projects totaling \$14.4 in FY 2018 and \$17.2 million in FY 2019. These funds are needed to address serious facility conditions and the Judiciary's deferred maintenance backlog, as well as needs for our new Kona Judiciary Complex. Specifically not supported were our requests to reroof and repair leaks and damages at Pu'u'honua Kaulike in the Fifth Circuit; provide for separate storm drain and sanitary systems for our Honolulu Kapuaiwa Building; upgrade and modernize fire alarm systems and elevators at Ka'ahumanu Hale in First



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Circuit, both of which are more than 30 years old and which continue to malfunction with greater frequency; provide lump sum funding to address both continuing and emergent building issues; and fund furniture, fixtures, and equipment for our new Kona Judiciary Complex so that we can equip and timely move into our new courthouse and thereby provide the central, one-stop court services location that the people of West Hawaii deserve and are waiting for. Also not supported by JUD was an additional \$420K in CIP funding added by WAM to address significant water intrusion, building settlement and roof issues at our more than 30-year old, Ewa District Courthouse.

There is one last item of note in the Judiciary biennium budget bill that requires comment. In Part II, Section 3 of the original budget bill and the WAM version in Senate Bill No. 469, S.D. 2, the number of temporary position counts for each program is shown. However, JUD removed these counts in Senate Bill No. 469, S.D. 2, H.D. 1. We are unsure as to why these position counts were removed since they were originally included in accordance with WAM guidance relative to ACT 160, Session Laws of Hawaii 2015 which required the reporting of these temporary position counts.

In summary, the Judiciary is very appreciative for the support provided by WAM and JUD for our Judiciary biennium budget, but also respectfully requests restoration of those operating positions and funding, as well as the CIP requests, that were not supported by JUD. With these changes and the restoration of funding and positions, the Judiciary respectfully requests your support of Senate Bill No. 469, S.D. 2, H.D. 1, the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.