



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Hawaiian Affairs

Senator Maile S.L. Shimabukuro, Chair
Senator Brickwood Galuteria, Vice Chair

Senate Committee on Higher Education

Senator Kaiali‘i Kahele, Chair
Senator Donna Mercado Kim, Vice Chair

Senate Committee on Judiciary

Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair

Tuesday, January 30, 2018, 9:00 a.m.
State Capitol, Conference Room 211

by

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Bill No. and Title: Senate Bill No. 2687, Proposed S.D. 1, Relating to Hawaiian Language.

Purpose: Appropriates funds to the University of Hawai‘i to translate the Hawai‘i State Constitution into the Hawaiian language. Requires courts to provide Hawaiian language translation services upon request of any party to a proceeding.

Judiciary's Position:

The Hawai‘i State Judiciary appreciates and supports the intent of Senate Bill No. 2687, Proposed S.D. 1. We provide testimony that explains (1) the recommendations of the Report of the 2015 Hawaiian Language Web Feasibility Task Force and (2) the Hawai‘i State Judiciary Policy recently established providing for the use of Hawaiian language interpreters for court proceedings. We also support the bill’s proposal to provide funding to the University of Hawai‘i to translate the Hawai‘i State Constitution into the Hawaiian language.

In December, 2015, the Hawai‘i State Judiciary submitted to the Hawai‘i State Legislature the recommendations of a Task Force which examined establishing Hawaiian



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language resources for the State of Hawai‘i Judiciary, as requested by House Concurrent Resolution No. 217 (2015). The Task Force recognized the State’s “interest in and commitment to the perpetuation of Hawaiian language and its use in all levels of government.” The Task Force sought to identify resources and infrastructure that could be used or developed to “sustainably meet the Judiciary’s ongoing translation needs, as well as those of other agencies.” It reviewed current language resources, reviewed historical Judiciary records, spoke with language professionals, and examined the number of qualified translators currently available. The Task Force further examined the current workloads of language professionals and translators to better understand their current capacity and resource needs. Based on that research, it determined that investment in myriad resources and infrastructure would provide a level of necessary support for the Judiciary to meet its own ongoing translation needs. In its recommendations to the Legislature, the Task Force “urge[d] the State of Hawai‘i to prioritize the development of ‘Ōlelo Hawai‘i capacity of our state government as a feasible accomplishment, and prioritize the development of sustainable resources and infrastructure for statewide Hawaiian language translation.” (*See Report*, pp. 8, 14)

On January 26, 2018, the Judiciary effectuated a written policy to ensure that an interpreter may be used by parties in court proceedings who wish to communicate in Hawaiian. The Judiciary “will provide or permit qualified Hawaiian language interpreters to the extent reasonably possible when parties in courtroom proceedings choose to express themselves through the Hawaiian language.” This expands upon our previous practice of considering such requests in the exercise of a court’s discretion.

The Judiciary will draw upon the experiences gained in other contexts to implement its new policy with the assistance of the Judiciary’s Office on Equality and Access to the Courts. This may include guidelines to encourage professionalism and accurate interpretation through steps such as registration, ethics training, testing, workshops, scripts, language forms, and pay scales that may recognize and encourage the use of prioritized qualifications (with commensurate payment categories).

This bill also proposes appropriation of funds for translation of the Hawai‘i State Constitution into the Hawaiian language. The Judiciary wholeheartedly supports this project and notes that it is consistent with the statement of the Committee on Hawaiian Affairs that reported on the language of article XV, section 4 of the Hawai‘i State Constitution with the following explanation:

Your Committee decided to make this amendment to the Constitution in order to give full recognition and honor to the rich cultural inheritance that Hawaiians



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have given to all ethnic groups of this State, by making Hawaiian an official language of the State. However, your Committee was cognizant of certain practical problems that might exist if Hawai‘i was declared an official language without any proviso. The committee feared that all official acts and transactions might have to be in Hawaiian, such as statutes, proceedings of the legislature and judicial decisions. At this point in history, it might be too expensive and impractical to require both languages in these situations. *The committee decided that it would be more sensible to delegate discretion to the legislature in determining the appropriate documents and acts to be in both languages.* (Standing Committee Report No. 57, reprinted in Proceedings of the Constitutional Convention of Hawai‘i at 632 (1980).) (Emphasis added.)

The Hawai‘i State Judiciary embraces its new policy and all that it represents for our court users and for our community. We look forward to working directly with our many stakeholders – the Hawai‘i State Legislature, the executive branch, the University of Hawai‘i, and with our community, in developing resources so that the Hawaiian language may be used more expansively by parties in our court proceedings.

Thank you for the opportunity to comment on this measure.