



The Judiciary, State of Hawaii

Testimony to the House Committee on Judiciary

The Honorable Jon Riki Karamatsu, Chair

The Honorable Ken Ito, Vice Chair

Thursday, January 28, 2010, 2:30 p.m.

State Capitol, Conference Room 325

by

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Bill No. and Title: House Bill No. 1993, Relating to Appellate Jurisdiction.

Purpose: Permanently establishes the jurisdictional responsibilities of the appellate courts.

Judiciary's Position:

House Bill No. 1993 is a Judiciary package bill. The bill would amend Act 202 of the 2004 Session Laws of Hawaii (as subsequently amended by Section 1 of Act 94 of the 2006 Session Laws of Hawaii) by:

- repealing the sunset date (Section 12),
- eliminating the mandatory transfer provision of HRS 602-58(a) in favor of direct appeals to the supreme court for two of the mandatory transfer case types and returning the other mandatory transfer to the discretionary transfer provision of HRS 602-58(b) (Section 9), and
- allowing direct appeals to the supreme court from
 - county voter registration boards' decisions (Sections 1, 2, 8),
 - circuit court public record access decisions (Sections 3, 8),
 - circuit court eminent domain decisions (Sections 4, 5, 6, 8),
 - circuit court labor injunctions (Section 7, 8),
 - water commission decisions (Section 8¹), and
 - life sentences (Section 8, 11).

¹ The supreme court is aware the addition of Section 174C-60 in Section 8 of this bill will specifically overrule its holding in *In re Water Use Permit Applications*, 113 Hawaii 52, 147 P.3d 836 (2006) (holding that after July 1, 2006, jurisdiction to hear and determine appeals from the water commission is with the ICA).



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Allowing these direct appeals will terminate the litigation of these priority and public impact cases more quickly, will relieve the ICA of some part its current caseload, and will eliminate likely transfer applications.

This bill is supported by the Judiciary's experience with the appellate system established by Act 202 of the 2004 Hawaii Session Laws, as reported in the Judiciary's December, 2009 Report to the Twenty-Fifth Legislature in accordance with Section 2 of Act 94 of the 2006 Hawaii Session Laws (copy attached). Act 202 amended various statutes so that all appeals were filed in the Hawaii Intermediate Court of Appeals (ICA) and heard by the ICA, unless transferred to the supreme court, subject to review by the supreme court on application for a writ of certiorari. As shown by the Judiciary's report, the system of appellate review established by Act 202 has been very successful. The system can, however, be fine tuned. In consequence of the quarter century of experience with the prior appellate system and three years of experience with the Act 202 system, the Judiciary proposes to retain the Act 202 appellate system for most appeals, but to allow select appeals to be heard directly by the supreme court.

Thank you for the opportunity to testify on (bill).