



*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

W. Tom Mick

Policy and Planning Department Director

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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, Lāna‘i, and Moloka‘i) 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.



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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.

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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.



**TESTIMONY**

Senate Committee on Judiciary

**Hearing: Tuesday, February 13, 2018 (10:00 a.m.)**

**TO:** The Honorable Brian T. Taniguchi, Chair  
The Honorable Karl Rhoads, Vice Chair

**FROM:** Howard K.K. Luke  
HSBA President

**RE:** Senate Bill No. 2150  
Relating to the Judiciary (Budget)

Chair Taniguchi, Vice Chair Rhoads and Members of the Senate Judiciary Committee, thank you for the opportunity to offer comments from the Hawaii State Bar Association (HSBA) in **STRONG SUPPORT** of certain appropriations and capital improvement projects (CIP) requests included in Senate Bill No. 2150.

While attorneys are rarely in unanimous agreement of a policy, a proposition or philosophy, I believe it is safe to say that all Hawaii attorneys are unanimous in their support of the first mission statement of the HSBA: “to unite and inspire Hawaii’s lawyers to promote justice, serve the public, and improve the legal profession.” A State court system with knowledgeable, impartial and fair justices and judges, and secure and safe court facilities which are conducive to the conduct of judicial business, are needed to meet our mission to serve the public in the manner to which it is entitled.

State court buildings funded with public resources should meet the needs of its users: judges, staff, litigants as well as the general public. Understandably, this goal must be accomplished without extravagance. Funding of personnel, judges and judicial staff, should be in line with the responsibilities these individuals must meet to fulfill the matters on their respective court calendars.

The HSBA is aware of limited funding to meet the competing needs of State government. However, we firmly believe the funding requests we are supporting are necessary for the optimal delivery of judicial services.

First, the HSBA supports funding requests for items 1 through 5 on pages 2 and 3. Specifically the HSBA supports:

- Intermediate Court of Appeals: 1 staff attorney position;
- Oahu First Circuit Family Court: 1 judge, 2 clerks, 1 bailiff

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- Maui Second Circuit District Court: 1 judge, 2 clerks, 1 bailiff
- Big Island Third Circuit: 2 bailiffs
- Kauai Fifth Circuit Family Court: 1 judge, 2 clerks, 1 bailiff

And second, the HSBA supports the CIP funding requests for the:

- Kona Judiciary Complex: third phase for furnishing and equipment on page 8; and
- Upgrades to the fire alarm system and elevators at the Kaahumanu Hale building of the First Circuit, Oahu on page 6.

The HSBA greatly appreciates the prior planning and construction funding of the Kona Judiciary Complex this Committee and the Senate has generously approved. We have been informed that the Judiciary has managed this project efficiently in keeping with previously approved funding phases. The Complex is scheduled to open in the summer of 2019 as originally forecasted. To ensure a fully functional court facility for the transitional move to avoid any interruption in the delivery of services, funding for furnishings and equipment are now needed to begin procurement processes consistent with State procurement laws.

Certain items may be salvaged and moved from the current facility to the new court facility. However, we believe that bulk purchasing for needed equipment and furniture to furnish the larger facility may result in cost savings. Moreover, the Kona facility is designed to accommodate current and future wiring and electrical needs of equipment (such as computers, printers, servers, and security screening) so work areas and cubicles with electrical troughs will be needed for staff areas for health and safety reasons.

A statewide network of safe secure facilities conducive to the conduct of judicial business is essential to the delivery of justice to the public.

# KAUA'I BAR ASSOCIATION

## TESTIMONY

Senate Committee on Judiciary

Hearing: February 13, 2018

TO: The Honorable Brian T. Taniguchi, Chair  
The Honorable Karl Rhoads, Vice Chair

FROM: Rebecca Vogt Like  
President, Kaua'i Bar Association

RE: SB 2150: Relating to the Judiciary

Aloha Chair Taniguchi, Vice Chair Rhoads and Members of the Senate Committee on Judiciary. After careful review, the Kauai Bar Association ("KBA") respectfully submits the following testimony regarding Senate Bill No. 2150.

*\*Pursuant to the Board adopted Guidelines for Legislative Testimony of the Sections Committee (4/15/88) this written position represents the views of the Kauai Bar Association (a committee, section, division or related entity of the Hawaii State Bar Association, and does not necessarily reflect the views of the Hawaii State Bar Association as a whole.*

The KBA supports the original budget submittal by the Judiciary with inclusion of funds for additional court staff on Kauai and repairs to the Kauai Courthouse. A well maintained courthouse is essential for access to justice and the efficient functioning of the Judiciary.

The Fifth Circuit currently has only one Family Court Judge and one District Court Judge. Historically, lighter caseloads may not have necessitated a second Family Court Judge. However, with increasing caseloads, having only one Judge to process all Family criminal and civil matters causes delays in setting hearings and resolving cases. Further, the cost of adding a second Family Court Judge would likely be offset by a reduced use of Per Diem Judges.

Thank you for the opportunity to testify on this matter.

# WEST HAWAI'I BAR ASSOCIATION

*info@westhawaiiabarassociation.com*

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*President: Donna V. Payesko ~ Vice President 1: R. Hermann Heimgartner ~ Vice President 2: Rebecca Colvin*

## Testimony

Senate Committee on Judiciary

Hearing: Tuesday, February 13, 2018 @ (10:00 a.m.)

To: The Honorable Brian T. Taniguchi, Chair  
The Honorable Karl Rhoads, Vice Chair

From: Donna V. Payesko  
President, West Hawaii Bar Association

Re: Senate Bill No. 2150  
Relating to the Judiciary (Budget)

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Chair Taniguchi, Vice Chair Rhoads and Members of the Senate Judiciary Committee, thank you for the opportunity to offer comments from the West Hawaii Bar Association (WHBA) in STRONG SUPPORT of the appropriations and capital improvement project (CIP) request included in Senate Bill No. 2150, specifically line item no. 8, requesting appropriations for furnishings and equipment for the Kona Judiciary Complex.

The WHBA greatly appreciates the funding that the Kona Judiciary Complex (the "Complex") has received thus far. It is our understanding that this project is proceeding "on time" and "on budget." Indeed, the progression of the construction of the new Kona Judiciary Complex is visible to all in our local community every day as we drive by. The Complex, scheduled to open in the summer of 2019, will consolidate the Judiciary's programs in West Hawai'i in one location and allow the Judiciary's Third Circuit to provide permanent, integrated, full services in a technologically equipped and secure facility.

Adequately and appropriately furnishing and equipping the building is necessary to open the Complex for services. It takes months to furnish and install, test and ready a new facility of this size for use and these activities must take place simultaneously while the existing facilities remain in operation to avoid any disruption in services. Due to the lead time involved in the procurement and ordering process, it is essential that the requested funds be appropriated during this session.

The appropriation request will be utilized to replace worn and outdated items with safe, updated and integrated products, providing products of quality and value on par with the new facility. In addition, the new furnishings and equipment will accommodate transforming information technologies.



The present Kona facilities are disconnected and poorly equipped. The current furniture in the various Kona courthouses appears to be a collection of mismatched recycled office furniture, some of which has been exposed to the outdoor elements as a result of the current layout and is substandard. Indeed, there are significant safety concerns/issues regarding the current state of the furnishings and equipment. For instance, most courtrooms have exposed wiring running along the floor creating conditions which pose a tripping hazard to the attorneys who appear before the Courts, as well as the public. Also, virtually all of the present courtroom seating is unsafe and distracting to litigants. Chairs have seats that are collapsing inward, upholstery that is worn and ripped, as well as old metal chairs that have rusted sharp edges posing safety risks. The current telephone system for telephone hearings is insufficient. We live on an island and in a rural community and minimizing attorney travel whenever possible is crucial for keeping costs down. The current phone system results in difficulties with hearing/receiving information where attorneys or parties are appearing by telephone and is ultimately an issue of due process and access to justice.

In addition to the concerns with the current furniture and equipment, there is also simply not enough existing furniture and equipment to fully outfit the new Complex. The design of the new Complex includes new and expanded facilities which will need to be adequately furnished. For example, the “Kona Self-Help Center,” which is the program staffed by volunteer attorneys, at present exists in the small law library with a few desks. The new Complex will include an expanded, dedicated space which should be outfitted so that our volunteer attorneys may continue to assist the community and do so in a space that affords privacy to those seeking assistance. The new Complex will also include private conference rooms so that attorneys may meet in private with their clients, something that does not exist at the current facilities.

The Complex being funded with public resources should certainly not appear extravagant, however an suitably outfitted Complex is necessary to meet the needs of litigants, judges, court staff and ultimately our community.

Thank you.

**SB-2150**

Submitted on: 2/13/2018 2:46:54 AM

Testimony for JDC on 2/13/2018 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Testifying on behalf of Ho`omana Pono, LLC	Support	Yes

Comments:

**SB-2150**

Submitted on: 2/12/2018 8:42:29 PM

Testimony for JDC on 2/13/2018 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shana Logan	Individual	Support	No

Comments:

Aloha,

I support this measure. In determining what funds to allocate within the Judiciary, I propose that a fund be in place for compliance with ADA (Americans with Disabilities Act) standards in court, particularly when a person or party involved in a case has hidden or other mental/developmental disabilities such as PTSD (Post-traumatic Stress Disorder) and ASD (Autism Spectrum Disorder), both widely affecting a large part of the community and growing. At this time, there are no accommodations for those who are thus disabled and many are potentially having judgements against them that could be in violation of their ADA rights due to the ignorance and lack of disability training/education of judges and other legal staff tasked with determining and providing justice to the general population, which increasingly includes the mentally disabled. This is a lawsuit waiting to happen, so I hope you will provide the public with more assistance and hopefully more "Access to Justice" for the disabled. This is money well spent, and we in the disabled community would like to see this happen for the sake of the most vulnerable in our society who must face court without properly prepared, trained representation or advocacy. This includes domestic violence victims who suffer from PTSD, as many do. Judges, GALs, court-appointed attorneys, probation officers, social workers, bailiffs, etc., need to be properly equipped to make educated, thoughtful decisions in these cases. Every case deserves equality, regardless of disability. It's the law. Mahalo.



*The Judiciary, State of Hawai'i*

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Thank you for the opportunity to testify on this measure.



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SOCIETY OF HAWAII**

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**TESTIMONY IN SUPPORT OF SB2150 – RELATING TO THE JUDICIARY.**

Committee on Judiciary - Room 016

Senator Brian Taniguch, Chair  
Senator Karl Rhoads, Vice Chair

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

The Legal Aid Society of Hawaii submits testimony in support of SB2150 – Relating to the Judiciary, but requests an amendment to include \$750,000 in general revenue funding for general civil legal services.

We apologize for the late testimony.

This funding would go to restoring general revenue funding for civil legal services. Civil legal services are critical in that they can provide real world solutions to help families in crisis find stability and hope.

This funding would go to ensuring funding for civil legal services. In FY17, similar funding from “A” funds was provided to the Judiciary for purchase of service contracts. Contracts in FY17, were issued to our organization, Volunteer Legal Services Hawai‘i, and the Domestic Violence Action Center to provide general civil legal services. In FY18, similar funding was not provided by the legislature. While there could have been a significant impact on all three legal service providers who received these funds this year, the impact was minimized through one time funding provided by the Hawai‘i Justice Foundation.

To this end, we are seeking restoration of this funding, to enable our organizations to continue to provide key civil legal services across the state. The Legal Aid Society of Hawai‘i has provided civil legal services to the community for over 65 years. Through our eleven offices which include one on each of the major Hawaiian islands, our staff assist residents of Hawai‘i to navigate and solve basic issues which require legal interventions. In 2017, our staff of 100 closed about 8,300 cases in legal areas ranging from family, housing, consumer, foreclosure, public benefits, elder law, homelessness, immigration, language access, and child welfare.

Thank you for this opportunity to provide testimony.

Sincerely,

M. Nalani Fujimori Kaina  
Executive Director

Sergio Alcubilla  
Director of External Relations