



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Second State Legislature, 2023 Regular Session

Senate Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

Monday, April 3, 2023, 9:30 a.m.

Hawai‘i State Capitol

Conference Room 211 & Videoconference

by

Tom Mick

Policy and Planning Department Director

Bill No. and Title: House Bill No. 382, H.D. 1, S.D. 1, Relating to the Judiciary.

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2024 and 2025.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 382, H.D. 1, S.D. 1, which reflects the Judiciary's resource requirements for FYs 2024 and 2025.

The Judiciary recognizes that after the difficult down years due to the effects of COVID-19, Hawaii's economy has continued to gradually recover and move forward. As the Judiciary was preparing its budget requests for submission to the Governor and the Legislature, this economic improvement was confirmed at the Hawai‘i Council on Revenues meeting in January 2023 which raised the growth rate projected at its September 2022 meeting from 4% to 5% for FY 2024 and maintained its forecast of 3.5% for FYs 2025-2029, although it did lower its FY 2023 forecast from 6.5% to 5.5%.

Accordingly, after considering this, the Judiciary moved forward with requests for eight new permanent positions and \$7.8 million in FY 2024 and \$6.9 million in FY 2025. Our requests centered on new facilities, new permanent positions, client services, restoration of funding for defunded positions, and some miscellaneous but important priority items.



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The Judiciary is very grateful to the Senate Committee on Judiciary (JDC) for providing eight new permanent positions and \$7.0 million for FY 2024 and \$6.5 million for FY 2025 for our biennium budget requests. This included funding for: (1) network circuits, phone lines, and associated telecommunications equipment for the new Wahiawā Courthouse scheduled to open in Spring 2025; (2) security, janitorial, and common area maintenance services at Hale Hilina‘i, the new and revitalized juvenile services and shelter facility on Alder Street; (3) a District Court Judge and three supporting staff positions for First Circuit to allow it to increase its capacity to serve rural courts; (4) two bailiff positions for Third Circuit to support all the technical requirements that go with the new hybrid of remote and in-court proceedings; (5) guardian ad-litem/court-appointed counsel services Judiciary-wide; (6) mediation services where caseload has more than doubled from what is called for in the contract; (7) residential and other therapeutic programs that allow children to remain with mothers on probation while in these programs; (8) salaries for justices and judges set by the 2019 Commission on Salaries and approved by the legislature; (9) replacement of the Judiciary’s 4Gov accounting system; (10) our share of increased costs for the State’s risk management program; and (11) a no-cost temporary to permanent position conversion for a forensic interview specialist at Children’s Justice Center.

Also included in the above amounts, again for which we are very thankful to JDC, are some \$1.8 million in FY 2024 and \$1.9 million in FY 2025 to restore funding for 31 defunded positions – 14 in the First Circuit, 5 in the Second Circuit, 7 in the Third Circuit, 2 in the Fifth Circuit, and 3 in the Office of Public Guardian.

The Judiciary also appreciates and supports the additions by JDC to our budget of \$75K to fund the Zero to Three Court in Third Circuit and the \$447K to increase Judiciary purchase of service contracts by 5% for non-profit organizations providing legal and social services statewide, although we would respectfully request that these additions not come at the expense of our other biennium budget requests.

However, the Judiciary is concerned that JDC did not restore funding for positions for two Second Circuit District Court Judges and a Per Diem Judge. The non-restoration of funding for the Second Circuit District Court Judge, District Family Court Judge, and per diem judge positions is troublesome as the importance of these positions is evidenced by the fact that Second Circuit reallocated funds from other staff vacancies and operating needs to temporarily fund these positions. At some \$450K to restore funding for these judge positions, if we were to assume average funding for a position is about \$50K, than as many as nine other funded vacant positions (or any number less than that offset by other operating funds) are not being filled so as to fund the judge positions. This diversion of funds from other vacant positions or operating needs cannot continue indefinitely as it leads to inadequate staffing in other court units, can delay court processes, and eventually compromise the overall integrity and accountability of court operations in Second Circuit.



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We are also quite concerned that House Bill No. 382, H.D. 1, S.D. 1, did not restore neither the \$425K in operating funding requested for **position** related furniture, fixtures and equipment (FF&E) for the new Wahiawā Courthouse nor the \$775K in Capital Improvement Program (CIP) or bond funding requested for **non-position** related FF&E. Without such funding in FY 2024, it would be unlikely that this FF&E could be ordered, received, and installed in time to meet the currently planned Spring 2025 occupancy date for the new courthouse. It should be noted that when we have previously constructed new courthouses, a separate CIP/bond funded request has been submitted and approved by the Legislature for **both** position and non-position related FF&E. However, recent guidance from the Department of Accounting and General Services indicates that position related furniture no longer qualifies for bond funding so two separate requests must now be submitted – one general fund request for loose, position related FF&E such as desks and desk chairs and one bond funded request for non-position related FF&E such as conference tables and courtroom benches.

Relative to our other CIP requests, we are very appreciative of the \$15,450,000 provided by JUD to upgrade and modernize the elevators at Ka‘ahumanu Hale in First Circuit, address condensate discharge matters at Hoapili Hale in Second Circuit; complete the reroofing and related improvements at Pu‘uhonua Kaulike in Fifth Circuit, continue air conditioning replacement work at Ali‘iōlani Hale, and address both continuing and emergent building issues statewide with lump sum monies. And we are extremely grateful to JUD for the additional \$5 million provided to upgrade and modernize the elevators at Ka‘ahumanu Hale and take advantage of efficiencies of scale and avoid possible higher costs in the future.

Two other technical points need mentioning. House Committee on Finance (FIN) in House Bill No. 382, H.D. 1, and the related worksheets inadvertently used an incorrect base amount of 226 permanent positions for JUD 601 (Administration) instead of the 227 shown in last year’s final Judiciary budget bill – House Bill No. 1536 H.D.2, S.D. 2, C.D. 1. With the approval of CJC’s position conversion in Administration by FIN, House Bill No. 382, H.D. 1, should show 228 permanent positions for JUD 601 rather than the 227 number shown. JDC corrected this number to 228 in House Bill No. 382, H.D. 1, S.D. 1. Also, on page 20 of the worksheets for JUD 601, sequence number 6-001, “Judiciary Budget Prep: Reduce Funds for Non-Recurring Costs Act 194 SLH 2022”, incorrectly cites sequence number 3000-001 instead of 3001-001. Discussions with FIN indicate it is aware of these errors.

In summary, the Judiciary is extremely grateful for all the support provided by JUD but also respectfully requests restoration of \$447K in FY 2024 and \$452k in FY 2025 for two defunded Second Circuit District Court Judge and a Per Diem Judge positions, and \$425K in operating funding and \$775K in CIP funding for FF&E for the new Wahiawā Courthouse. With these changes, the Judiciary respectfully requests your support of House Bill No. 382, H.D. 1, S.D. 1, the Judiciary’s biennium budget request.



House Bill No. 382, H.D. 1, S.D. 1, Relating to the Judiciary
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Thank you for the opportunity to testify on this measure.

MCBA



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Maui County Bar Association

P. O. Box 1595, Wailuku, Maui, Hawaii 96793

March 31, 2023

COMMITTEE ON WAYS AND MEANS

April 3, 2023

9:30 AM Conf. Room 211

Bill No. and Title: Support for House Bill No. 382 Relating to the Judiciary. ***Purpose:*** To provide biennium operating and capital improvement appropriations for FYs 2024 and 2025.

Members of the Senate Judiciary Committee:

The Maui County Bar Association (MCBA) requests your support of House Bill No. 382 relating to the Judiciary's biennium operating and capital improvement appropriations for FYs 2024 and 2025. Our organization represents all attorneys of Maui County and has over 220 dues-paying members.

MCBA urges you to consider the needs of our circuit, which serves the islands of Maui, Moloka'i, and Lāna'i. Without restoration and allocation of the requested funds (7.2 positions - \$699k, FY2024, \$715K, FY 2025 and CIP funds) the basic administration of justice in Maui County will be hampered.

Funding is needed for a District Court Judge position, a Family Court Judge position, and a per diem judge. In recent years, due to a lack of funding, these essential positions have been temporarily covered by cutting other positions. The result has been a reduction in access to justice for Maui County residents. Court proceedings have been delayed, orders take longer to enter, and the public's ability to access legal documents and conduct in-person filing is diminished. All of this can be cured with adequate funding.

Unique to our circuit are the rural courts to be serviced (Lahaina, Hana, Moloka'i, Lāna'i) some of which require planes or ferries to reach. Access to justice for these rural communities requires basic staffing, such as a District Court Clerk in Lahaina and a Judicial Clerk on Moloka'i. These rural court positions have remained vacant for some time – requiring the limited staff from Wailuku to also fulfill these functions. This exacerbates the staffing shortages in Wailuku, results in greater delays for rural residents, and limits the provision of basic judicial services to these communities.

Two social worker assistant positions are also needed to support the Community Service Sentencing program, Monetary Restitution program, Guardian Ad Litem, Court Appointed Special Advocates, and Volunteers in Public Service.

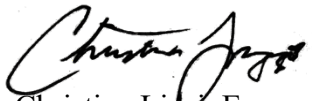
Maui County Bar Association

P. O. Box 1595, Wailuku, Maui, Hawaii 96793

Finally, Hoapili Hale is unfortunately out of compliance with revised Maui County requirements for A/C condensate discharge and requires upgrades to these systems. Failure to comply may impair the Second Circuit's ability to obtain needed permits in the future.

MCBA also supports the other measures presented in HB No. 382. The health of our appellate courts – with adequate staffing and safe, healthful work environments - affects every circuit. Similarly, many of our attorneys represent clients across the State and practice in in other circuits. Adequate staffing and facilities in those circuits thus also impacts our members.

Thank you for the opportunity to provide testimony in **strong support** of HB No.382.



Christina Lizzi, Esq.

President

Maui County Bar Association



TESTIMONY
Senate Committee on Ways and Means
Hearing: Monday, April 3, 2023 (9:30 a.m.)

TO: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

FROM: Rhonda Griswold
HSBA President

RE: House Bill No. 382, HD1, SD1
Relating to the Judiciary

Chair Dela Cruz and members of the Senate Committee on Ways and Means, the Hawaii State Bar Association appreciates the opportunity to offer testimony in **STRONG SUPPORT** of House Bill No. 382, HD1, SD1, which sets forth the biennium budget requested by the Hawaii State Judiciary.

As Hawaii moves into an optimistic “endemic” phase after facing health and safety challenges of a historic magnitude, we understand that the Legislature, the Executive, and the Judiciary will be called upon to refocus efforts to continue and perhaps expand programs created to pivot in a time of crisis, and to restore budget restrictions where funds were diverted to meet immediate emergency needs. We have been informed that the State Judiciary accounts for approximately 2% of the overall State budget, and over the past decade the Judiciary’s share of the State budget has decreased even before the Covid pandemic. We believe the Judiciary has been and continues to be fiscally responsible.

Recent reports from community agencies and organizations indicate that there will be a greater need for judicial services for the upcoming biennium. There appears to be an unfortunate increase in criminal citations and complaints that must be handled on the court’s criminal calendar. In addition, the civil courts must now work through a backlog of civil cases that accumulated as criminal matters needed to be resolved first, necessitating the deferral of certain commercial and personal disputes. The Judiciary’s proposed biennium budget helps to ensure that it can meet these challenges.

GENERAL FUNDS APPROPRIATIONS

The HSBA is appreciative of the Senate Judiciary Committee’s the additions HB 382 SD1:

- Increased appropriation (\$5.0 million) for the elevator upgrade and modernization at Kaahumanu Hale First Circuit Court building.
- Increased appropriation of 5% for purchase of service contracts.

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The HSBA is supportive of the restoration from prior drafts included in HB 382 SD1:

- First Circuit – 1 new District Court judicial position and support staff to provide stability and continuity to rural courts.
- First Circuit – 1 vacant Circuit Court position.
- Second Circuit – 1 District Court, 1 District Family Court, and 1 per diem judicial positions.
- Fifth Circuit – 1 social worker position.

CIP APPROPRIATIONS

The HSBA requests restoration of funding (\$775,000) for non-position funding for the Wahiawa District Court. And the HSBA supports funding (\$6,000,000) for a new Children’s Justice Center on Oahu.

The Judiciary plays a vital role in maintaining a fair and civil society. Individuals utilize court services during some of the most stressful times of their lives. Families rely on the Judiciary to settle disputes which tear at the fabric of their household. Business owners and entrepreneurs rely on the Judiciary to resolve contract or insurance issues which threaten their continued existence. Individuals who have been wronged, intentionally or unintentionally, by others rely on the Judiciary to make them whole. Those accused of crimes rely on the Judiciary to hear their “side of the story” and enforce speedy trial constitutional rights, and the government must have an opportunity to present its case on behalf of the public. The Judiciary needs full staffing and facilities in order to provide timely justice for all.

Thank you for the opportunity to submit these comments in **STRONG SUPPORT** of House Bill No. 382, HD1, SD1.

Trever Asam
Board President

Rachel Figueroa
Executive Director



545 Queen Street, Suite 100
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**TESTIMONY IN SUPPORT OF H.B. 382, HD1, SD1
RELATING TO THE JUDICIARY
Committee on Ways and Means– April 3, 2023 9:30 a.m.**

CHAIR DELA CRUZ, VICE CHAIR KEITH-AGARAN AND MEMBERS OF THE
COMMITTEE ON WAYS AND MEANS:

Volunteer Legal Services Hawaii supports the passage of H.B. 382, HD1, SD1.

This critical funding would go to funding civil legal services, including but not limited to the delivery of civil legal services to low- and moderate- income individuals in Hawaii.

In the last forty-two years, Volunteer Legal Services Hawaii has partnered with volunteer attorneys in the provision of civil legal assistance to individuals and families of Hawaii. While Volunteer Legal Services Hawaii's only office is on Oahu, we service residents of Hawaii statewide. In 2022, with only a staff of 8, Volunteer Legal Services Hawaii qualified over 900 individuals. Volunteer Legal Services provides legal checkups, educational presentations, clinics, brief services and/or full representations. Nineteen percent (19%) of those helped are homeless or at the risk of being homeless, 21% of those helped suffer from domestic violence, 1% of those helped were veterans, 26% of those helped are disabled, and 15% of those helped were aged 60 and over. If not for Volunteer Legal Services Hawaii, these individuals would have otherwise gone without legal help.

Volunteer Legal thanks the committee for the past support of legal services in the judiciary budget.

We respectfully request your passage of H.B. 382, HD1, SD1. Thank you for this opportunity to provide testimony.

Sincerely,
Rachel Figueroa, Executive Director



Collection Law Section

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Reply to: STEVEN GUTTMAN, CHAIR
220 SOUTH KING STREET SUITE 1900
HONOLULU, HAWAII 96813
TELEPHONE: (808) 536-1900
FAX: (808) 529-7177
E-MAIL: sguttman@kdubm.com

April 1, 2023

Sen. Donovan M. Dela Cruz, Chair
Sen. Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

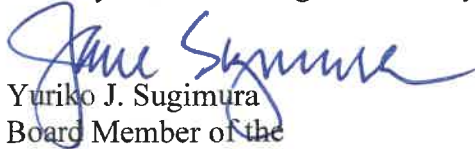
Re: Testimony in Support of HB 382,HD1, SD1
Re: the Judiciary
Hearing: April 3, 2023, 9:30 a.m. Conf. Room 211

Chair Dela Cruz, Vice-Chair Keith -Agaran and Members of the Committee:

The Collection Law Section of the Hawaii Bar Association wholeheartedly supports this bill and asks that you pass it out because:

- Many of our members practicing in Oahu have experienced and/or observed leaking roofs in the circuit court building and unreliable elevators at both the Honolulu district court and the circuit court buildings.
- Our members can also attest to the fact that remote and hybrid hearings that were implemented to allow court hearings to occur during the pandemic take longer than in-person hearings and have resulted in longer court hearings that can and do result in back-log of cases, and we recognize the need to restore judiciary support staff and add judicial positions so that the judiciary can efficiently and expeditiously address the needs of the community.
- Restoring judiciary support staff and adding judicial positions will also increase the capacity of the courts to address not only the basic needs of the community but would also promote a fully operational court system post-pandemic.

Thank you for allowing me to testify on this important issue.



Yuriko J. Sugimura
Board Member of the
HSBA Collection Law Section

This testimony reflects the position/viewpoint of the Collection Law Section of the Hawaii State Bar Association only. The position/viewpoint has not been reviewed or approved by the HSBA Board of Directors.

LATE

HB-382-SD-1

Submitted on: 4/2/2023 10:09:25 AM

Testimony for WAM on 4/3/2023 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---|---------------------------|---------------------------|
| Joseph E Cardoza | Testifying for Hawai`i Access To Justice Commission | Support | Written Testimony Only |

Comments:

Chair: Hon. Donovan M. Dela Cruz, Chair

Vice Chair: Hon. Gilbert S.C. Keith-Agaran, Vice Chair

Committee: Senate Committee on Ways and Means

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Monday, April 3, 2023

Hearing Time: 9:30 a.m.

Place: Conference Room 211 & Videoconference

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

House Bill: HB No. 382, HD1 SD1

Position: Support of HB 382, HD1, SD1 Relating to The Judiciary

Dear Chair Dela Cruz and Members of the Senate Committee on Ways and Means:

The Hawai'i Access to Justice Commission (Commission) supports House Bill 382, House Draft 1, Senate Draft 1, the Bill that appropriates funds for the Judiciary for the fiscal biennium beginning July 1, 2023. Specifically, the Commission supports the funds requested for the purchase of civil legal services for low- and moderate-income persons, and guardians ad litem and court-appointed counsel in family court cases.

Several non-profit organizations provide critical civil legal services to persons who cannot afford a lawyer. The inability to access essential civil legal services can often lead to long-term consequences. Undoing the damage caused by the inaccessibility to civil legal services is costly, both for the individual and society in general. The impact on the community is both social and economic.

Additionally, funding for guardians ad litem and court-appointed counsel in family court cases is essential. Children and adults who are parties in family court cases need these legal services to achieve successful outcomes. These legal services also serve the best interests of society because addressing serious family issues in the present is far more effective than doing so years later when it is often too late to undo the harm inflicted during childhood.

Finally, increasing the amount of moneys available for nonprofit organizations providing legal and social services procured through purchase of service contracts by five percent represents a sound approach to budgeting for several reasons. These reasons include the need to maintain pace with the cost of doing business in Hawai'i and the increasing cost of doing business throughout the nation. Without the increase in funding, nonprofit organizations will fall behind in their ability to meet the demand for services and recruit and retain employees.

Thank you for the opportunity to present this written testimony.

I do not plan to testify during the hearing on this Bill.

LATE

TESTIMONY ON HB382, HD1, SD1

Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice-Chair

Monday, April 3, 2023 at 9:30 a.m.

The Legal Aid Society of Hawaii submits testimony in support of HB382, HD2, SD1 – Relating to the Judiciary.

We are grateful for the support of the legislature for their support of general civil legal services in the Judiciary budget and also write in support of making the restoration and increase in Guardian ad litem and Parent Counsel funding permanent.

In January 2021, guardian ad litem contracts in the First Circuit were cut by 40%, retroactively to July 1, 2020. These cuts were devastating and in doing so, many experienced guardian ad litem chose to leave this practice area and also impacted the ability for providers like us to provide these services. Additional cuts in other circuits, also led to the departure of attorneys willing to serve in these roles.

With the support of the legislature, in FY23, this funding was restored and an increase was provided which has significantly assisted in the maintenance and recruitment of guardian ad litem. We ask that the legislature make this funding permanent.

Guardian ad litem contracts provide a critical piece in ensuring the safety of children in child welfare cases by providing an independent fact finder in child welfare cases whose sole interest is the welfare of the child as required by state and federal law.

Parent counsel is also critical to ensuring that the fundamental right of parents to raise their children is also preserved. Parent counsel can play a critical role in not only helping to assert the rights of parents when a child is wrongfully removed, but also to counsel parents to enter treatment, counseling or other services in order to reunify with their children. When done right with the right support and done with compassion, we've seen amazing changes and growth in parents who are now able to provide safe family homes for their children.

For over 20 years, Legal Aid has been providing guardian ad litem and parent counsel services across the state, assisting close to 4,000 children in the child welfare system and representing over 500 parents.

Thank you for this opportunity to provide testimony.

Sincerely,



Angela Lovitt
Interim Executive Director