

STAND. COM. REP. NO.

958

Honolulu, Hawaii

MAR 24 2011

RE: H.B. No. 300
H.D. 2
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 300, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE JUDICIARY,"

begs leave to report as follows:

The purpose and intent of this measure is to appropriate funds for the Judiciary for the fiscal biennium beginning July 1, 2011, and ending on June 30, 2013.

Your Committee received testimony in support of this measure from the Judiciary, Hawaii State Bar Association, Family Law Section of the Hawaii State Bar Association, The Mediation Center of the Pacific, Inc., and one individual.

According to "Justice in Jeopardy: The Impact of Budget Cuts and Furloughs on the Judiciary, State of Hawai'i" (Report), a December 2010 report issued by the Judiciary, budgetary constraints on the Judiciary have been severe during the last few years. In the last two years, the Judiciary's General Fund appropriation has been reduced by \$19,700,000 (13.1 percent of its overall budget), while the demand for Judiciary services has increased due to the impact of the difficult economy on Hawaii residents. Furloughs alone have eliminated over 600,000 available staff hours of work.

The impact of furloughs on the Judiciary and the public in general has been acute. These reductions have had substantial



negative effects throughout the judicial system, by reducing, delaying, and in some cases eliminating important services. According to the Report, families and the most vulnerable citizens have been significantly impacted. The time it takes to process an uncontested divorce has doubled, and the wait time for children to participate in the Judiciary's Kids First program in Kapolei, which seeks to alleviate the impacts of divorce by having children participate in a group counseling session, has more than doubled. Budgetary reductions have also had negative effects in criminal cases. For example, twenty-four adult probation positions were eliminated in the First Circuit, including positions in high risk areas such as the sex offender unit and the domestic violence unit. Individual probation officers now supervise as many as one hundred eighty defendants, well above the nationally recommended ratio.

Your Committee believes that restoring furlough days for the Judiciary is critical to the public's right to meaningful access to justice. Although a turbulent economy and budget constraints dictate that rigorous cutbacks be made to state services, your Committee is mindful that the Judiciary serves a fundamental role in our constitutional system. Quite simply, the courts need to be open and available to those seeking legal help and a forum to address grievances. Accordingly, your Committee has found the funds to restore the \$1,300,000 cut from the Judiciary budget that would have resulted in furloughs during the 2011-2013 fiscal biennium, through economies within the Judiciary budget and other budgets under the purview of your Committee. Austerity may be unavoidable in other areas, but it is unacceptable when it threatens the ability of our courts to fulfill their constitutional mission of providing access to justice and protecting constitutional rights and liberties.

Your Committee is concerned that, at some point in the future, furloughs may again be on the table for the Executive Branch and that the Judiciary may elect to follow suit. Your Committee notes that when the Executive Branch instituted furloughs in the Fall of 2009, the Judiciary instituted a similar furlough program shortly afterwards. However, this was a voluntary action of the Judiciary since the Executive Branch does not have the authority to reduce or withhold funding for the Judicial Branch. Having invested significant effort in finding the funds to restore the Judiciary furlough days, your Committee would be disappointed if the Judiciary needlessly elected to reinstitute a furlough program during the 2011-2013 fiscal



biennium to conform to a similar program instituted by the Executive Branch for its employees. Accordingly, your Committee has added a proviso applicable to the Judiciary's program funds to effectively prohibit a furlough program within the Judiciary.

Your Committee also notes that the Judiciary discussed the issues surrounding the Kona Judiciary Complex in its testimony. Specifically, the issues discussed related to the House Finance Committee deleting the appropriation for land acquisition costs for the new Complex, noting that three of the six sites under consideration were state-owned and assumed that there would be no cost to acquire one of these three sites. As pointed out in the Judiciary's testimony, however, two of these sites are owned by the Department of Hawaiian Home Lands, while the other is owned by the Department of Land and Natural Resources (DLNR); hence, only the DLNR site may be acquired at little or no cost to the Judiciary. After reviewing the location of the proposed DLNR site, your Committee believes that this site may represent a cost-effective alternative to the other sites under the Judiciary's consideration. Therefore, your Committee has not reinserted an appropriation for land acquisition for the Kona Judiciary Complex. Your Committee has, however, shifted the appropriation for the design of the Complex to fiscal year 2012-2013, as recommended by the Judiciary.

Your Committee has amended this measure by:

- (1) Restoring funding to eliminate furlough days in the Judiciary entirely by appropriating an additional \$1,307,306 each for fiscal years 2011-2012 and 2012-2013 for Judiciary program appropriations;
- (2) Inserting a proviso regarding the program appropriations stating that no funds shall be expended if a work furlough program that is intended to achieve labor savings is implemented and that any unexpended funds shall lapse;
- (3) Changing the appropriation for the design of the Kona Judiciary Complex from fiscal year 2011-2012 to fiscal year 2012-2013; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 300, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 300, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB300, HDZ	Committee Referral: JDL, WAM	Date: 3/22/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes