



The Judiciary, State of Hawai'i

Testimony to the Thirty-Second State Legislature 2024 Regular Session

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Wednesday, March 27, 2024, 9:59 a.m.
State Capitol, Conference Room 211 and Videoconference

by:

Brandon M. Kimura
Policy and Planning Department Director

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1911, H.D. 2, S.D.1, Relating to the Judiciary.

Purpose: Appropriates funds for the Judiciary Supplemental budget for the 2023–2025 biennium. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024–2025.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 1911, H.D. 2, S.D.1, which reflects the Judiciary's resource requirements for Fiscal Year 2025. The Judiciary appreciates the consideration by the House and the Senate Committee on Judiciary. This testimony describes each operating and CIP request in H.B. 1911 and provides comments on Senate Draft 1.

The Judiciary respectfully requests supplemental operating funds for FY '25 in the amount of \$3.24 million and 4.5 new permanent positions. The Judiciary further respectfully requests \$17 million for capital improvements—\$3 million in operating ("A") funds and \$14 million in bond ("C") funds. The Judiciary also respectfully requests an amendment to Act 70 (SLH 2023) to



address what appears to be an inadvertent error regarding a study, and an amendment to Act 38 (SLH 2019), as amended by Acts 5 and 9 (SLH 2020), because that pertained to efforts during the early part of the Covid-19 pandemic and are no longer necessary.

Operating Requests:

To cover a significant increase in electricity costs, we request \$1.19 million. The Judiciary's electricity usage has remained relatively stable for at least the last six years, and yet the price of electricity has increased substantially in recent years. Electricity costs Judiciary-wide have gone up approximately 37% since FY '19.

To increase compensation for court interpreters, we request \$530k. To ensure those of limited English proficiency have meaningful access to the courts, professional court interpreters must have near-native fluency in English and the non-English language, have knowledge of legal terminology and court procedure, adhere to the court interpreter code of ethics, and be skilled in three modes of interpretation—consecutive, simultaneous, and sight translation. Since the Court Interpreter Program was established in 2007, the fee schedule has not been updated. Act 248 (SLH 2023) acknowledged the integral role of court interpreters and that an increase in the rates is overdue. Also in 2023, the Supreme Court Committee on Court Interpreters and Language Access Subcommittee on Interpreter Fees completed a study of the appropriate fee schedule updates.

To implement Act 159 (SLH 2023), in part by modifying the Judiciary Information Management System (JIMS), we request \$170k. Act 159 eliminated the requirement that a petitioner file with the court their expungement order and requires the court to seal all Judiciary files once expungement is granted by the Department of the Attorney General.

To establish an operating budget for the 'Ōlelo Hawai'i Program, we request \$137k. In 2022, the Legislature provided funding to establish the Judiciary's 'Ōlelo Hawai'i Program as a legislative add-on. The Judiciary hired an Administrator, who has developed a course to train and certify 'Ōlelo Hawai'i court interpreters; begun to digitize documents in Hawaiian to make them public; and begun to translate the Judiciary's divisions, titles, and offices. Going forward, the Program has prioritized translation, vocabulary development, establishment of a translator course, enhancement of a court interpreter course, and updates to the Judiciary website and signage. An operational budget for this program is required to do so, and more broadly to enable the Program to execute its purpose of revitalizing and perpetuating the state's co-official language by increasing the presence and usage of 'Ōlelo Hawai'i throughout the Judiciary.

The next group of requests pertain to restoration of \$882k in funding for 14 positions across the Judiciary that were defunded during the 2020 Regular Session, near the outset of the Covid-19 pandemic. The following requests to restore funding are for positions that are essential to the operations of specific areas and programs. Specifically:



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(1) First Circuit (6 positions – \$290k):

The Judiciary requests restoration of funding for six positions – a Judicial Clerk III in Wahiawā, two Court Document Clerks I and two Judicial Clerks III that will start at Honolulu District Court and ultimately transition to Wahiawā, and one Groundskeeper at Ka‘ahumanu Hale in Honolulu.

The Judicial Clerk III position in Wahiawā is one of four Judicial Clerk III positions that handle a large part of the Wahiawā District Court workload as they simultaneously process traffic and criminal matters throughout the day and have a wide range of other responsibilities, some of which are time-sensitive and deadline-driven, related to such matters as case processing, case dispositions, financial transactions, processing of default judgments, and customer service. Without funding for this position, the current staff are having difficulty keeping up with the workload.

With the anticipated opening of the new Wahiawā District Court, the First Circuit plans to transfer to this new facility the Ho‘okele and civil functions for the ‘Ewa, Wai‘anae, and Wahiawā District Courts -- these are unfortunately currently located at the Honolulu District Court. This would increase accessibility for West O‘ahu court-users by allowing them to address court business without traveling to downtown Honolulu. Restoring funding for two Ho‘okele Court Document Clerk I positions in the Ho‘okele Court Navigation Section and two Judicial Clerk III positions in the Legal Documents Branch handling civil matters would allow preparation and training at the Honolulu District Court prior to the eventual transfer of these functions and positions to Wahiawā. This would enable Wahiawā District Court to become a much-needed hub for court business outside downtown Honolulu.

We seek restoration of funding for the groundskeeper position at Ka‘ahumanu Hale because it has been difficult for two groundskeepers to maintain the entire grounds and all the plants and trees, all of which require regular maintenance. Restoration of funding for this position will bring the staffing to the requisite three groundskeepers to keep up with maintenance work necessary to keep these grounds healthy and clean.

(2) Third Circuit (4 positions – \$187k):

The Judiciary requests restoration of funding for four positions: a Probation Officer and an Account Clerk in Hilo, and a Clerk IV and Social Service Assistant (SSA) IV in Kona.

In Hilo, the Probation Officer (Social Worker IV) position is to supervise convicted sex offender clients while the Account Clerk position is one of two that handle cashiering functions in the Cashiering/Procurement Section. For sex offender clients, it is important



to have sufficient staffing to adequately supervise, monitor, and stay in contact with the probationers, both for their well-being and that of the public, and thereby lessen the likelihood of recidivism. Two funded cashier positions are needed to ensure efficient and timely processing of all receipts and payments. Third Circuit has diverted funds from other operating needs to fill these essential positions.

In Kona, the Clerk IV position was one of two positions responsible for providing customer service to the public in person or by phone, and for supporting probation staff by creating and inputting information for each probationer in the probation database, maintaining related records and files, producing appropriate reports, etc. Just before being defunded, this position was transferred from Hilo to Kona to resolve an inequitable and unsustainable staffing ratio of clerks to probation officers of 1 to 3.4 in Hilo and 1 to 11 in Kona. Restoration of funding would address the recognized inequity and alleviate the need for probation officers in Kona to perform some of the clerk's duties.

The SSA IV position in Kona assists probation officers in completion of their duties. Specifically, this position assists by supervising administrative level probationers, conducting the intake of and monitoring newly-sentenced probationers until their case is assigned a probation officer, conducting urinalysis testing, and collecting DNA samples. By alleviating the need for probation officers to perform some of these functions, probation officers could focus on high risk probationers to effect change and reduce recidivism.

(3) Fifth Circuit (1 position – \$205k)

The Judiciary requests restoration of funding for a District Family Judge position in Fifth Circuit. This position was filled in December 2020 by diverting funds designated for four other vacant positions. Vacancy of these positions considerably strains operations and the morale of these work units.

(4) Administration (3 Positions – \$200k)

The Judiciary further requests restoration funding for two human resources positions – an HR Technician VI in the Employee Services Division (ESD) and an HR Clerk IV in the Disability Claims Management Division (DCMD). ESD is responsible for executing, documenting, and auditing thousands of employment actions statewide that affect employment status, pay, and increasingly complex benefits, and ensuring they are compliant with all laws. The current volume of work far exceeds the capacity of ESD to meet operational demands and maintain the quality and level of service owed to Judiciary employees. Restoring funding for this HR Technician VI position would allow ESD to ensure improved timeliness and accuracy of employee transactions, intake, and support.



DCMD is responsible for managing all workers' compensation and temporary disability benefit cases by reviewing claims to determine if an employee qualifies to receive disability benefits, conducting investigations, and processing benefits and related paperwork. Restoring funding for this position would help ensure timeliness and compliance with laws, and provide continuity in professional and administrative functions, which is especially needed in light of upcoming retirements in the Division.

The Judiciary further requests restoration funding for a defunded vacant position that has been re-described to a Chief Information Security Officer position. Cybersecurity incidents nationally and locally underscore the need for more focused work in this area. A Chief Information Security Officer position would provide that focus in cybersecurity operations and in developing and leading an information security program that would evaluate and manage the risk and compliance process, and help implement disaster recovery protocols and business continuity plans. The Judiciary also requests funding for 24/7 monitoring services to detect and quickly respond to suspicious activities or cyber intrusions or attacks.

Separate from restoration of funding for selected positions described above, the next group of requests are for 4.5 new permanent positions—two for janitors at the new Wahiawā District Court, 0.5 FTE for the Office of Public Guardian (OPG) on Maui, and two no-cost temporary to permanent position conversions.

The janitor positions are needed for the new Wahiawā District Court. Due to the expected opening date of the facility, we request funding for only one-half of FY '25. In Maui County, OPG has only one half-time position to provide public guardianship services for incapacitated persons on Maui, Moloka'i, and Lāna'i. For nearly two years, staff from O'ahu have been traveling to Maui County to provide guardianship services while the position has been vacant. A full-time position on Maui is needed to attract applicants and provide such services, especially in light of the recent wildfires. This Maui position will also reduce the strain on O'ahu OPG staff, allowing greater focus on extensive needs across O'ahu.

The two no-cost temporary position conversions are for a Court Operations Specialist in the Courts of Appeal and for a Human Resources (HR) Specialist for the Disability Claims Management Division (DCMD). The Court Operations Specialist handles all facility matters for Ali'iōlani Hale and the Kapuāiwa Building, two historic buildings where the Supreme Court and the Intermediate Court of Appeals, respectively, are housed. The Court Operations Specialist position became vacant over one year ago and there have been few applicants for the position, likely due to its temporary nature. The temporary HR Specialist position is being filled by a person with return rights to a permanent position elsewhere and could leave at any time. Converting these two temporary positions to permanent status would bring more stability to both positions, and greatly help with attracting qualified candidates.



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Capital Improvement Requests:

CIP requirements continue to remain a major area of concern as the Judiciary's infrastructure ages, and as the population served and services provided by the Judiciary continue to expand. The Judiciary requests CIP funds for FY '25 totaling \$17.0 million to address certain critical needs, some of which relate to the health and safety of Judiciary employees and the public.

Specifically, the Judiciary requests funds for Ka'ahumanu Hale in First Circuit to upgrade and modernize four elevators that are 40 years old and continue to break down and malfunction with greater frequency, to complete construction of a new courtroom at Hoapili Hale by reconfiguring existing underutilized space, to separate storm drainage and sanitary systems in the Kapuāiwa Building, and to provide lump sum funds—\$2m in bond funds and \$3m in operating funds—to allow the Judiciary to address continuing and emergent facility issues statewide.

Comments on Senate Draft 1

The Judiciary appreciates the Senate Committee on Judiciary's consideration of this measure in full and concurs with upward adjustments.

We respectfully request this Committee's consideration of capital improvements lump sum funds. The House proposed \$7m in bond funds. Senate Draft 1 changed the method of financing to \$7m in general funds. We respectfully request a mix to address facilities needs of different types that require different methods of financing. We request a minimum of \$2m in bond funds and \$3m in general funds.

The Judiciary respectfully requests your support of House Bill No. 1911, H.D. 2, S.D.1, the Judiciary's supplemental budget request, and consideration of these additional comments on Senate Draft 1.

Thank you for the opportunity to testify on this measure.



TESTIMONY

Senate Committee on Ways and Means
Hearing: Wednesday, March 27, 2024 (9:59 AM)

TO: Senator Donovan Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

FROM: Jesse K. Souki, HSBA President

RE: HB 1911, SD1 - RELATING TO THE JUDICIARY

Chair Dela Cruz, Vice Chair Moriwaki and members of the Committee:

The Hawaii State Bar Association (HSBA) appreciates the opportunity to offer testimony in **STRONG SUPPORT** of HB 1911, SD1. The State Judiciary plays a vital governmental role in upholding a fair and civil society, yet it constitutes only about 2% of the overall State budget. Community reports indicate a growing demand for judicial services in the current biennium, highlighting a concerning uptick in criminal citations and complaints. Because of the COVID-19 pandemic the civil courts now face the challenge of tackling a backlog of cases, a consequence of prioritizing the resolution of criminal matters and deferring certain commercial and personal disputes.

Considering these challenges, supporting the Judiciary's proposed biennium budget becomes imperative to ensure its ability to meet the growing demands efficiently. Below is a summary of the request.

GENERAL FUNDS APPROPRIATIONS

Significant items of interest:

- **Fee Increase for Court Interpreters (\$530,000)** – Court interpreters are an essential part of providing equal access to the courts for persons of limited English proficiency. The fee schedule for court interpreters has not changed since 2007 when the program began.
- **Funding for Chief Information Security Officer (“CISO”) Position and Continue Cybersecurity Improvements (\$354,704)** – State governments have been increasingly attacked by cyber criminals who are using more sophisticated tools to exploit vulnerabilities and compromise state agencies. Includes funding for the CISO position, security software and 24/7 monitoring service for security threats.
- **FTE Positions for New Wahiawā Courthouse (\$291,282)** – Includes two Court Document Clerks, two Judicial clerks and two janitorial positions.

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- **Restore Funding for District Court Family Judge Position (\$205,296)** – The district court judge currently presides over family court cases, including TROs, contested custody, child abuse and neglect, and other matters.
- **Court Operations Specialist Position** – This key position oversees preservation and maintenance of both Ali‘iōlani Hale and the Kapuāiwa Building. It has been difficult to recruit and retain due to the temporary nature of the position.

CIP APPROPRIATIONS

Significant items of interest:

- **First Circuit: Wahiawa Kaahumanu Hale (\$9.25M)** – Continue phased elevator modernization.
- **Administration: Kapuāiwa Building (\$1.5M)** – Separate storm and basement level sanitary sewage system. The current combined storm and sanitary systems are in violation of City and County of Honolulu ordinance and a major health hazard, which contributes to severe flooding events and has resulted in damage to the building.
- **Second Circuit: Hoapili Hale (\$1.25M)** – Phase 2 of 2 build out of courtroom from existing area to fulfill the need for additional courtroom capacity.
- **Administration: Lump Sum CIP (Bond Funds) (\$2M)** – Continue long-term improvements, renovations, and upgrades to extend the life of facilities occupied by the Judiciary.
- **Administration: Lump Sum CIP (A Funds) (\$3M)** – to meet repair and maintenance needs, including emergency issues.

The Judiciary is tasked with some of the most important of all State responsibilities. 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.

It’s critical for the Legislature to provide sufficient support for the State Judiciary as provided in their budget request. Thank you for the opportunity to submit these comments in **STRONG SUPPORT** of HB 1911, SD1.

The Honorable Chair, Vice Chair, and members of the Senate Ways and Means Committee:

I am testifying strongly in favor of HB1911, Relating to the Judiciary, particularly with regard to the supplementary budget request that proposes to increase the compensation for court interpreters. My name is Victor Saymo, a court interpreter based on the Big Island. I can only speak from my own experience of several years' service, but I am convinced that my colleagues have similar hardships and concerns. The increased compensation for court interpreters proposed in this bill is an overdue recognition that our pay rate, which is for the most part unchanged since 2007, needs to keep up with inflation.

A trip to the grocery store shows the ravages of rising prices. Seventeen years ago, it was still possible to buy one 20-pound bag of rice for about \$10 in Hilo when it went on sale. Today, the same staple sells for about \$15 to almost \$20. Gasoline now sells in Hilo for an exorbitant price of about \$4.50 to almost \$5. We interpreters in the County of Hawaii are severely impacted by the high fuel prices, for we have the longest distance to travel when called upon to serve in courts on the Kona side or in Waimea.

According to the June 2023 report of the Subcommittee on Interpreter Fees of the Supreme Court Committee on Court Interpreters and Language Access (hereinafter the Subcommittee Report) a person making \$25 an hour in 2007 earned the equivalent of \$16.91 in 2022, the latest figures available. The Subcommittee Report states: "This translates into a 32.5% real dollar for dollar pay decrease since 2007 for court interpreters in Hawaii." (Emphasis added.) In other words, the lowest tier of court interpreters, who are paid \$25 an hour, were already earning less than \$17 an hour in 2022. One could only guess how bad the effects of inflation are on court interpreters' pay as of 2024. The report adds that the pay decrease becomes even worse if one considers the high cost of living in Hawaii. It stresses that "According to the Honolulu Board of Realtors, the median sales price for a single-family home was \$643,500 in 2007, compared to \$1,105,000 in 2022, a 72% increase---much higher than the average national cumulative inflation of 48% between 2007 and January 2023."

And yet, the current court interpreter compensation structure has remained the same since it was adopted in 2007, except for adjustment of the mileage reimbursement and certain parking

privileges. Our mileage rate has failed to keep up with the federal mileage rate, which the State also adopts. The federal rate for 2024 is 67 cents per mile, 12 cents higher than the 55-cent rate paid to court interpreters. When we travel on assignment, we lose money, compared to those who travel for private business or government agencies. When we travel to a court on the other side of the Big Island, we could spend a total of five hours on the road, and drive almost 200 miles round trip. In such a scenario, our loss in terms of mileage reimbursement is about \$24, practically equal to one hour's compensation. Factor in the high cost of gasoline (even more expensive if we have to fill up in Kailua-Kona or Waimea), and the severe impact on our compensation is evident.

Interpreters are an integral part of the judicial system, although we are not employees but rather contractors. We provide important services as trained professionals with specialized skills. We are bound by a Code of Ethics adopted by the Judiciary, for we are considered officers of the Court. We assist a significant part of the state's population to access the judicial system. The Subcommittee Report stated that 25 percent of Hawaii residents do not speak English at home, according to U.S. Census figures; and one in eight residents is deemed a person with limited English proficiency (LEP). The report recognizes that these numbers underscore the great need for the Judiciary to provide language services for LEPs, and to recruit, train and retain qualified interpreters. The low compensation paid to court interpreters is manifestly insufficient to attract and retain the best-qualified, trained, skilled, and dedicated multilingual professionals.

Please note that the Hawaii Language Bank of the Pacific Gateway Center in Honolulu, with which this interpreter is affiliated, pays interpreters \$45 per hour for onsite assignments. This rate factors in the mileage for shorter trips. It has increased its pay rate, twice, since 2016.

Now is the time to increase court interpreter compensation, by approving HB1911 as a much-needed remedy to this inequitable situation, which has lasted for seventeen years. I respectfully ask the Honorable Committee to pass this bill, effective in 2024.

Victor Sayma

Respectfully submitted on March 25, 2024