

ACT 253

H.B. NO. 602

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 77-13, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Salary ranges SC-1, SC-2, and SC-3 shall be utilized in the following manner:

- (1) Salary ranges SC-1, SC-2, and SC-3 may be utilized by the State, the judiciary, and counties for [physicians] physician and [psychiatrists] psychiatrist positions[.];
- (2) No position shall be classified and paid in salary ranges SC-1, SC-2, and SC-3 unless specifically recommended by the director of personnel services and approved by the governor, recommended by the administrative director of the courts and approved by the chief justice, or recommended by the personnel director of a county and approved by the respective council and mayor[.];
- (3) There shall be at any given period not more than sixteen positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by the State, not more than [one position] two positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by the judiciary, and not more than eight positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by any county. [Psychiatrists] Psychiatrist and [physicians] physician¹ positions shall be excluded from the above-mentioned totals[.]; and
- (4) The director of personnel services, the administrative director of the courts, and the personnel directors of each county shall report annually to the legislature as to the manner in which the positions assigned to salary ranges SC-1, SC-2, and SC-3 are being used.”

SECTION 2. Section 602-51, Hawaii Revised Statutes, is amended to read as follows:

"§602-51¹ How constituted. The intermediate appellate court shall consist of a chief judge and [two] three associate judges. The chief judge, who shall be specifically selected, shall supervise the administrative duties of the court."

SECTION 3. Section 603-3, Hawaii Revised Statutes, is amended to read as follows:

"§603-3 First circuit court judges. Effective July 1, 1992, the [The] circuit court of the first circuit shall consist of [seventeen] twenty-five judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth [and], seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, and twenty-fifth judge, respectively."

SECTION 4. Section 604-8, Hawaii Revised Statutes, is amended to read as follows:

"§604-8 Criminal, misdemeanors, generally. District courts shall have jurisdiction of, and their criminal jurisdiction is limited to, criminal offenses punishable by fine, or by imprisonment not exceeding one year whether with or without fine. They shall not have jurisdiction over any offense for which the accused cannot be held to answer unless on a presentment or indictment of a grand jury.

In any case cognizable by a district court as aforesaid in which the accused has the right to a trial by jury in the first instance, the district court, upon demand by the accused, for such trial by jury, shall not exercise jurisdiction over such case except violations under section 291-4, but shall examine and discharge or commit for trial the accused as provided by law, but if in any such case the accused does not demand a trial by jury on the date of arraignment or within ten days thereafter, the district court may exercise jurisdiction over the same, subject to the right of appeal as provided by law. Trial by jury for violations under section 291-4 may be heard in the district court.

SECTION 5. The legislature notes, with concern, that there is a pattern of judicial assignments which seems to be inconsistent with Article VI of the Hawaii State Constitution. Specifically, the equivalent of four divisions of the circuit court of the first circuit are run with district court judges. In turn, those district court judges' normal responsibilities are handled by per diem judges.

The effect is that four circuit courts are operated by judges who are not subjected to the judicial selection commission's screening process for circuit court judges, were not appointed by the governor and whose appointments have not been consented to by the Senate. This problem is compounded by the operation of district courts by per diem judges who have not been selected from a list of names provided after scrutiny by the judicial selection commission.

The legislature recognizes that this pattern of judicial assignments is grounded in the exigencies of meeting a greatly increased workload with a relatively static number of judicial positions. It is not objective to assign blame for the current situation. In any event, we would probably find ourselves among those at the nub of any finger pointing. It is, however, the legislature's intent to end such use of per diem judges in the near future.

To that end, the Judiciary is respectfully requested to submit to the legislature, prior to convening of the 1993 regular session, a comprehensive plan for the

reduction of the use of per diem judges to the minimum level necessary for the operation of the Judiciary. It is further requested that the Judiciary include in the plan an analysis of the benefits and problems that would occur if per diem judges were selected from lists presented by the judicial selection commission, in the same manner as regularly appointed district court judges.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon approval.

(Approved June 18, 1992.)

Note

1. So in original.