EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 12, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

Re: House Bill No. 386 HD1 SD1 CD1

On July 11, 2006, House Bill No. 386, entitled "A Bill for an Act Relating to Courts" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purpose of this bill is to repeal jury service exemptions for an attorney at law, a head of an executive department, an elected official (except while the Legislature is in session), a minister or priest, a dentist, and an active duty member of the armed forces or militia. This bill continues the exemptions for a judge, an active practicing physician, an active member of a police or fire department, and a person who has served as a juror within one year preceding the time of filling out the juror qualification form. The bill adds jury service exemptions for active members of an emergency medical services agency, persons who live more than seventy miles from the court for which jury service is required, and persons who are eighty years of age or older.

Although the addition of the exemption category of active members of an emergency medical services agency is positive, other portions of this bill will cause difficulties for the Judicial Branch of government. The bill amends the current exemption for elected officials such that the exemption is available only while the Legislature is in session. This amendment does not consider that elected officials at the federal or county levels are not necessarily affected in their duties by the timing of the State legislative sessions. Thus, the narrowing of the exemption may negatively impact federal or county elected officials if they are summoned to jury duty during times when their political bodies are in session, but the Legislature is not.

The bill amends the current exemption for active duty members of the armed forces or militia such that the exemption is available only when those individuals are deployed out of the State. The amendment does not consider the case of reservists who have been assigned to their annual two weeks of active duty. The active duty member and his or her unit could be adversely affected if the member is unable to receive training with the member's entire unit.

The addition of the category of persons living more than seventy miles from the court for which jury service is required will have a negative impact in the Third Judicial Circuit (the Island of Hawaii), as well as the Second Judicial Circuit, which includes Maui, Molokai, and Lanai, wherein jurors frequently reside more than seventy miles from the courthouse.

The deletion of the category of attorney at law could cause a "ripple effect" on the court system by necessitating the rescheduling of motions, hearings, trials, and other court appearances if an attorney is summoned for jury duty. Negative effects on attorneys, especially sole practitioner attorneys, and their clients are anticipated.

Finally, this bill adds a person over eighty years of age to the list of people who are excused from jury duty. As pointed out by the Judiciary, chronological age should not be used as a factor in determining if a person has the physical and mental capacity to serve as a juror.

Persons who fall within a particular exemption eligible category may claim an exemption from service as a juror, but it is not guaranteed that the court will grant the exemption. Any individual can seek to be excused from jury duty, even if the individual is not within an exemption.

For the foregoing reasons, I allowed House Bill No. 386 to become law as Act 313 effective July 11, 2006 without my signature.

Sincerely,

LINDA LINGLE