

JUDICIAL COUNCIL PLANNING MEETING

Minutes

Monday, August 25th, 2008

Large Conference Room A

Matheson Courthouse

Salt Lake City, UT

Chief Justice Durham, Presiding

ATTENDEES:

Chief Justice Christine M. Durham, Chair
Hon. Gary Stott, Vice Chair
Justice Ron Nehring
Hon. Mark Andrus
Hon. Judith Atherton
Hon. William Barrett
Hon. Hans Chamberlain
Hon. Michael Kwan
Hon. Michael Lyon
Hon. Gregory Orme
Hon. Jody Petry
Hon. Michael Westfall

ABSENT:

Hon. Brendan McCullagh
Scott Sabey, esq

GUESTS:

Hon. John Baxter
Hon. L.A. Dever
Hon. Thomas Higbee
Hon. Hon. Elizabeth Lindsley
Hon. William Thorne
Hon. Vernice Trease
Rick Davis
Phillip Jeffery
Keith Kelly
Beani Martinez
Jim Peters
Wendell Roberts
Gary Syphus
David Walsh

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Kim Allard
Ron Bowmaster
George Braden
Lori Brown
Susan Burke
Derek Byrne
Mary Jane Ciccarello
Jody Gonzales
Katie Gregory
Fred Jayne
Alyn Lunceford
Debra Moore
Rob Parkes
Rick Schwermer
Tim Shea
Rick Smith
Jessica VanBuren
Nancy Volmer
Ray Wahl

GUESTS (cont'd)

Craig Bunnell
Kristin Fadel
Deanna Herring
Dixie Jackson
Jeff Noland
Martha Pierce

1. WELCOME: (Chief Justice Christine M. Durham)

Chief Justice Durham welcomed everyone to the meeting.

2. OVERVIEW OF PLANNING AGENDA: (Daniel J. Becker)

Mr. Becker welcomed all in attendance including: Phillip Jeffery, Deputy Director, of the Governor's Office of Planning and Budget and David Walsh, Legislative Fiscal Analyst for the Commission on Criminal and Juvenile Justice (CCJJ).

The purpose of the planning meeting is to compile a prioritized list of the budget requests to send to the Governor and to the Legislature. The whole process starts in January with the TCEs and presiding judges. Their requests are reviewed and prioritized by the boards of judges and the Council committees. In July, Mr. Becker convenes an Executive Budget Committee to assist in preparing his recommendations to the Council. Included in the Annual Plan binder are the agenda, fiscal data, revenue sources, specific requests from boards and committees and proposed legislation. A copy of Navigating the Budget is prepared in conjunction with the budget materials.

This session can be characterized as a three-part meeting: 1) Background material will be presented this morning which will include workload data, trends and court revenue. 2) The afternoon will include the (12) building block presentations from the committees and boards of judges. These presentations provide the Council the opportunity to ask questions and examine the justification of each request. 3) The second day will include information on proposed legislation, and recommendations from Mr. Becker. Then there will be time for discussion, debate and voting of the building block requests.

Once the planning meeting has adjourned, the Council Meeting will follow after lunch on the second day. A brief Management Committee Meeting will be held following the Council Meeting to finalize the September 9 Council Meeting agenda.

3. STATE OF UTAH ECONOMIC STATUS: (Phillip Jeffery)

Mr. Jeffery shared budget information that was reviewed with the cabinet a few weeks ago. He shared information on where we are with revenue and what is driving it. He then reviewed the guidelines from the Governor's Office regarding the budget.

He gave an overview of where we were in regards to percent change in Utah employment by industry in August 2007, in February 2008, and where we are today. In August 2007, Utah had a 4.5% employment growth. The construction industry is seeing a -11.8% change in employment—with 12,800 jobs lost. Calendar year 2008 is expected to come in at zero employment growth. The expectation is that in mid 2009, a recovery will have begun. Mr. Jeffery then reviewed the job growth in Utah, Utah job growth compared with the national average, employment growth and unemployment rates. He compared the western states in regards to employment growth. Utah's unemployment rates are not showing a huge growth. Utah's personal income growth is still at 6.6% compared to the average of 7.0%.

Other factors impacting revenue include gas prices, withholding rates and federal stimulus. Gas prices is a major factor contributing to the loss of ongoing revenue. When gas prices hit \$4.15 per gallon, there was a decrease in tax revenue as consumers chose to drive less. The withholding table changes that took place in February of this year have also had an effect on Utah's revenue. The last factor is the federal stimulus. Mr. Jeffery mentioned the expected revenue shortfall. Along with this, he mentioned other states experiencing similar shortfalls in revenue. Therefore, we need to plan for it, prepare for it, and wait for final numbers to

determine the State of Utah's budget.

Utah was mentioned as one of the best managed states in Forbes.com. Mr. Jeffery mentioned things that are positive factors in Utah right now when bracing for a downturn which include: 1) rainy day fund, 2) an amount for education set-aside, 3) pay-go funding, and 4) ongoing funding for road and building projects.

In conclusion, Mr. Jeffery outlined the budget guidelines, the budget timeline, and building block guidelines. The final budget requests are due Monday, September 26, 2008. Only mandated building blocks are to be submitted. Any other issues need to be brought to the GOPB. Any building block requests that include any new FTEs or are in excess of \$100,000 shall include objective and measurable criteria. Lastly, he mentioned that all agencies have been asked as a contingency to be prepared to address 1%, 3% and 5% budget reductions.

Chief Justice Durham thanked Mr. Jeffery for his presentation.

4. BUDGET PROPOSALS IN CONTEXT:

Workload/Demographic Trends: (Kim Allard, George Braden)

Chief Justice Durham welcomed Ms. Allard and Mr. Braden to the planning meeting and explained that they will be giving a presentation on the 2008 Caseload Report. The presentation included: 1) raw filings and referrals, 2) judicial workload, 3) a focus on jury trials, 4) caseload management indicators, and a focus on the judicial request. Ms. Allard reviewed the district court data, and Mr. Braden reviewed the juvenile court data.

Filings and referrals were reflected with the following numbers: Supreme Court had a 1% increase or an additional five cases; Court of Appeals had a 5% decrease or a 47-case decrease; and District Court had a 6% decrease with 217,914 cases filed last year. In the district court, the raw filings were down 6% and the judicial weighted workload hours were up 1,000.

Information was reviewed regarding the Provo City Justice Court. District criminal case distribution was also reviewed with 57% felonies, 38% misdemeanors, 4% misdemeanor DUIs, and 1% infractions. This information was then outlined and reviewed by district. The justice court filings reflected a .6% decrease in overall misdemeanors, and a 13% increase in small claims. The number represented in the domestic modifications case filings was a -16% change. The data is being looked at to determine why they percent change was so drastic. In the general civil category in the district court, debt collection had a 7% increase, and small claims had a 12% increase. The general civil (other) category in the district court had an overall increase of 8%.

The probate category in the district court had the following distribution: estate informal, 20%; adoption, 20%; involuntary commitment, 18%; guardianship, 16%; name change, 10%; other probate, 5%; estate formal, 4%; conservatorship, 3%;, minor's settlement, 2% and trust, 1%.

Torts were reflected by the following distribution: Personal injury, 68%; property damage, 22%; malpractice, 8%; wrongful death, 2%; and asbestos, 0.2% with an overall change of -6%. Traffic in the district court had a -33% change, and traffic in the justice courts had a -1% change.

The judicial workload numbers in the district court were then reviewed in relationship to the case filings. The information was reviewed by: filings and weighted caseload, judicial weighted caseload hours by case category, judicial weighted caseload by district, workload hours vs. available hours per judicial officer; and age of pending cases.

The next area discussed was jury trials. The case breakout numbers were reflected with 77% of the cases were criminal cases and 23% of the cases were civil cases. The criminal cases

were broken down into the following categories: state felony, 72%; other misdemeanor, 20%; misdemeanor dui, 7%; and traffic court case, 1%. The top civil case categories included: personal injury, 60%; contracts, 12%; miscellaneous, 10%; and malpractice, 7%. Civil dispositions were reflected by the following numbers: judgment, 53%; dismissed, 33%; and judgment - no cause of action, 14%.

The caseload management performance indicators were reviewed on CourTools.

Next the juvenile court data was reviewed. The referral was represented with the following distribution: misdemeanor, 48%; contempt, 14%; status, 14%; child welfare, 7%; felony, 6%; infraction, 4%; term parent rights, 3%; adult violations, 2%; and traffic, 2%. The statewide referral trend in the juvenile court shows a 3% increase. The referral information was broken down by type, by district, and by category. The referral clearance rates information was reviewed, as well as, information on fines, fees, restitution and work hours. Lastly, the judicial weight workload information in relation to the juvenile court was reviewed, with particular attention to the request for an additional juvenile court judge in the Fifth District.

A brief discussion took place regarding child welfare and termination cases in how these cases are counted.

Handouts on the presentation were available.

Fiscal Trends and Budget Process: (Myron K. March, Derek Byrne, and Fred Jayne)

Mr. March reviewed the information on page 11 of the annual plan. It was mentioned that the General Fund Restricted Account–Children’s Legal Defense Account had its fee increased from \$2 to \$4 on various civil filings. This fee is used for divorce education classes and in the guardian ad litem’s office for various program funding. It was mentioned that there is a spending cap of a \$200,000 that limits expenditures from the fund. In the ADR Fund, the filing fee increased from \$1 to \$3 on certain civil filings. Revenue numbers from ‘06-‘08 were reviewed as well as ‘08-‘09 expenditures. The Court Reporter Technology Fund, page 15 of the annual plan was reviewed. The revenue in this area has seen a downward trend. The current appropriation limit is \$250,000. This fund needs to be monitored. The Court Complex Fund, page 16 of the annual plan was reviewed. Currently the fund is healthy.

The Justice Court Technology, Security and Training Account, page 19 of the annual plan was reviewed. This fund is currently healthy. The fines collected in this area are reflected by 20% going to the justice court and the remaining 80% is broken with 62.5% of the fee going to the county where the justice court is located, 25% to the security restricted account for juvenile security needs and security, and 12.5% to the Justice Court Technology, Security and Training Account.

Mr. Byrne reviewed the law library non-lapsing fund which reflected a 10-12% increase in the fund. He also reviewed the security fee by agency deposit fund, the online assistance program, juvenile court, non-judicial and SAPA funds.

Mr. Jayne reported on the other restricted accounts. Currently, there are 14 general fund restricted accounts and over 20 dedicated accounts.

Summary of FY 2010 Proposals: (Daniel J. Becker)

Mr. Becker reviewed the summary of building blocks on page 25 as submitted by the committees and boards of judges. The detailed information will be presented by the committees and boards of judges this afternoon.

5. EDUCATION STANDING COMMITTEE REPORT: (Judge Elizabeth Lindsley and Mary Aquirre-Shahin)

Chief Justice Durham introduced Ms. Aquirre-Shahin and Judge Lindsley. The requests submitted by the Education Standing Committee include: small claims judge training, \$7,100; executive leadership development, \$75,600; and Probation Officer safety training; \$30,400.

The small claims judge training request would allow for seven educational programs and covers faculty travel, lunch and material costs.

The executive leadership development program would support attendance at the 2009-10 Western States Court Leadership Academy and a two-day workshop held jointly with the Idaho court administrators, and a joint presiding judge and court executive workshop. These efforts would provide training opportunities for presiding judges and trial court executives. Ms. Aquirre-Shahin gave an overview of the Western States Court Leadership Academy where she is also on the planning committee for the conference.

The Probation Officer training would involve such areas of training as: conflict resolution, danger awareness and how to de-escalate a tense or dangerous situation, emergency measures, use of force and OC spray certification and continued training on physical tactics with the juvenile court.

The Mentor Judge Program which was previously approved was reviewed. This program actively recruits senior judges to go to the various districts and observe and counsel new judges. The use of retired judges is a valuable way to provide practical skills and outstanding role models for new judges. The program covers travel per diem, materials, etc.

Chief Justice Durham thanked the Education Standing Committee for supporting judicial education.

Ms. Aquirre-Shahin gave a brief overview of the direction, and the changes taking place in the education area. She would like to tie the senior judges mentoring program with the new judges orientation. She mentioned the emphasis at the Juvenile Judges Conference will be towards mental health. The small claims DVD is being finalized. There are 465 employees registered for the employee conference, and 165 judges registered for the Annual Judicial Conference. Also, next year's conference dates are being reviewed.

6. JUVENILE BOARD REPORT: (Judge Thomas Higbee and Ray Wahl)

Judge Higbee listed members of the juvenile board: Judge Thomas Higbee, chair; Judge Dane Nolan, vice chair; Judge Charles "Bo" Behrens; Judge Stephen Van Dyke; Judge Kathleen Nelson, Judge Mary Noonan, and Judge Scott Johansen.

The Juvenile Board's priority #1 request is for a Fifth District Juvenile Court Judge (\$290,700); and the priority #2 request is for a juvenile court law clerk (\$85,700).

The Fifth District Juvenile Court Judge request details were reviewed. Currently, Judge Chamberlain provides services to Beaver and Iron Counties, and Judge Higbee provides service to St. George. The workload issue is most severe in St. George. There has been an increase of 15% in the weighted caseload from FY07 to FY08. The workload has increased over the last five years, but they were unable to request a judge due to the lack of courtroom space which will be remedied with the new courthouse to be completed in Oct of 2009. The district has received assistance from senior judges and judges from other districts. The lack of judge resource has made it difficult to meet the child welfare statutory time frames. There has been a 26% increase in total judicial hours rising by 907 hours, and the caseload as a percent of standard between the

two judges is at 148%. Judge Higbee reviewed the judicial need and referral trends in the Fifth District. Other details mentioned include the diversion program which was implemented in September 2007 to divert misdemeanor cases from court as well as a dependency drug court (under federal grant) which are being managed in the Fifth District.

Judge Chamberlain offered insight between the counties and types of hearings and length of time for the hearings that are taking place.

The Juvenile Court Law Clerk request details were reviewed. Previously, this position was funded by a grant which is no longer available. The law clerk has done over 100 legal memos for 21 judges; sent summaries of each legal memo to all juvenile court judges; and has been helpful in implementing legislation, assisted with legal updates, participated on the juvenile rules committee, and developed legal forms for courtroom use. Currently, the position is supervised by Ms. Susan Burke. If the position is funded, supervision of the position will need to be determined as well as the career track details.

Chief Justice Durham thanked the Juvenile Board for their presentation.

7. FACILITIES COMMITTEE REPORT: (Judge L.A. Dever and Alyn Lunceford)

The Facilities Standing Committee reviewed their request which include leases and contracts (\$263,000). They also mentioned state status of the capital development project (\$30,000,000) for the Second District Juvenile Court Facility, the 10-year building plan, and the capital improvement projects for FY10)

The lease and contract information itemization was reviewed on pages 3 and 4 of the handout. The items listed in this section are mandated, by existing contractual obligations. A more detailed explanation of the Monticello facility was given.

The property issue in regards to the Second District Juvenile Court facility was discussed, the 10-year building plan was presented, and the court facilities improvement projects were updated.

Mr. Lunceford mentioned that the Spanish Fork courthouse will have its open house this Friday, August 29. He suggested that the Council hold a future meeting in the Spanish Fork facility. He also gave an update on the St. George courthouse, which is scheduled for occupancy by October of 2009.

8. GUARDIAN AD LITEM OVERSIGHT COMMITTEE REPORT: (Rick Smith and Keith Kelly)

The Guardian ad Litem Oversight Committee reviewed their requests for increased GAL salaries (\$1,255,800) and additional support staff (\$998,200). The committee prepared a parity fact sheet which was handed out. They based their salary requests on the pay scale in place in the Attorney General's office for the GAL attorney salary request. If this pay scale were in place, the GAL attorneys would be paid an average of 34% more. In the past three years, the turnover rate for GAL attorneys averaged 24.7% per year of which nearly all attorneys report low compensation as a primary factor in leaving. Of the GAL attorneys who have left since 2001, 53% took positions still in public service. Currently, 56.8% of the GAL attorneys have worked in the GAL office two years or less and 24.3% have practiced law two years or less. The committee compared the GAL attorney salary to a recent posting for a law clerk position.

The staffing request deals with not enough support staff to support the GAL attorneys. Many of the attorneys are doing their own clerical work required of the job. Currently, the GAL office employs one support staff for every two lawyers compared with the Child Protection

Division of the Attorney General's office which maintains a staffing level of one support staff for each attorney. The current GAL case loads average 201 child clients per attorney. The American Bar Association, the National Association of Counsel for Children, and the U.S. Department of Health and Human Services have adopted a standard of no more than 100 child clients per attorney, presuming the attorney has adequate support staff.

A review of the Child Attorney Caseloads - National Trends was reviewed as listed in the handout. Three states information was listed as examples. A comprehensive caseload study was conducted in 2002 in California. The study concluded that a maximum of 77 clients per attorney was necessary for an optimal, or best practice, standard of performance. In 2004, a pilot program was designed to maximize the important work of investigators and social workers whose services enhance the work of attorneys and reduce the amount of attorney time needed on any given case. This model used a caseload standard of 188 clients per attorney plus a 0.5 FTE investigator/ social worker complement for each attorney.

The third priority request for a GAL attorney in the Fifth District has been withdrawn.

Chief Justice Durham thanked the Guardian ad Litem Oversight Committee for their presentation.

Mr. Becker corrected the FY2009 budget amount provided in his review and recommendations to the Council.

Mr. Kelly gave his perspective as to where the GAL best fits—under the direction of the Judicial Branch or the Executive Branch.

9. INFORMATION TECHNOLOGY STANDING COMMITTEE REPORT (Judge William Thorne and Ron Bowmaster)

The request is for the DP computer replacement schedule (\$244,000) which would permit a five-year replacement schedule. Ideally, the committee would like to have the replacements on a three-year cycle rather than a five-year cycle. The original request is for one-time money, however, the request could be advanced for ongoing money.

10. DISTRICT BOARD REPORT: (Judge Lynn Payne and Debra Moore)

Originally, the district board had two budget priorities including five law clerks (\$428,500), and four deputy clerks (\$213,600). The board has since decided to withdraw the deputy clerk request. The information in relation to the law clerk request was reviewed. District court judges rely on law clerks to produce bench memoranda; provide independent analysis of legal issues, particularly in the increasing number of cases involving pro-se litigants; and draft memorandum decisions, rulings and orders. By providing additional law clerk resources, the following CourTool objectives are also met: decreased time to disposition of cases; lower age of active pending cases, access and fairness in the courts through informed and timely decisions, and increased public trust and confidence in the courts. The current law clerk allocation information was presented.

The budget impact information included the following: a need for an additional half-time judge in the Eighth District which will be serviced by assistance from the Seventh District and senior judge time, and the judicial weighted caseload report shows that an additional 1.4 judges are needed to assist in the Fifth District. Neither of these needs are being requested this budget cycle.

Legislative Proposal: The district board proposes broadening the language of the presiding judge statute to include increase compensation for all presiding judges managing

districts with more than two judges. Associate presiding judges in these courts would not get additional compensation. Further discussion of this request will take place in September during the district board's presentation to the Council.

11. SELF-REPRESENTED LITIGATION COMMITTEE REPORT: (Judge John Baxter and Tim Shea)

A state-wide Self-Help Legal Center request for \$409,100 was brought before the Council by the Self-Represented Litigation Committee. Judge Baxter listed the committee for the Self-Help Center. The Self-Help Center provides information by phone, email and mail. Legal information is provided, not legal advice. Forms are provided when available and requested. The center also refers callers to public resources as necessary. Customer satisfaction was reviewed. Questions included on the customer satisfaction include: 1) do you understand the information you receive, and 2) do you know what to do next? Questions as related to clerk satisfaction include: 1) how often have you referred someone to the self-help center, 2) are people who report using the self-help center better prepared, 3) does the self-help center make your job easier, and 4) should the self-help center expand its services to all courts in Utah? Responses were given to these questions. Some judges stated that they appreciate the Self-Help Center, and the Self-Help Center has provided significant help to clerks, judges and self-represented parties. The Self-Help Pilot Program received 947 calls between January-July 2008. An average number of calls handled per week is 36 with the highest week at 49. The average number of calls handled per day is 9 with the highest day at 17. The average call length is 15 minutes with the longest call at 98 minutes. The following is the recommendation from the committee for the program: 1) the committee recommends a 50/50 split of staff time, 2) 20 hours per week direct services (phone and follow-up), and 3) 20 hours per week on program support: forms, outreach, education, & resource development. Other information considered included a comparison of adult population in pilot districts and in state of 405,770 to 2,027,332 and the calls and emails answered and the estimate number of callers who never get through. Four experienced attorneys for the statewide program is requested. Existing statewide self-help programs are court-based, not bar-based. Such states include Alaska, California, Colorado, Connecticut, Florida, Idaho, Illinois, Maryland, Minnesota, Nebraska, New Hampshire, and Wisconsin.

The question was asked if during the research phase, has the committee found any other states that have found partnerships for help with funding? It was mentioned that New York City has a court-based program that is also partnered with another group.

How much participation is there from justice courts compared to district courts? It was mentioned that it is less than expected. The committee believes that effective service can be provided on the phone.

Chief Justice Durham responded to the committee by telling them their recommendations are valued.

12. COURT INTERPRETER COMMITTEE REPORT: (Judge Vernice Trease and Tim Shea)

Judge Vernice Trease read a legal document in Samoan to prove a point that even though she is fluent in Samoan, she would not do well as a court interpreter. The committee recommends the hourly rate for certified and approved court interpreters be increased by 3.5%.

She reviewed the number of statewide hearings between 2006-2008 in district court that required a court interpreter. Skilled, certified interpreters are needed. It was also noted that some hearings require more than one interpreter. Ethnic group information was presented. It was also mentioned that there are more ethnic groups in San Juan County than any other county in the state. The State Department of Education reports that 1/10 of Utah students have limited English proficiencies. As our needs increase, so do the needs of the public and private sectors. The federal government pays on ½ day and full day basis with overtime as well. The advantage we have over the other sources is that we have the business. We require the interpreters to be certified and keep their skills current by taking classes and receiving CLE credits. This request would help us to remain competitive in the market and get and retain certified court reporters.

13. JUROR/WITNESS, SUPPLEMENTAL AND FY 2010 (Derek Byrne)

In 2009, \$1.5 million is appropriated. Details of what has been taking place with the program were reviewed on pages 85-87 of the annual plan. The request is for \$350,000 of ongoing money.

A supplemental funding request of \$708,500 found on page 91 of the annual plan was also discussed.

14. JUSTICE COURT SECURITY, EDUCATION AND TECHNOLOGY ACCOUNT: (Rick Schwermer)

Mr. Schwermer mentioned that 12.5% of the surcharge goes to security, education and technology needs in justice courts. He reviewed the FY08 and FY09 revenue numbers. This past year when looking at allocating the funds, we went over the revenue available. A supplemental request, from the account balance, is requested.

15. OCAP GENERAL FUND RESTRICTED CAP INCREASE: (Kim Allard)

Online Court Assistance Program. Ms. Allard reviewed the growth of the program and the type of documents generated. On page 72 of the annual plan, a chart reflects the Online Court Assistance generated cases filed through December 31, 2007. A maintenance contract is needed to adequately support this program. The \$100,000 one-time request will be used for programing to convert OCAP to comply with published electronic filing protocols.

16. TEACHER TRAINING PROGRAM REQUEST: (Beani Martinez and Nancy Volmer)

Ms. Martinez reviewed a presentation given to the Standing Committee on Judicial Outreach on a teacher-training program called "From the Courtroom to the Classroom". This program is a two and one-half day professional development program for secondary teachers, which is organized by the Wisconsin State Bar. The Standing Committee asked the Education Subcommittee to research organizing a similar teacher-training program in Utah. An online survey of social studies teachers was conducted to determine the interest and need for additional training about the courts. Respondents expressed a level of discomfort in their ability to deliver effective instruction about the judiciary. Seventy-five percent felt it was important for students to possess a thorough understanding about the judicial system. In general, teachers believe in the importance of imparting knowledge about the judiciary. The proposed two and one-half day conference will be limited to 30 public and private elementary or secondary social studies teachers and include interactive teaching strategies and curriculum with innovative teaching

materials—both traditional and web-based. Participants will learn how to bring Utah courts and the law to life for their students, while interacting with educators, attorneys and judges. A registration fee of \$25 will be required to help cover the costs of lodging, most meals, breaks and materials. All other expenses will be paid by the state courts. The one-time request would cover lodging, catering, part-time secretarial position to administer the program; speaker fees, printing, and awards and recognition.

17. ADJOURN

The meeting was adjourned until Tuesday, August 26, 2008.

JUDICIAL COUNCIL PLANNING MEETING

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Salt Lake City, UT

Chief Justice Durham, Presiding

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Rob Parkes

Rick Schwermer

Tim Shea

Nancy Volmer

Ray Wahl

GUESTS:

Jim Peters

Wendell Roberts

1. LEGISLATION (Rick Schwermer, Debra Moore, and Tim Shea)

Mr. Schwermer mentioned that the Liaison Committee met yesterday. He will review the information under the Legislation tab of the annual plan for changes that have been recommended. He reviewed information under the proposed Housekeeping Bill beginning on page 4. The addition at line 17 will provide for a coordinator of volunteers working guardianship and conservatorship accounting. This could be run as a separate bill. On page 6, line 4 clarification of the term of office for justice court judges was made. Page 8, line 92 a technical reference change was made. Page 10 and 13 (lines 148 and 223) are going to be amended to deal with transmission of data electronically per Section 78B-7-113, in place of eliminating the transfer of paper documents. Page 14 Committee on Children and Family Law deals with venue change. It was suggested that we should help find a sponsor, rather than running as a Council bill. It was agreed that this is a policy issue that should be considered separate from Council initiatives.

Motion: Judge Andrus motioned that Mr. Schwermer help identify a sponsor for the venue

change in the Committee on Children and Family Law section, and that the Judicial Council not advance this legislation. It was seconded, and it passed unanimously.

Page 15, line 297 provides clarification of a final adoption decree.

In the Guardianship section, beginning on page 17 the issue deals with guardianship and the role of the schools. Discussion took place regarding whether the jurisdiction for such actions should be in the district court or juvenile court. This matter will be further discussed with the juvenile board and rescheduled.

The jurisdiction section dealt with the justice court jurisdiction when a justice court is dissolved. The Liaison Committee questioned whether it was necessary. It was determined that it needed clarification, but we would take the wait and see type approach.

In the Other section on page 28, deals with a need to clarify the lien statute. It was recommended that this issue be referred to someone else, and not run as Council legislation.

Other issues discussed included draft of language relative to the self-help center. That legislation may be appropriate to formally expand the role of the courts to provide self-represented assistance. It will be deferred until a decision has been made regarding the budget request for the Self-Help Center.

Suggestions were also made regarding adding domestic violence offense in the diversion section, and the need to clarify bond requirements for court reporters.

2. STAFF ANALYSIS: (Daniel J. Becker and Myron K. March)

Mr. Becker reminded the Council of the process requests went through: 1) court executives and presiding judges identifying needs, 2) board and committee review, 3) submitted budget requests to Mr. Becker, and 4) Executive Budget Committee review. Mr. Becker mentioned that Mr. Wendell Roberts and Mr. Jim Peters worked with the Executive Budget Committee this year. The boards and committees have become very disciplined at looking at the requests they submit. All court requests for this year are a little over \$2 million, and the Guardian ad Litem's requests are just over \$2 million.

Mr. Becker outlined factors influencing the recommendations: 1) GOPB guidelines, 2) Council principles, strategic goals, and performance measures, 3) workload trends, and 4) limited number of requests. Our process should be paralleling the Governor's process when determining what requests to submit.

He suggested the Council focus on three principles when considering the budget requests. These principles include: 1) Access, 2) Service, and 3) Efficiency.

The Self-Represented Assistance Program addresses access. This is a model of how we should approach a pilot program--researched, examined, and developed. It also has performance measures which can show the impact of the program. This program should be given careful consideration. Mr. Becker highlighted a few statistics related to the request: 1) 73% in a valley research poll said the high cost of attorneys kept them from taking cases to court, and 2) 83% said assistance to the self-represented was a needed service.

Law clerks address the need for efficiency. Law clerks have been requested every year for at least 10 years, and few have been provided. There continues to be a need for law clerks. 49% in the above poll say that the time it takes to get a decision, is a reason to not take a case to court. Law clerks help make timely decisions.

Fifth District Juvenile Court Judge addresses the service principle. The two judges supporting the juvenile court in the Fifth District are now carrying 148% of workload standard

each.

Mr. Becker's recommendations are listed below:

Alternate Funding. Submit the Probation Officer Safety Training (\$30,000 request) through a grant. If not approved through a grant submit through one-time funding. Executive Leadership Program (\$20,000), submit through a state justice institute grant. Case Management Pilot Program—funded with one-time funding two years in a row. Seek a grant to continue the pilot program for another two years and then assess if we have the performance measures that support seeking ongoing funding.

Deferrals. 1) Executive Leadership Program, 2) Interpreter Contract Increase—we don't know what state employees are going to get this year, 3) Deputy Clerks (withdrawn), 4) Small Claims Judge Training, and Teacher Training Program (deferred for one-time funding).

Requests Not Addressed. GAL Attorney for judge in the Fifth District (withdrawn).

Mandated Obligations. 1) Lease and Contract, 2) Juror, Witness, Interpreter Fund. Mr. Becker pointed out that the GAL request represents a 42% increase. This item needs discussion from the Council. There is an ongoing audit, and opposition from some legislators. Mr. Becker mentioned several different approaches for dealing with this request.

Recommended Building Blocks. 1) Fifth District Juvenile Court Judge, 2) three Law Clerk positions with priority to juvenile law clerk, 3) Self-Represented Assistance Program staffed by three rather than four FTE, and 4) Data Processing Replacement schedule—allow to adopt a five-year replacement plan similar to what is already in place in the executive branch.

Other. 1) On-line court assistance program, and 2) Justice Court Security, Education and Technology Fund.

Mr. Becker then summarized his recommendations. Advance two items as a fiscal note: 1) Fifth District Juvenile Court Judge, and 2) Self-Represented Assistance Program.

Four items as building blocks before the Appropriations Committee. 1) Lease and contracts, 2) Jury, witness, interpreter, 3) Law clerks, and 4) Data processing replacement schedule.

Mr. Becker also discussed the district court board proposal to add compensation for rural presiding judges.

3. DISCUSSION AND VOTE ON BUDGET PRIORITIES: (Rick Schwermer)

Mr. Schwermer reminded the Council of the process for coming to a prioritized list. The Council must assess the proposals and feedback from the requestors. Each item will be reviewed one at a time, and they will be categorized. Then the budget request figures will be discussed. Finally a ballot will be created, passed out, voted on and prioritized. This process will be followed again until a consensus is reached. Mr. Schwermer gave a definition of an appropriation building block versus a fiscal note building block. Judgeships have always been approved through a fiscal note.

Self-Represented Litigant Standing Committee. Discussion took place. The request was dropped to \$309,100. It was decided to build the program in increments, therefore, the request has been changed to three attorneys instead of four.

Interpreter Standing Committee. The Council agreed to defer this request.

Law Clerks Appropriation Building Block. How many to request was discussed. State Court Administrator recommended three—one juvenile, two district. The Council decided to request five law clerks and one juvenile law clerk. It will be put as an appropriation building block with the full request for five district law clerks and one juvenile law clerk.

Fifth District Juvenile Judge. Submit as a fiscal note building block.

Data Processing Equipment Replacement. Submit as an appropriation building block.

Small Claim Judge Training. The Council agreed to defer this request. However discussion took place regarding the possibility of looking into the Utah State Bar providing resources for such training.

Executive Leadership Program. \$20,000 alternative funds, and the remainder deferred for one time funding.

Probation Officer Safety Training. Suggested for alternate funding.

Presiding Judges issue. This would be a fiscal issue. After discussion, it was suggested to focus the need on law clerks and consider the presiding judge issue at next year's budget session.

Motion: Judge Orme motioned to eliminate the presiding judges issue from the budget request list. Judge Lyon seconded the motion, and it passed unanimously.

Lease and Contracts - Mandate

Juror, Witness, Interpreter Fund - Mandate

Online Court Assistance Program - appropriations request

Justice Court - appropriations request

Teacher Training. The Council agreed to defer this request. In the future, look at a possible grant in civic education or pursue alternate funding.

Guardian ad Litem requests. Much discussion took place. It was mentioned that incremental increases over a period of time might be a better approach. Mr. Becker gave his view of the Guardian ad Litem funding from the inception of the program until now. Many Council members voiced their opinions. Discussion of the Council's fiduciary obligations in regards to the Guardian ad Litem program took place and whether the Council should advance the requests for attorney compensation and staffing without taking a position on the merits.

Motion: Judge Nehring motioned that we delete the Guardian ad Litem budget request from the priority list. It was seconded by Judge Andrus, and it passed unanimously.

Motion: Judge McCullagh made a motion that the GAL requests be forwarded to the Governor and legislature without action by the Council. It was seconded by Mr. Sabey, and it passed unanimously.

Master List	FTE	One-Time Request	On-Going Request	TOTAL REQUEST	Prioritize Building Block
Leases and O&M			263,000	263,000	Mandate
Juror/Witness 2010			350,000	350,000	Mandate
Juvenile Judge	3.00		290,800	290,800	1
Law Clerks	6.00		510,500	510,500	2
Self-Help Legal	3.00		310,600	310,600	3
DP Replacement Schedule			244,000	244,000	4
OCAP Funds (GFR)		100,000	76,000	176,000	5

1,531,900

SUPPLEMENTALS

Juror/Witness 2008/2009		708,500		708,500	Mandate
Justice Ct. Tech Fund		100,000		100,000	1

808,500

GAL

GAL Attorney Increase			1,255,800	1,255,800	No Recommendation
GAL Staff	16.25		876,200	876,200	No Recommendation

2,132,000

Motion: Judge Lyon motioned to accept the budget prioritization vote. Judge Barrett seconded the motion, and it passed unanimously.

Motion: Judge McCullagh motioned to approve the request for construction of a new Ogden Juvenile Court facility. Judge Andrews seconded the motion, and it passed unanimously.

Chief Justice Durham congratulated everyone on the work that was done. She gave a special thanks to Mr. Becker and his staff. She also thanked Mr. Becker for the work he did in preparing his analysis.

4. ADJOURN

The meeting was adjourned.