

Judicial Council Meeting Minutes

JUDICIAL COUNCIL BUDGET PLANNING SESSION MINUTES

Wednesday, August 25 & Thursday, August 26, 2004
Large Conference Room (W-19A)
Matheson Courthouse
450 South State Street
Salt Lake City, Utah

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham
Justice Matthew Durrant
Hon. James Davis
Hon. Jon Memmott
Hon. J. Mark Andrus
Hon. Jerald Jensen
Hon. Clair Poulson
Hon. Robert Hilder
Hon. Lee Dever
Hon. Gary Stott
Hon. K.L. McIff
Hon. Ronald Hare
Hon. David Bird, esq.
Hon. Scott Johansen

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
Mark Jones
Ray Wahl
Matty Branch
Tim Shea
Fred Jayne
Nancy Volmer
Kim Allard
Gordon Bissegger
Brian Nelson
David Rogers
Jerome Battle
Mary Boudreau
Kristin Brewer
AnNicole Faeth

GUESTS PRESENT:

Bill Greer, *Legislative Fiscal Analyst*
Dave Walsh, *Governor's Office of Planning and Budget*
Richard Ellis, *Director, Governor's Office of Planning and Budget*
Peggy Gentles, *Trial Court Executive, Third District Court*
Elizabeth Neff, *Salt Lake Tribune*
Hon. William Barrett, *Chair, Board of District Court Judges*
Hon. James Taylor, *Presiding Judge, Fourth District Court*
Hon. Paul Lyman, *Chair, Board of Juvenile Court Judges*
Hon. William Thorne, *Chair, Information Technology Standing Committee*
Hon. Hans Chamberlain, *Chair, Standing Committee on Facilities Planning*
Hon. Stephen Van Dyke, *Presiding Judge, Second District Juvenile Court*

Wednesday, August 25, 2004

1. WELCOME & OVERVIEW OF PLANNING AGENDA: (Chief Justice Christine M. Durham, Daniel J. Becker)

All in attendance were welcomed to the meeting. Guests attending from the legislative and executive branches were introduced and welcomed. Daniel Becker then provided an overview of the budget planning meeting agenda, as well as the meeting format and voting procedures.

2. REMARKS - GOVERNOR= S OFFICE: (Richard Ellis, Director, Office of Planning and Budget)

Richard Ellis, Director of the Governor= s Office of Planning and Budget, reported that there has been a 1.9% increase in revenue since 2001. Mr. Ellis then discussed demands on the state= s budget such as education, health care, growth in the corrections population, and higher education. These needs will require approximately \$200 million in new funds for FY 2006.

The Council thanked Mr. Ellis for his remarks.

3. PLACING BUDGET PROPOSALS IN CONTEXT: WORKLOAD AND DEMOGRAPHIC TRENDS; FISCAL TRENDS AND BUDGET PROCESS; FY 2006 PROPOSALS IN SUMMARY: (Daniel J. Becker, Kim Allard, Brian Nelson, Fred Jayne)

-Workload/Demographic Trends: (Daniel J. Becker, Kim Allard, Brian Nelson)

Brian Nelson provided data to the Council regarding raw filings and referrals, dispositions, judicial weighted cases, and clearance rates during FY 2004. Mr. Nelson reported that in the Supreme Court filings remained stable, filings in the Court of Appeals increased 13%, District Court statewide filings decreased 8%, and Juvenile Court referrals increased 4%.

In breaking down district court filings by case type Mr. Nelson reported that, statewide in district courts, criminal filings have decreased 2%. However, while misdemeanor filings have decreased 9%, felony case filings have increased 8%. Mr. Nelson then reported that domestic case filings have decreased 6% statewide, general civil filings have decreased 9%, parking cases have increased 78%, traffic cases have decreased 14%, small claims cases have decreased 14%, probate filings have increased 4%, property rights cases have increased 2%, and torts have increased 15%.

Mr. Nelson then reviewed district court judicial requests with the Council, and provided the latest figures on the judicial weighted caseload for district and juvenile courts. It was reported that the District Board has requested a new judicial position to be assigned to the Fourth District Court.

In breaking down juvenile court referrals by case type Mr. Nelson reported that, statewide in juvenile courts, felony referrals have decreased 3%, misdemeanor cases have increased 3%, infraction cases have increased 11%, status offenses have increased 0.6%, traffic cases have decreased 3%, protective order related adult violations have increased 307%, and dependency, neglect, and abuse referrals have increased 17%.

In regards to the FY 2004 juvenile court judicial weighted caseload it was reported that results indicate that a need for judicial resources currently exists in the Second and Third Juvenile Courts. It was reported that the Juvenile Board advanced requests for judicial positions in the Second and Third Juvenile Courts.

It was reported that clearance rates for the juvenile court have remained above 100% since 1999. In district court, clearance rates have improved from 93% in FY 1999 to 109% in FY 2004.

Mr. Nelson reported, in summary, that complex case filings have increased in district court, complex referrals have increased in juvenile court, and the courts overall judicial workload has increased based upon the weighted analysis for both district and juvenile courts. Therefore, while there is a decline in total cases, that is offset by the increase in complex cases being filing.

- Fiscal Trends and Budget Process: (Daniel J. Becker)

Daniel Becker discussed the court budget cycle with the Council. It was reported that Fred Jayne sends information soliciting budget requests for the coming year to Trial Court Executives (TCE= s). The TCE= s meet with their bench, Chief Probation Officers, and Clerks of Court to determine priorities and funding requests. Their requests are submitted to the court level administrators who review them, and formulate their own recommendations which are presented to the boards. The boards consider the court level administrator= s recommendations, and then determine what the most immediate demands for their court level are and formulate recommendations which are presented to the Council. It was reported that at the same time, Council standing committees go through a parallel process to formulate their own funding requests which are presented to the Council for consideration.

Mr. Becker reported that in advance of the Council meeting, all of these requests are forwarded to him. He works with a budget committee, which consists of administrators and two TCE= s, to review the requests and to formulate the Court Administrator= s review and recommendations, taking into consideration all requests and system needs, future growth projections, and GOPB guidelines. The Council then meets, reviews information on workload trends, hears presentations from the boards and committees, and then votes on budget requests. The Council= s decisions are then forwarded to the Legislature and Governor.

In terms of the Governor= s budget guidelines, Mr. Becker reported that the Governor has suggested zero growth, and that agencies should fund new programs through internal shifts in funding. Total requests to the Council this year equate to approximately \$3.6 million, which is less than requests made in previous years.

Fred Jayne discussed various funds within the court= s budget with the Council. Examples of these include the Children= s Legal Defense Fund, Alternative Dispute Resolution, the Court Complex Fund, the Court Reporter Technology Fund, and the Law Library Non-Lapsing Fund.

Myron March then discussed the Security Fee and the Justice Court Technology, Security, and Training Account with the Council.

- FY 2006 Proposals in Summary: (Daniel J. Becker)

Daniel Becker reviewed a summary of FY 2006 building block requests. It was reported that these requests equate to approximately \$3.6 million, which would equate to a 4% increase in the court= s budget.

4. DISTRICT BOARD REPORT: (Hon. William Barrett, Mark Jones)

Judge William Barrett, Chair of the Board of District Court Judges, reported that the District Board identified a number of funding priorities as indicated below:

- 1) 5 Law Clerks
- 2) 4th District Judge

Judge Barrett also reported that the Board would urge the Council to consider supporting increases in both judicial and staff salary increases.

5. JUVENILE BOARD REPORT: (Hon. Paul Lyman, Hon. Stephen Van Dyke, Ray Wahl)

Judge Paul Lyman, Chair of the Board of Juvenile Court Judges, thanked the Council for the opportunity to discuss juvenile court needs with them. Judge Lyman discussed time associated with handling child welfare cases, and the important role that child welfare mediation plays in these cases. Judge Lyman then shared the following funding priorities determined by the Juvenile Board with the Council:

- 1) 2nd District Juvenile Judge
- 2) 3rd District Juvenile Judge
- 3) Juvenile Court Personnel - 1st and 6th Districts
- 4) 2nd District Deputy Court Clerk
- 5) Victim Coordinators (2.5 Deputy Court Clerks)
- 6) State Supervision

6. INFORMATION TECHNOLOGY STANDING COMMITTEE REPORT: (Hon. William Thorne, Jerome Battle, Kim Allard)

Judge William Thorne, Chair of the Information Technology Standing Committee, thanked the Council, on behalf of the committee, for the Council= s prior support. Judge Thorne then reported that the committee is advancing one request this year, e-filing hardware/software and staff support.

7. FACILITIES COMMITTEE REPORT: (Hon. Hans Chamberlain, Gordon Bissegger)

Judge Chamberlain briefly provided an update on the current West Jordan and Tooele courthouse projects. Judge Chamberlain then reported that the Facilities Standing Committee is requesting funds to purchase land adjacent to the Fourth District Juvenile Courthouse in Provo for future expansion, approval to exercise an option to purchase the West Valley Courthouse, and authorization to use improvement funds to purchase land adjacent to the Cedar City Courthouse for future expansion. Additionally, it was reported that the committee requests that they be authorized to fund a feasibility study of a facility in Ogden which would provide a new courthouse for the juvenile court. It was mentioned that, with Council approval, these requests would go before the Capital Facilities Committee.

8. EDUCATION STANDING COMMITTEE REPORT: (Dr. Diane Cowdrey)

Dr. Diane Cowdrey reported that, consistent with the strategic plan presented to the Council in June, the Education Standing Committee has identified a number of funding priorities as indicated below:

- 1) Obtain funds to replace reduction in FY 2004
- 2) Tri-District Conference
- 3) Probation Officer Safety Training

- 4) Pro Tem Judge Training
- 5) Advanced Clerk Training

9. OTHER REQUESTS:

- Interpreters: (Mary Boudreau)

Mary Boudreau reported that for FY 2002, the Council approved an increase in interpreter fees of \$10/hour. That approval, however, was rescinded as part of the FY 2002 budget cuts. For FY 2003, the Council approved an increase in interpreter fees of \$5/hour, but the increase was again rescinded due to budget cuts. For FY 2004, the Council chose not to increase interpreter fees, but decided to consider the request again for FY 2005. Ms. Boudreau reported that a request in the amount of \$165,000 is being forwarded to the Council to fund an increase in interpreter fees.

Ms. Boudreau then reported that several years ago, the Council approved a request for a full-time Court Interpreter Program Manager position with duties that included developing certification programs in languages other than Spanish. However, the position was not funded by the Legislature. It was reported that this request is a second attempt to obtain funding and staff time to expand the interpreter certification program. Ms. Boudreau mentioned that this expansion was given a A 1" ranking by the Council in its 2003-2004 program-based budget review. \$44,500 is being requested to fund this expansion.

- Juror/Witness/Interpreter - Supplemental and FY 2006: (Fred Jayne)

Fred Jayne reported that the Legislature has continually under-funded the Juror/Witness/Interpreter line item. However, \$500,000 was allocated to the program for FY 2001. It was reported that this allocation put the program in a situation where the backlog deficit court be slowly reduced each year for approximately four or five years. It was reported that the budget was reduced twice in FY 2003. As the Legislature did not fund a supplemental for FY 2004 nor provide an increase for FY 2005, the estimated shortfall for the two years is \$300,900. Mr Jayne reported that a supplemental request in the amount of \$300,900 is being forwarded to the Council. It was reported that an additional building block of \$150,000 is also being requested.

- Weighted Caseload: (Kim Allard)

Kim Allard reported that for the 2005 clerical weighted caseload study, the Clerical Weighted Caseload Committee plans to accomplish two significant tasks. First, with the assistance of a consultant, an in-depth evaluation of the methodology is planned. Second, the committee plans to undertake, again with a consultant= s assistance, updating case weights (minutes per case) in District Court. It was reported the juvenile court case weights and staffing model was updated in FY 2002. The district court case weights and staffing model has not been significantly updated since 2000. Ms. Allard reported that a request is being forwarded to the Council for \$15,000 to fund this study.

- Employee Assistance: (Myron K. March)

Myron March reported that the Council approved the use of one time funds, in the amount of \$76,000, in FY 2005 for the implementation of an Employee Assistance Plan. It was reported that, based upon a recent bidding process, \$32,000 is being requested to fund continuation of this program.

10. LEGISLATION: (Richard Schwermer, Mark Jones, Tim Shea)

Richard Schwermer discussed possible legislation to submit to the Legislature during the 2005 session. Legislation included Confirmation of Award, Right to Counsel, Trustee= s Deposit of Proceeds, and Minor Held in Detention. It was also mentioned that Rep. Ferry has raised the possibility of advancing legislation which would make mediation mandated in divorce cases in which there are children. Mr. Schwermer mentioned that a pilot requiring mediation in these cases has been occurring in the Third District.

After discussion took place related to proposed legislation, and modifications were suggested, the following motions were made.

Motion: Judge McIff made a motion to refer the issue of A Right to Counsel@ to the Office of Child Welfare and Parental Defense. Judge Hare seconded the motion. The motion carried unanimously.

Motion: Judge Jensen made a motion to approve, in concept, the notion of mandatory mediation in divorce cases involving children, and ask staff to work with the drafters of legislation to work out specific language. David Bird seconded the motion. The motion carried unanimously.

Motion: A motion was made to approve the housekeeping bill subject to changes discussed by the Council. The motion was seconded and carried unanimously.

Thursday, August 26, 2004

11. GUARDIAN AD LITEM REPORT: (Kristin Brewer)

Kristin Brewer, Director of the Office of Guardian ad Litem, reported that the office was requesting a full time Guardian ad Litem attorney in the Third District, a full time Guardian ad Litem attorney in the Second District, a half time Guardian ad Litem attorney in the Seventh District, a half time Guardian ad Litem attorney in the Fourth District, and a half time Guardian ad Litem attorney in the Fifth District. Additionally, Ms. Brewer reported that she is requesting one time funding for office furnishings and equipment, and funding for computer equipment.

12. ANALYSIS DISCUSSION AND PRIORITIZATION:

Daniel Becker reported that the Council has heard requests from individual committees and court levels, in which the Council has been asked to consider requests that will benefit a particular court level or area. It was reported that the Council is now in a position to look at budget requests collectively, and consider those requests in terms of the best interest of the court system as a whole. Mr. Becker then reviewed recommendations for the FY 2006 budget, developed by the Executive Budget Committee, with the Council.

Council discussion took place regarding each of the various funding requests made by the boards and committees. The Council then categorized requests for further consideration as follows:

REQUEST AMOUNT CATEGORY

Juror/Witness/Interpreter Funding \$150,000 Mandate

Interpreter Testing \$44,500 Appropriation Building Block

Interpreter Pay Increase \$65,000 Appropriation Building Block

Employee Assistance Program \$32,000 Defer

(5) Law Clerks \$369,500 Appropriation Building Block

4th District Judge \$281,800 Fiscal Note Building Block (motion

2nd Juvenile Judge \$269,600 Fiscal Note Building Block Davis)

3rd Juvenile Judge \$269,600 Fiscal Note Building Block

Deputy Clerks 6th Juvenile \$120,800 Appropriation Building Block

(3) Deputy Clerks \$137,400 Appropriation Building Block

Victim Coordinators \$147,000 Eliminate

State Supervision Restoration \$384,300 Defer

E-Filing \$318,800 Appropriation Building Block

Guardian ad Litem Personnel \$328,900 Appropriation Building Block

Lease and O&M \$1,093,400 Mandate

Education Restoration \$30,000 Defer

Education - Tri-District Conference \$4,000 Defer

Education - PO Safety Training \$20,000 Appropriation Building Block

Education - Pro Tem Training \$2,000 Defer

Education - Adv. Clerk Training \$30,000 Defer

FY 2004/2005 Juror Witness \$300,900 Mandate

FY 2005 Weighted Caseload Study \$15,000 Alternate Funding

The Council then held a private vote on what items to advance as building blocks and in what priority. Following the results of that vote:

Motion: Judge Dever made a motion to defer consideration of a Third Juvenile Judge until next year. Judge Hare seconded the motion. The motion carried unanimously.

Motion: Judge Andrus made a motion to fund a interpreter administration position at \$28,900, but not fund the interpreter testing, and to fund GAL personnel. Judge Jensen seconded the motion. The motion carried unanimously.

Motion: Judge Memmott made a motion to advance the prioritized list, as amended, to the Legislature. That list is as follows:

- 1) Law Clerks
- 2) 2nd Juvenile Judge
- 3) Deputy Clerks 6th Juvenile
- 4) GAL Personnel and Equipment
- 5) 4th District Judge
- 6) Deputy Clerks (3.0)
- 7) Education - PO Safety Training
- 8) Interpreter Support
- 9) E-Filing
- 10) Interpreter Admin/Coordinator

Justice Durrant seconded the motion. The motion carried with one opposed.

Richard Schwermer then reported that the Council needs to formally take action related to facilities requests. After discussion took place, the following motions were made.

Motion: Judge Poulson made a motion to adopt intent language for a West Valley facilities purchase. Judge Johansen seconded the motion. The motion carried unanimously.

Motion: Judge Hare made a motion to approve the recommendations of the Capital Facilities Committee for FY 2006.

The motion was seconded and carried unanimously.