

JUDICIAL COUNCIL
Budget and Planning Session
Minutes
Thursday, August 16th, 2012
Large Conference Room A
Matheson Courthouse
Salt Lake City, UT

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, vice chair
Justice Jill Parrish
Hon. Judith Atherton
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. John Sandberg
Hon. Larry Steele
Hon. Keith Stoney
Hon. Thomas Willmore
Lori Nelson, esq.

EXCUSED:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Lisa-Michele Church
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Ron Bowmaster
Alyn Lunceford
Nancy Volmer
Kim Allard
Derek Byrne
Tom Langhorne

GUESTS:

Judge L.A. Dever
Judge Kate Toomey
Judge Janice Frost
Judge Elizabeth Hruby-Mills
Judge Katherine Bernards-Goodman
Commissioner Michelle Blomquist
Gary Syphus
David Walsh
Juliette Tennert, GOPB
Judge Ed Peterson
Russ Pearson, 8th Dist TCE
Shane Bahr, 4th Dist TCE
John Lund

1. WELCOME: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant welcomed everyone to the meeting.

2. GOVERNOR'S OFFICE OF PLANNING AND BUDGET ECONOMIC PRESENTATION: (Juliette Tennert)

Chief Justice Durrant welcomed Ms. Juliette Tennert, Deputy Director, from the Governor's Office of Planning and Budget to the meeting. Ms. Tennert explained that Mr. Bigelow was called away at the last minute and that she would be making the presentation. Mr. Bigelow sends his regrets.

Ms. Tennert highlighted the following in her update to include: 1) key economic performance indicators, 2) State fiscal briefing, and 3) economic outlook.

She reviewed data to include: 1) United States employment and global insight forecast headlines, 2) Utah's level of employment from June 2002 to June 2012, 3) Utah's unemployment rate, 4) Utah's demographic profile, 5) Utah's fiscal situation, 6) Utah's economic outlook, and 7) Utah's budget outlook.

Ms. Tennert noted the following sources of funding and/or expenditures to monitor relative to the budget outlook: 1) forecast error/new revenue, 2) changes in risk, 3) response to federal policy, 4) unexpected one time sources, 5) public education growth and inflation, 6) Medicaid growth, 7) \$25 million structural imbalance, 8) federal reductions, and 9) pension costs.

Ms. Tennert was thanked for her update.

3. OVERVIEW OF BUDGET PLANNING SESSION: (Daniel J. Becker)

Mr. Becker noted that each member received the following information to review prior to the meeting: 1) FY 2014 Annual Budget Plan, 2) Navigating the Budget, and 3) Court Administrator's Review and Recommendations.

Mr. Becker reviewed the agenda for the budget and planning session. The budget and planning session will include: 1) fiscal trends and restricted fund reports, 2) data presentation overview to include justice court data and Eighth District specific data, 3) reports and requests from boards and committees, 4) Mr. Becker's analysis and recommendations, 5) discussion and voting on budget priorities, and 6) review of proposed legislation.

Following the budget and planning session, a Council meeting with an executive session, and brief Management Committee meeting with an executive session will be held.

4. FISCAL TRENDS AND RESTRICTED FUNDS REPORTS: (Derek Byrne)

Mr. Byrne reviewed the Utah Courts budget summary as it relates to the fiscal data and trends.

He highlighted the following restricted funds: 1) Children's Legal Defense Fund (CLDF), 2) Alternative Dispute Resolution, 3) Court Complex Funding, 4) Law Library Non-Lapsing Fund, 5) Security Fee, and 6) Justice Court Technology, Security, and Training Account.

DATA PRESENTATION OVERVIEW: (Kim Allard)

Ms. Allard updated the Council on the FY 2012 Caseload Review. Data for all court levels from FY 2002 – FY 2012 was included.

Supreme Court. There were 600 case filings in FY 2012, of which, 171 cases were retained for decision.

Court of Appeals. There were 956 case filings in FY 2012, of which, 429 were transferred from the Supreme Court.

District Court. There were 286,587 district court case filings in FY 2012 compared to 305,974 case filings in FY 2011 which represents a 6% decrease in case filings. She highlighted the district court case filings to include: 1) by case type, 2) by district, 3) reflecting changes over time, 4) judicial weighted workload, 5) workload vs. available hours per judicial officer, 6) and average days pending by case type and by district.

Justice Court. There were 551,023 case filings in FY 2012 compared to 577,543 in FY 2011 which represents a 5% decrease in case filings. She highlighted the justice court filings to include: 1) by case type, and 2) time to disposition.

Juvenile Court. There were 41,066 referrals in FY 2012 compared to 41,033 in FY 2011. She highlighted the juvenile court referrals to include: 1) by case type, 2) by district, 3) comparison of referrals and weighted hours, 4) judicial weighted workload, 5) workload compared to available hours per judicial officer, 6) delinquency and status offenses, 7) child welfare proceedings adjudication, and child welfare proceedings disposition.

Eighth District. Ms. Allard reviewed the percent of standard caseload data relative to the Eighth District Court and Eighth District Juvenile Court.

5. REPORTS AND BUDGET REQUESTS FROM BOARDS AND COMMITTEES

BOARD OF DISTRICT COURT JUDGES: (Judge Kate Toomey and Debra Moore)

Chief Justice Durrant welcomed Judge Kate Toomey to the meeting.

The Board of District Court Judges received requests to fund judgeships in the Third, Fifth and Eighth Districts, and the request to obtain permanent funding for the five time-limited law clerk positions. The Board determined the priority for funding of a judgeship was in the Eighth District as they were functioning at 150% of standard, 113% after assistance from the Seventh District.

Judge Toomey expressed her gratitude for the help being provided by Seventh District Judge George Harmond and Judge Doug Thomas.

She spoke on behalf of the Board of District Court Judges request for funding of a judgeship in the Eighth District. She noted the need for a judge in the Eighth District as reflected by the judicial caseload data as well as their belief that the public is best served by judges who live in the district where the sit.

Judge Ed Peterson, Eighth District Presiding Judge, spoke on behalf of the judgeship request.

The request for permanent funding of the five time-limited law clerk positions is reflected by the Board's beliefs that law clerks are essential to high-quality written decisions that fulfill a key element of procedural due process by helping parties understand the reasons for the decision.

BOARD OF JUVENILE COURT JUDGES: (Judge Janice Frost and Lisa-Michele Church)

Chief Justice Durrant welcomed Judge Frost to the meeting.

Judge Frost highlighted the following: 1) Utah's juvenile court goals, 2) staff mission, 3) NCSC principles of judicial administration, 4) juvenile court current performance at a high-level of excellence, 5) juvenile court 'right sizes' resources, and 6) progress on 2012 Board goals.

The Board of Juvenile Court Judges requested funding for the following two items: 1) funding of a new judgeship in the Eighth Juvenile Court, and 2) support the Standing Committee on Technology's request for funding for the conversion to electronic records in juvenile court.

Judge Frost highlighted the following reasons for funding a judgeship in the Eighth Juvenile Court to include: 1) one judge/one family model—continuity of caseload is unique to juvenile court, 2) weighted caseload growth has been continuous over five years, currently at 194%, 179% after assistance from the Seventh District; 3) constitutional requirement that the judge shall stand for retention election only in the geographic division to which they are selected, 4) financial impact with the cost of senior judge assistance, and 5) human factors.

The juvenile court supports the Technology Committee's budget request for funding of \$160,000 to help accomplish the juvenile court's two year e-conversion plan. Judge Frost highlighted the following reasons in support of the funding request: 1) the benefits of using judicial workspace across court levels, 2) the synergy between shared resources, and 3) the opportunities for court-wide efficiencies.

The preference for placement of a juvenile judge in the Eighth District would be in Duchesne County. Discussion on the following options took place: 1) continued shared resources from the Seventh District, 2) use of senior judge assistance, and 3) sharing of a judgeship.

Questions were asked of the Board chairs relative to the judgeship requests.

TECHNOLOGY STANDING COMMITTEE: (Ron Bowmaster)

Chief Justice Durrant welcomed Mr. Bowmaster to the meeting.

The Technology Standing Committee is requesting the following building block requests: 1) funding to provide continued programming support with the move to e-filing, 2) provide permanent funding for continued implementation of a five-year computer replacement schedule, 3) one-time funding for an additional mobile smart podium for the St. George Courthouse, and 4) one-time funding to install VIACK video conferencing capabilities in Monticello and Castledale.

Mr. Bowmaster provided details relative to the Committee's requests.

STANDING COMMITTEE – COURT FACILITIES PLANNING COMMITTEE: (Judge L.A. Dever and Alyn Lunceford)

Judge Dever and Mr. Lunceford were welcomed to the meeting.

Judge Dever reported that the budget request to cover lease, O & M increases would be funded from existing resources.

The following requests were highlighted: 1) new Second District Juvenile Courthouse capital development request; and 2) Northern Utah County property purchase land bank request.

BASE AND SYSTEM-WIDE REQUESTS

DIVORCE EDUCATION FOR CHILDREN PILOT PROGRAM: (Commissioner Michelle Blomquist and Judge Elizabeth Hruby-Mills)

Commissioner Blomquist and Judge Hruby-Mills were welcomed to the meeting.

Background information on the current Divorce Education for Children Pilot Program was provided. The Divorce for Education Subcommittee was formed with the purpose of developing a pilot program for children of divorced parents. A two-hour pilot program being held in the Third and First Districts was developed for children ages 9-12.

The Divorce Education for Children Subcommittee is requesting a two-year mandatory pilot program in the First and Third Districts, with the goal of expanding the program statewide, in the future. Past funding sources were mentioned.

Mr. Becker's alternate funding recommendation was acknowledged. The Subcommittee is not opposed to funding alternatives. Discussion took place regarding the request for a mandatory pilot program.

JUROR/WITNESS/INTERPRETER SUPPLEMENTAL FOR FY 12 DEFICIT

A request for supplemental funding to cover the deficit of \$114,700 for FY 2012 has been recommended.

TOBACCO SETTLEMENT FUNDS SHORTAGE

A request for supplemental funding to cover the shortage of \$159,100 for drug courts due to loss of FY 2013 Tobacco Settlement Restricted Account Revenue has been recommended.

GUARDIAN AD LITEM (INFORMATION)

This item has been deferred until the September Judicial Council meeting.

6. STATE COURT ADMINISTRATOR'S ANALYSIS AND RECOMMENDATIONS

Mr. Becker reviewed several areas noted by Ms. Tennert to monitor relative to the State of Utah's budget outlook to include: 1) \$25 million structural imbalance, 2) education, 3) Medicaid, 4) pension and health increases, and 5) replenishing the Rainy Day Fund.

Mr. Becker reported that the budget requests received from the various boards, committees, and offices for ongoing funding in FY 2014 total close to \$2 million, excluding the Office of Guardian ad Litem. The current workload trends are reflective of more normal levels.

His recommendations are summarized as follows:

Child Divorce Education Pilot Program in the amount of \$413,100 for a two-year project. An alternative would be to look at expansion of the program to the Second and Fourth Districts and find an ongoing funding source for the expansion. It was recommended to seek legislative approval to use \$50,000 from the Children's Legal Defense Fund to expand the child divorce education program.

IT Equipment Replacement Schedule. It was recommended to defer this request and use one-time funding.

AOC Attorney. Mr. Becker provided background information on what the AOC Legal Department consists of and the current needs of the department. It was recommended to defer this request to the April Council meeting as a one-time funding request.

Fifth District Smart Podium. It was recommended to eliminate this request from consideration.

Seventh District VIACK Installations. It was recommended to eliminate this request from consideration, and use one-time funding.

Facilities – Lease, O & M Increases. It was recommended to use one-time funding to cover the contractual obligations of contracts and leases.

Juror/Witness/Interpreter. It was recommended to advance a supplemental increase to cover the FY 2012 deficit in the budget.

Tobacco Settlement Funds. It was recommended to advance a supplemental increase to cover the shortage.

Eighth District Judgeship Requests for District and Juvenile Court. Mr. Becker provided insight relative to the judgeship requests. He highlighted options considered previously regarding the need for additional judicial support in the Eighth District: 1) consolidation of the Seventh and Eighth Districts, 2) redistricting of the Seventh District to include Duchesne County, and 3) sharing of resources between the Seventh and Eighth Districts. Discussion took place as to the advancement of one or both judgeship requests in the Eighth District.

Law Clerks. It was recommended to seek permanent funding for three law clerks. If this request is approved, the remaining two positions would need to be continued with one-time funds in the FY 2014 spending plan.

E-Filing Programming Funds. It was recommended to advance this request.

Second District – Ogden Juvenile Courthouse. It was recommended to advance this request.

Northern Utah County Land Bank Request. It was recommended to advance this request.

Mr. Becker made note to the Council of the need to monitor the request by Davis County to dissolve their justice court.

7. BUILDING BLOCK DISCUSSION AND JUDICIAL COUNCIL DECISIONS ON PROPOSED FY 2014 LEGISLATIVE REQUESTS

Mr. Schwermer reviewed the process of prioritizing the budget requests. He mentioned the importance of assessing each request, reviewing the options, and making a decision on each request.

E-Filing Programming Funds. The Council agreed to submit this request as an appropriation building block.

Motion: Judge Steele moved to submit the request for e-filing programming funding in the amount of \$160,000. Judge Hornak seconded the motion, and it passed unanimously.

Fifth District Smart Podium. The Council agreed to eliminate this request.

Motion: Judge McCullagh moved to eliminate the request for the Smart Podium. Judge Harmond seconded the motion, and it passed unanimously.

Seventh District VIACK Installations. The Council agreed to use alternate funding for this request.

Motion: Judge Harmond moved to fund the Seventh District VIACK installations with alternate funding. Judge Atherton seconded the motion, and it passed unanimously.

Lease, O & M Increases. The Council agreed to use alternate funding for this request.

Motion: Judge Mortensen moved to fund this request with alternate funding. Judge Harmond seconded the motion, and it passed unanimously.

Juror/Witness/Interpreter Supplemental and Tobacco Settlement Funds Shortage. The Council agreed to submit this request as a mandate.

Motion: Ms. Nelson moved to submit the supplemental requests as mandates. Judge McCullagh seconded the motion, and it passed unanimously.

Implement Five-Year Computer Replacement Schedule. The Council agreed to defer this request to the April Council meeting and fund with one-time money.

Motion: Judge Maughan moved to defer this request to the April budget plan. Judge Stoney seconded the motion, and it passed unanimously.

AOC Attorney. The Council agreed to defer this request to the April Council meeting.

Motion: Judge Steele moved to defer this request to the April budget plan. Judge Maughan seconded the motion, and it passed unanimously.

Divorce Education for Children Pilot Program. The Council agreed to seek ongoing funding by requesting legislative approval for use of \$50,000 from the Children's Legal Defense Fund to expand the existing pilot program.

Motion: Ms. Nelson moved to approve the recommendation for funding from the Children's Legal Defense Fund to expand the existing pilot program to include the Second and Fourth Districts. Judge Maughan seconded the motion, and it passed unanimously.

Law Clerks. The Council agreed to defer the request for two law clerks (FTEs) to the April budget plan, and to submit a request as an appropriation building block for three existing law clerk (FTEs).

Motion: Judge Maughan moved to approve the recommendation to submit the request for permanent funding of three existing law clerks and defer funding of the remaining two law clerks until the April budget plan. Judge Mortensen seconded the motion, and it passed unanimously.

Eight District Judgeships – District Court and Juvenile Court.

Motion: Judge Hornak moved to advance the request for an Eighth District Court judgeship and an Eighth Juvenile Court judgeship with the priority towards a juvenile court judgeship. Judge Harmond seconded the motion, and it passed unanimously.

Second District – Ogden Juvenile Courthouse. The Council agreed to submit this request to the Building Board.

Northern Utah County Land Bank Request. The Council agreed to submit this request to the Building Board.

Motion: It was moved and seconded to submit the recommendations for the Second District – Ogden Juvenile Courthouse and the Northern Utah County Land Bank Request to the Building Board for consideration. The motion passed unanimously.

Motion: Judge Willmore move to prioritize the building block requests in the following order: 1) Eight Juvenile Court Judge, 2) Eighth District Court Judge, 3) Law Clerks (3 FTEs), 4) E-Filing Programming Funds, and 5) Increase CLDF Restricted Account Spending Authority/Divorce Education for Children Pilot. Judge McCullagh seconded the motion, and it passed unanimously.

Guardian ad Litem. This item has been deferred to the September Council meeting.

FY 2014 BUILDING BLOCK REQUESTS Approved by the Judicial Council--8/16/12

Request	\$ Requested	Judicial Council Action	Judicial Council Priority	Amount Requested
8th Juvenile Court Judge and Staff (3 FTEs)	353,300	Advance as Legislation	1st Legislative Bill Priority	353,300
8th District Court Judge and Staff (3 FTEs)	353,300	Advance as Legislation	2nd Legislative Bill Priority	353,300
Law Clerks (3 FTEs)	252,000	Building Block	1	252,000
E-filing Programming Funds	160,000	Building Block	2	160,000
Increase CLDF Restricted Account Spending Authority/Divorce Education for Children Pilot	50,000	Alternative Funding	3	50,000
Law Clerks (2FTEs)	168,000	Deferral	N/A	168,000
Implement 5-year Computer Replacement Schedule	250,000	Deferral	N/A	250,000
5th District Smart Podium - 1 Time	15,000	Elimination	N/A	-
7th District VIACK Installations - 1 Time	6,800	Alternative Funding	N/A	6,800
AOC Attorney (1 FTE)	102,800	Deferral	N/A	102,800
Lease, O & M Increases	13,300	Alternative Funding	N/A	-

SUPPLEMENTALS-FY 2013

Juror /Witness/Interpreter Supplemental for FY 12 Deficit	114,700	Building Block	1	114,700
Tobacco Settlement Funds Shortage	159,100	Building Block	2	159,100

Contracts & Leases--Judicial Council Recommendations Forwarded to the Building Board

Request	Type	Amount
2nd Juvenile District Ogden Courthouse	Capital Development	30,000,000
Northern Utah County Land Bank Request	Land Bank	1,750,000

8. PROPOSED LEGISLATION

Mr. Schwermer reported that the Liaison Committee met prior to the Budget and Planning Session. He provided information relative to the proposed legislation. He highlighted the following legislation to be considered: 1) HB 231, Guardianship Amendments; 2) 77-20-4 – bail to be posted in cash, by credit card or debit card, or written undertaking; 3) 77-7-20 – Service of citation on defendant – filing in court – electronic filings – contents of citations; 4) 78A-10-105 – Senate confirmation of judicial appointments – courts of record; and 5) 77-40-107 – Petition for expungement – prosecutorial responsibility – hearing – standard of proof – exception.

The proposed legislation relative to bail will be referred to the Boards for further discussion and input.

The draft change to the proposed legislation relative to service of citation was approved.

Motion: Judge McCullagh moved to approve the recommendations provided by the Liaison Committee. Judge Steele seconded the motion, and it passed unanimously.

9. ADJOURN

The meeting was adjourned.