

Board for Judicial Administration
April 18, 2008
AOC SeaTac Office
SeaTac, Washington

Members Present: Chief Justice Gerry Alexander, Chair; Judge Vickie Churchill, Member Chair; Judge Marlin Appelwick; Judge Rebecca Baker; Judge C. C. Bridgewater; Judge Leonard Costello; Judge Sara Derr; Judge Susan Dubuisson; Judge Deborah Fleck; Mr. Jeff Hall; Ms. Paula Littlewood; Judge Richard McDermott; Judge Larry McKeeman; Judge Robert McSeveney; Judge Marilyn Paja; and Judge Stephen Shelton

Guests Present: Ms. Roni Booth, Ms. Kathy Martin, Ms. Kathy Seymour, and Mr. Paul Sherfey

Staff Present: Ms. Ashley DeMoss, Ms. Beth Flynn, Mr. Dirk Marler, Ms. Mellani McAleenan, Ms. Regina McDougall, and Mr. Chris Ruhl

The meeting was called to order by Chief Justice Alexander.

March 21, 2008 Minutes

It was moved by Judge Derr and seconded by Judge McSeveney to approve the minutes of the March 21, 2008 meeting. The motion carried.

Trial Court Operations Funding Committee Budget Request Priorities

Mr. Hall stated the Trial Court Operations Funding Committee was directed by the BJA to develop three funding recommendations: 1) reaching state payment of one-half of the district court and qualified municipal court judge salaries, 2) increasing Interpreter Program funding, and 3) increasing juror compensation. The Committee developed the proposals and they were included in the meeting materials.

Proposal to reach state payment of one-half of the district court and qualified municipal court judge salaries: Two different options were presented to the BJA.

Option 1 – Would be phased in over a three-year period. The cost would be approximately \$5.3 million in the upcoming biennium and \$3.5 million in the following biennium. The state funding increases work out to about a 10% increase per year.

Option 2 – Would be phased in over a six-year period. The cost would be approximately \$2.6 million in additional funding in each of the next three biennia. The state funding increases would work out to about a 5% increase per year.

The costs of these proposals would increase incrementally with Salary Commission increases.

Juror Pay Increases: The Committee looked at a variety of proposals regarding juror pay and decided to forward the proposal of \$60 of state pay per day starting on the second day of service to the BJA. The local government would pay \$10 (or their current local rate, if it is not \$10) for the first day. The state would also assume all juror travel costs. The biennial cost of the proposal is \$24,520,894.

Judge Derr asked if the results of the juror pay project have been published yet. Mr. Hall stated he expects the results to be released later this spring. He indicated the budget request item could be adjusted, if needed, after the report is released.

Interpreter/LAP Budget Request: The Committee is proposing a budget request of approximately \$3.5 million (Option A). The request requires the state to pay approximately one-third of the total court interpreter costs statewide.

Mr. Hall stated a motion was needed to advise the Trial Court Operations Funding Committee on the budget request amounts to send forward to the Supreme Court Budget Committee.

It was moved by Judge Derr and seconded by Judge Dubuisson to endorse and recommend to the Supreme Court Budget Committee the Trial Court Operations Funding Committee best estimate of budget request priorities including the higher amount for judges (\$5,361,008 plus the September Salary Commission increase) and the higher amount for interpreters (\$5,546,990) for a total request of \$35,428,892. The motion carried.

The BJA prioritized the funding proposals.

It was moved by Judge McKeeman and seconded by Judge Fleck that the top priority be juror pay. The motion carried with Judge Baker opposing.

It was moved by Judge Fleck and seconded by Judge McSeveney that the increase in state funding of district court and qualified municipal court judges salaries be the second priority. The motion carried with Judge Appelwick opposing.

BJA Endorsed Principal Policy Objectives of the Washington State Judicial Branch

Mr. Hall reported that two things have come up since the March BJA meeting when the Principal Policy Objectives of the Washington State Judicial Branch were endorsed. Judge Quinn-Brintnall asked that this be placed back on the agenda to discuss objective #6 and revisions to objective #4 were suggested by the Office of Public Defense (OPD) and the Office of Civil Legal Aid (OCLA).

Judge Bridgewater made the following comments regarding the Policy Objectives:

- Objective #2 has a very broad category of other characteristics and it seems to him this could morph into rules and could lead to lawsuits and demands.
- Objective #1 refers to statutory mandates. The Court of Appeals and Supreme Court are not bound by statutory language but are bound to follow the constitutions of the state and nation.
- Objective #4 talks about meaningful access to all and is a broad right to counsel which doesn't appear to be limited in any case. It could provide a springboard to obligate the courts to appoint in every case.
- The language in objective #6 would provide a request to access for all public records and would fall under the Attorney General's suggestion that there would be a spider access like Google. If someone wanted to know if a judge had a conversation with another judge regarding a case, someone could spider it and it would be an open record. Judge Bridgewater thinks this is a risk.

Mr. Hall responded that regarding objective #4, new wording was suggested by OPD and OCLA and it was included in the meeting materials. In objective #6, it refers to public records and the records Judge Bridgewater referred to are not public at this point in time.

Judge Dubuisson stated that the BJA worked over and endorsed the Policy Objectives so OCLA and OPD could give their input. She asked if the BJA was at a point to start over. Judge Churchill suggested that this should be brought back for reconsideration at the May BJA meeting.

Mr. Hall stated that the Supreme Court is going to consider the Policy Objectives and before considering, they requested input from the BJA, OCLA, and OPD. It is important for the BJA to indicate whether or not they endorse the Policy Objectives.

Judge Baker shared that after the last meeting, she was thinking about objective #6 and has a question as to whether this is really one of the BJA's core values or

not. Is this really one of the BJA's objectives and policies or it is more overall government and does this really belong in there?

Judge Fleck moved and Judge Appelwick seconded to reconsider the Principal Policy Objectives of the Washington State Judicial Branch taking into account each of Judge Bridgewater's questions. The motion carried with Judge Dubuisson opposing.

It was determined the Policy Objectives should be discussed in more detail during a future BJA meeting.

Chief Justice Alexander stated he would like to see a small committee working on the Policy Objectives because he doesn't see how a committee the size of the BJA can successfully wordsmith the document.

It was moved by Judge Fleck and seconded by Judge Baker to establish a committee, chaired by Judge Bridgewater, to wordsmith the Principal Policy Objectives of the Washington State Judicial Branch and bring the Policy Objectives back to the BJA for review and endorsement. The motion carried.

Courts of Limited Jurisdiction Legislation

The BJA Regional Courts of Limited Jurisdiction Policy Statement (adopted November 18, 2005) was distributed in the meeting materials.

Mr. Hall suggested having a piece of legislation introduced next session regarding this subject. An ad hoc committee could work on drafting the legislation. The committee could consist of several district and municipal court judges, a superior court judge with limited jurisdiction court experience, and a court administrator. AOC staff on the committee would include Ms. DeMoss, Mr. Marler and Mr. Hall. It was the consensus of the Board to go forward with this ad hoc committee.

Gender and Justice STOP Grant Award Update

Judge Derr reported that the Gender and Justice Commission has the authority to grant and administer the STOP (Services, Training, Officers, Prosecutors) Formula Grant to the courts for specific projects. Five jurisdictions were awarded grants for various uses: Asotin County District Court, Lincoln County District Court, Sedro Woolley Municipal Court, Spokane County District Court, and Yakima County Superior Court. The Commission spreads the funding over the basic needs requests and the more sophisticated requests. A complete list of grant recipients and project descriptions was distributed in the meeting materials.

BJA Long-range Planning Committee Taskforce Recommendation Reviews

Last fall, the BJA's Long-range Planning Committee came to the BJA with recommendations from the Taskforce and there are now about six more recommendations to determine if they should be worked on; if so, by whom; or if they should be dropped. Mr. Hall stated that the BJA could plow through them during the current meeting or carry them over to the May BJA agenda for action. He commented that the recommendations may require more time than is available during the current meeting.

Chief Justice Alexander said he thought it was best to put this over a month.

Draft Criteria of Family and Juvenile Court Improvement Plan

Ms. McDougall stated she was pleased to be talking about the implementation strategy and the local improvement plans. They have really come a long way in just one year.

The Family and Juvenile Court Improvement Plan Phase I and Phase II implementation strategies were included in the meeting materials, along with an implementation schedule for FY09. All the documents were in draft form but Ms. McDougall asked for feedback from the BJA regarding the plans and schedule. The goal is for the process to go smoothly without making it cumbersome.

Ms. McDougall stated that up to ten courts will be selected initially. They would like to fund at least one court in each DSHS region and since Region 6 is so large, that region would receive funding for two courts.

Drafts of this plan will be shared with the SCJA, AWSCA and WAJCA over the next few weeks. They hope to come back to the BJA in May with endorsements from those associations regarding the implementation strategy. According to the statute, the BJA has to agree on the criteria.

Judge Fleck reported that additional funding will be needed to move into Phase II.

She also stated that Judge Costello did the yeoman's work regarding lobbying for this legislation and that the SCJA is very pleased with the Improvement Plan.

Washington State Bar Association (WSBA)

Ms. Littlewood reported that the WSBA Board of Governors (BOG) will begin discussing a two-year licensing cycle to begin in 2010. The Bar is also undergoing a systematic review of all programming from top to bottom and will soon be making the first recommendations on six of the 35 committees, boards and panels.

The Marriage and the Law forums are focused on marriage equality. The forum registration in Tacoma had to be closed because of the overwhelming response. Another forum will be offered in Spokane at Gonzaga.

The April *Bar News* was devoted to judicial selection and the BOG will take up this issue at their June meeting in Vancouver.

The proposed legal technician rule will be included in the June and July issues of *Bar News*. The rule will be introduced in the June issue and the July issue will feature several articles in favor of the proposed rule and a few articles opposed to the rule. The BOG will take action on this issue during their September meeting.

WSBA President-elect, Mr. Mark Johnson, and Ms. Littlewood traveled to the Western Bar Conference to spend time talking about common issues and concerns. Several issues surfaced throughout the conference: 1) there is a lot of talk and energy surrounding a national bar exam, 2) the aging lawyer population resulting in declining memberships in bar associations, 3) mandatory insurance disclosure, and 4) continued legislative initiatives (e.g. South Dakota's "Jail for Judges").

Reports from the Courts

Supreme Court: Chief Justice Alexander reported that the Supreme Court is in the process of selecting a permanent State Court Administrator. The Supreme Court Personnel Committee (consisting of Justice Barbara Madsen, Justice Mary Fairhurst and Justice Charles Johnson) conducted first round interviews and are reducing the number of candidates for the second round of interviews which will include other stakeholders.

The Supreme Court will be hearing oral arguments at Highline Community College on May 6. The Court will visit the college on May 5 to attend classes and meet the faculty. They will hear three cases on May 6. This will be the first time they have visited Highline Community College and they are looking forward to it.

Court of Appeals: Judge Bridgewater reported that Division I has a new Chief Judge, Ann Schindler; the new Chief Judge in Division II is Judge Elaine Houghton; and the Division III Chief Judge is John Schultheis.

The Court of Appeals will be bringing forward a request for an eighth judge in Division II and they hope the BJA will support the request.

The Division II building is still on the auction block. It could be sold to the Tacoma Housing Authority. Division II would like an extension on the lease if the building is sold and are hopeful that under any scenario they will be able to stay in the building.

Superior Court Judges' Association (SCJA): Judge Churchill reported that this is Judge Costello's last meeting on the BJA. Judge Costello agreed to serve on the BJA for this particular year because Judge Churchill was already serving on the BJA when she became SCJA President. When Judge McDermott becomes SCJA President in the next few weeks, Judge Churchill will remain on the BJA. Judge Churchill thanked Judge Costello for his service on the BJA and as the SCJA Legislative Committee Chair.

The SCJA is having their Spring Conference at Semiahmoo next week and they have a full agenda.

District and Municipal Court Judges' Association (DMCJA): Judge Shelton reported that there is a DMCJA Long-range Planning meeting the first of May and then Spring Conference will be held in Chelan on June 1. Judge Shelton hopes Judge McDermott and Chief Justice Alexander can be guests at the conference.

Other Business

BJA Quarterly Financial Report: The Quarterly Financial Report was distributed.

There being no further business, the meeting was adjourned.