

State Notes

TOPICS OF LEGISLATIVE INTEREST

Winter 2012



State Court Administrative Office 2011 Judicial Resources Recommendations By Dan O'Connor, Fiscal Analyst

Introduction

Every two years, the State Court Administrative Office (SCAO) publishes the Judicial Resources Recommendations (JRR), a report that analyzes the workloads of the various courts across the State. The 2011 JRR recommends the elimination by attrition of 45 trial court (district, circuit or probate) judgeships as well as the elimination by attrition of four Court of Appeals judgeships. This article highlights key aspects of the 2011 JRR report, and in particular discusses fiscal implications and provides an overview of SCAO methodology.

SCAO Methodology: The Calculation of How Many Judges Are Needed

The way the SCAO calculates each jurisdiction's need for judicial resources is much more nuanced than simply counting the number of case filings. This is an important feature because it recognizes that complex cases, such as medical malpractice, require a considerable amount of a judge's time, while simpler cases, such as civil infractions, require much less time.

The SCAO begins the analysis by conducting an extensive time study. The Office has conducted four such studies since 1997, and its most recent, in 2010, was the most extensive ever done. Instead of just studying a sample, the 2010 time study included all trial courts in Michigan. A committee put together by the SCAO observed the time it took for judges to perform their various duties and categorized these time investments based on the type of case. The researchers also did an online survey of judges and a more in-depth qualitative review with some experienced judges. The deliverables from these studies were estimates of the proper weight to assign to each type of case, called the **Case Weight**.

After conducting a time study, the SCAO takes a three-year average of case filings; thus, for the 2011 study, the case filings from 2008, 2009, and 2010 were used. This prevents a one-year spike in the data from skewing the recommendation. The resulting number is called the **Average Annual New Case Filings**. While the time study data are averaged across geographic regions, the case filing statistics are averaged across time (but at the individual court level).

The final factor considered is called the **Judicial Proportion**, which describes the percentage of judicial work that is performed by actual judges instead of magistrates or other quasijudicial officers.

The above three factors are then multiplied and the product is divided by the **Judicial Year**. A judicial year is the amount of time the average judge has annually to spend on handling cases. The amount of time spent handling cases is the amount of time in a typical workweek minus time spent on administrative work, work-related travel, and continuing education.

Therefore, the **Number of Judges Needed** results from the following formula:

$$\frac{(\text{Average Annual New Case Filings} \times \text{Case Weight} \times \text{Judicial Proportion})}{\text{Judicial Year}}$$



The results of this formula are then compared to the current number of judgeships for each district to determine whether a potential excess exists. If there is a potential excess, the SCAO conducts "extended analyses" in which it considers more qualitative factors such as travel time, technological resources, and whether that court operates a "specialty court" such as a DWI court or drug treatment court.

SCAO Recommendations

In 2011, the State of Michigan had 585 full-time trial court judgeships and one part-time position. The State also has seven Supreme Court justices, and 28 Court of Appeals judges. The SCAO recommends reducing trial judgeships by 45 and Court of Appeals judgeships by four. If the recommendations were implemented, the resulting Michigan Judiciary would contain 540.5 trial court judges, and 24 Court of Appeals judges, and would continue to have seven Supreme Court justices.

The methodology conducted by the SCAO (as described above) determined that there are 45 courts in which judgeships are underused and an excess exists. The methodology also determined that there is a judicial need for 31 additional judges; however, the SCAO is not recommending adding any judgeships, despite the need, because of the economic climate and the burden it would place on local funding units should they choose to add the judge if authorized.

One important aspect of the report is that circuit, probate, first-class district, and second-class district courts were analyzed together. The reason for grouping these courts is that they receive funding from the same county or counties and they have the potential to share workload through concurrent jurisdiction arrangements. If some judgeships are eliminated, especially in smaller-population jurisdictions, there would be less specialization among the courts. For example, a probate judge may need to hear cases otherwise handled by the district court (or in some cases the probate judge may take on a dual role and serve as both the probate and district judge).

The SCAO trial court reduction recommendation has grown to 45 in 2011, while in 2007 and 2009 the Office recommended reductions of only 10 and 15 judgeships, respectively. Some observers may be curious about the reason for the substantial increase. The SCAO says that the data have been consistent across all three reports (a six-year period), but the Office is "very confident" in this report's data set, which is "up-to-date, complete, and consistent", leading the SCAO to make the more ambitious recommendations. The Office also said that the trend of declining caseloads has continued throughout the period. Responses to this concern and many others can be found in the SCAO JRR 2011 Frequently Asked Questions section of its website: <http://courts.michigan.gov/scao/resources/publications/reports/JRR-FAQs2011.pdf>

The table following this article provides details about where the SCAO recommends making the reductions. The full JRR 2011 report can be found at: <http://courts.mi.gov/SCAO/resources/publications/reports/JRRSummary2011.pdf>



Fiscal Implications for the State

The current salaries of judges are as follows:

Court of Appeals Judge	\$151,441
Circuit Court Judge	\$139,919
Probate Court Judge	\$139,919
District Court Judge	\$138,272

The cost of a judgeship to the State of Michigan includes the entire salary (listed above) along with the employer share of FICA (Social Security/Medicare), defined contribution retirement payments (up to 7% of salary), and travel reimbursement. Therefore, the SCAO estimates that the following represent the total cost of each type of judgeship to the State:

Court of Appeals Judge	\$184,159
Circuit Court Judge	\$158,364
Probate Court Judge	\$158,364
District Court Judge	\$156,578

The SCAO recommends removing 11 district judgeships, 34 circuit or probate judgeships, and four Court of Appeals judgeships. Therefore, the *long-term* yearly savings if all of the SCAO recommendations were enacted would be as follows:

11 district judgeships @ \$156,578 = (\$1,722,358)
34 circuit or probate judgeships @ \$158,364 = (\$5,384,376)
Total Trial Court Savings: (\$7,106,734)
4 Court of Appeals judgeships @ \$184,159 = (\$736,636)

Total Court Savings including Trial and Appeals: (\$7,843,370)

It is important to note that because the reductions in judgeships would be accomplished through attrition, the annualized savings demonstrated above would be realized over a period of several years as judgeships became vacated. Events that result in a judgeship's becoming vacated are the following: death, resignation, or removal from office of the incumbent judge, or the incumbent judge's decision to retire or not to seek reelection. The timing of an attrition-inducing event is highly uncertain and depends on circumstances unique to each individual judge. However, since judges are ineligible to run for reelection after their 70th birthday, the election following a judge's 70th birthday represents the outside date that each position would be vacated and then eliminated.

Fiscal Implications for Local Government

Local funding units pay for judges' fringe benefits (such as medical or dental), court personnel/support staff (clerks, court reporters, bailiffs), facilities (courthouses and offices), and equipment/technology. These local costs would likely be reduced indirectly by the reduction of judgeships, but the exact potential savings are indeterminate and would vary widely across local funding units. Greater savings would result if overhead could be



eliminated rather than simply reapportioned among the remaining judicial offices. For example, if a local funding unit could close an entire courthouse as the result of a reduction, the savings could be substantial. However, if only one office were closed and the building that contained the vacant office still had to be used by other judges, then the savings would be minimal.

Two years ago, Public Act 228 of 2009 temporarily eliminated one circuit court judgeship each in Macomb and Oakland Counties and the estimated local savings were \$570,000 and \$450,000, respectively. However, as these are two of the more populous local funding areas of the State, their savings are not necessarily representative of the typical case. Smaller local funding units may realize smaller savings.

There also may be costs associated with the elimination of a judgeship, especially in the near term. If the elimination is facilitated by a consolidation (as would be the case in some of the more rural areas), the local funding units likely will bear the costs of merging information technology systems and staffs. Additionally, if the consolidation results in facility closure, some of those savings may be offset by additional travel expense for prosecutors and law enforcement personnel.

Conclusion

In the 2011-12 fiscal year, the Legislature recognized savings in the Judiciary budget of \$942,100 based on the future reduction of six judgeships. In order for the JRR to be fully implemented and the resulting savings to be realized, however, statutory changes removing the judgeships are required.

On December 22, 2011, Public Act 300 of 2011 was enacted to eliminate by attrition eight judgeships. One judgeship was eliminated in each of the following areas: 52nd District (outer Oakland County), 19th Circuit (Benzie and Manistee Counties), 29th Circuit (Clinton and Gratiot Counties), 40th Circuit (Lapeer County), 37th Circuit (Calhoun County), 24th Circuit (Sanilac County), 3rd Circuit (Wayne County), and the 25th and 26th Districts in Lincoln Park/Ecorse/River Rouge.

These reductions were consistent with the 2011 JRR, but were not exhaustive. Fifteen additional proposals eliminating as many as 35 more judgeships have passed the House and are awaiting further action by the Senate.

If economic conditions improve, the SCAO may revisit the 31 areas of judicial need that were set aside due to current fiscal stress. If the State authorized these judgeships, it would still be up to the local funding units whether to add the positions.

If the Legislature acts on some or all of the proposed legislation or other JRR recommendations, the local funding units will be faced with a renewed challenge to optimize their resources, in order to ensure they meet their judicial needs using the constrained resources provided.

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Court / Area of Jurisdiction	Current Judges	Judicial Need	SCAO			Reductions	
			Rec'd Reduction ¹⁾	Remaining if Enacted ²⁾	Excess/(Need) ³⁾	Rec'd Before? ⁴⁾	
41st Circuit / Dickinson, Iron, & Menominee Counties	7	3.7	(2)	5	1.3	Yes	
23rd Circuit / Alcona, Arenac, Iosco, & Oscoda Counties	7	4.3	(2)	5	0.7	Yes	
11th Circuit / Alger, Luce, Mackinac, & Schoolcraft Counties	5	2.3	(1)	4	1.7	No	
32nd Circuit / Gogebic & Ontonagon Counties	4	1.4	(1)	3	1.6	Yes	
12th Circuit / Baraga, Houghton & Keweenaw Counties	4.5	2.0	(1)	3.5	1.5	Yes	
25th Circuit / Marquette County	5	2.8	(2)	3	0.2	Yes	
42nd District / Midland County	5	3.2	(2)	3	(0.2)	No	
50th District / City of Pontiac	4	2.2	(2)	2	(0.2)	Yes	
18th Circuit / Bay County	7	5.3	(2)	5	(0.3)	No	
34th Circuit / Ogemaw & Roscommon Counties	5	3.3	(1)	4	0.7	No	
52nd District / County of Oakland (excludes many cities)	11	9.3	(1)	10	0.7	No	
68th District / City of Flint	5	3.4	(1)	4	0.6	No	
13th Circuit / Antrim, Grand Traverse, & Leelanau Counties	8	6.5	(1)	7	0.5	No	
26th Circuit / Alpena & Montmorency Counties	4	2.6	(1)	3	0.4	Yes	
19th Circuit / Benzie & Manistee Counties	4	2.6	(1)	3	0.4	Yes	
29th Circuit / Clinton & Gratiot Counties	6	4.6	(1)	5	0.4	No	
46th Circuit / Crawford, Kalkaska & Otsego Counties	6	4.6	(1)	5	0.4	Yes	
47th Circuit / Delta County	3	1.7	(1)	2	0.3	No	
52nd Circuit / Huron County	3	1.7	(1)	2	0.3	No	
40th Circuit / Lapeer County	5	3.7	(1)	4	0.3	No	
51st Circuit / Lake & Mason Counties	4	2.8	(1)	3	0.2	Yes	
33rd District / City of Woodhaven, et al.	3	1.8	(1)	2	0.2	No	
53rd Circuit / Cheboygan & Presque Isle Counties	4	2.9	(1)	3	0.1	No	
28th Circuit / Missaukee & Wexford Counties	4	2.9	(1)	3	0.1	No	
27th Circuit / Newaygo & Oceana Counties	5	4.0	(1)	4	0.0	No	
54A District / City of Lansing	5	4.0	(1)	4	0.0	No	
37th Circuit / Calhoun County	10	9.1	(1)	9	(0.1)	No	
1st Circuit / Hillsdale County	3	2.1	(1)	2	(0.1)	No	
9th Circuit / Kalamazoo County	15	14.1	(1)	14	(0.1)	Yes	
50th Circuit / Chippewa County	3	2.2	(1)	2	(0.2)	No	
24th Circuit / Sanilac County	3	2.2	(1)	2	(0.2)	No	
25th & 26th Districts / Lincoln Park-Ecorse-River Rouge	4	2.5	(2)	2	(0.5)	No	
35th Circuit / Shiawassee County	4	3.3	(1)	3	(0.3)	No	
36th Circuit / Van Buren County	5	4.3	(1)	4	(0.3)	No	
48th District / City of Bloomfield Hills, et al.	3	2.3	(1)	2	(0.3)	No	
44th District / City of Royal Oak	2	1.4	(1)	1	(0.4)	No	
45A & 45B District / Cities of Berkley, Oak Park, et al.	3	1.9	(1)	2	0.1	No	
3rd Circuit / Wayne County	69	68.9	(1)	68	(0.9)	Yes	
Total	257.5	203.9	(45)	212.5	8.6	12-Y, 26-N	
<p>1) Although many of the northern regions of the State, the Upper Peninsula in particular, have excess judicial resources according to the quantitative methodology, the SCAO extended analyses concluded that further reductions should not be made in these areas, whether due to geographical constraints or the constitutional requirement to have a probate judge in each county or probate district.</p> <p>2) "Remaining if Enacted" was calculated by subtracting the recommended reduction from the current number of judges.</p> <p>3) "Excess/(Need)" was calculated by subtracting the judicial need from the number of judges remaining if enacted; this would show the alignment between the need based on SCAO methodology and the actual number of judges if the SCAO recommendations were fully recommended.</p> <p>4) "Reductions rec'd (recommended) before?" shows "yes" if the 2009 report made a similar reduction recommendation; so, of the 38 jurisdictions where reductions are recommended, 26 did not have reductions recommended in the 2009 report. In other words, in 12 of the cases the SCAO made a similar recommendation in 2009, but the Legislature did not act on it.</p>							
Note: This table does not show the districts that SCAO analysis found to have judicial needs of 31 judgeships because adding judgeships is not in the recommendation.							