

State Notes

TOPICS OF LEGISLATIVE INTEREST

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State Court Administrative Office 2009 Judicial Resources Recommendations By Bill Bowerman, Chief Analyst

Introduction

The State Court Administrative Office (SCAO) biennially reviews the judicial needs of the State. The 2009 Judicial Resources Recommendations (JRR) propose the elimination of four Court of Appeals judgeships, the elimination of 15 trial court judgeships, the conversion of one probate judgeship in Macomb County to a circuit court judgeship, and the addition of one circuit court judgeship in Macomb County. This article provides an overview of the 2009 JRR and associated fiscal implications.

Background

Over the last 25 years, judgeships statewide have increased by 7.8%. [Table 1](#) provides a history of changes over that time period.

Table 1

History of Judgeships						
	1983	1988	1993	1998	2003	2008
Supreme Court Justices	7	7	7	7	7	7
Court of Appeals Judges	18	18	24	28	28	28
Circuit Court Judges	165	167	179	210	216	221
Recorder's Court Judges ¹⁾	29	29	29	N/A	N/A	N/A
District Court Judges	244	247	259	259	258	258
Probate Court Judges ²⁾	107	107	107	107	106	103
Municipal	6	6	6	6	6	4
Total	576	581	611	617	621	621

¹⁾ The Recorder's Court of the City of Detroit was abolished and merged with the Third Judicial Circuit Court on October 1, 1997.

²⁾ In 1983 there were 17 part-time probate judgeships. Today there is one remaining part-time judgeship.

Source: State Court Administrative Office and appropriation bills

While the JRR has included reductions in judgeships in the past, declining revenue for the State and local units of government has increased the interest in recommended reductions. At the State level, justices' and judges' compensation accounts for 57.8% (\$88.4 million) of the fiscal year (FY) 2009-10 Judiciary State General Fund appropriations. Judicial salaries are constitutionally protected; therefore, reductions in appropriations for the Judiciary are absorbed by administration and grant programs. [Table 2](#) provides a summary of the FY 2009-10 Judiciary appropriation by program.



Table 2

FY 2009-10 Judiciary Appropriation		
	Gross	GF/GP
Supreme Court Administration	\$10,548,400	\$9,981,200
Judicial Institute	2,554,500	1,986,800
State Court Administrative Office	11,009,200	5,477,500
Judicial Information Systems	3,092,100	2,342,100
Direct Trial Court Automation Support	6,149,300	0
Foster Care Review Board	1,235,000	694,600
Community Dispute Resolution	2,300,400	0
Other Federal Grants	275,100	0
Drug Treatment Courts	5,132,900	612,400
Court of Appeals Operations	18,414,300	16,378,000
Branchwide Appropriations	8,039,400	8,039,400
Justices' and Judges' Compensation	95,535,800	88,445,600
Judicial Tenure Commission	969,700	969,700
Appellate Public Defender/Assigned Counsel	5,809,300	5,202,700
Indigent Civil Legal Assistance	7,937,000	0
Court Equity Fund Reimbursements	64,794,900	13,002,800
Judicial Technology Improvement Fund	4,815,000	0
Other Grants and Reimbursements to Locals	10,150,000	0
Total	\$258,762,300	\$153,132,800

SCAO Recommendations

The 2009 JRR includes the following proposed eliminations of judgeships:

- Two circuit judgeships from the 3rd Circuit Court of Wayne County.
- One circuit judgeship from the 41st Circuit Court of Dickinson, Iron, and Menominee Counties.
- One district judgeship from the 95B District Court of Dickinson and Iron Counties.
- One district judgeship from the 81st District Court of Alcona, Arenac, Iosco, and Oscoda Counties.
- One probate judgeship upon the creation of a probate court district of Alcona and Oscoda Counties.
- One district judgeship from the 98th District Court of Gogebic and Ontonagon Counties.
- One district judgeship from the 97th District Court of Baraga, Houghton, and Keweenaw Counties.
- One circuit judgeship from the 25th Circuit Court of Marquette County or one district judgeship from the 96th District Court of Marquette County.
- One district judgeship from the 8th District Court of Kalamazoo County.
- One circuit judgeship from the 46th Circuit Court of Crawford, Kalkaska, and Otsego Counties.
- One district judgeship from the 50th District Court of the City of Pontiac.
- One district judgeship from the 85th District Court of Benzie and Manistee Counties.



- One district judgeship from the 88th District Court of Alpena and Montmorency Counties.
- One district judgeship from the 79th District Court of Lake and Mason Counties.

The SCAO also recommends adding one circuit court judgeship to the 16th Circuit Court of Macomb County and converting one Macomb County probate judgeship to a circuit judgeship.

All of the eliminations are recommended to be achieved through attrition; therefore, the timing of the eliminations would vary based on when a judge decided to leave office. The 2009 JRR can be obtained at the following website:

<http://courts.michigan.gov/scao/resources/publications/reports/JRRSummary2009.pdf>

Trial Courts

The State Court Administrative Office begins its review of trial court judicial needs with a statistical weighted caseload analysis. This analysis assigns a weight to different case types to recognize the varying amounts of time required to process individual cases. Based on the weighted caseload analysis, trial courts with a combined judicial excess/shortage of 1.25 or higher are subject to an extended analysis. The extended analysis includes a review of caseload filings, demographic trends, prosecutor and law enforcement practices, staffing levels, facilities, technological resources, the need for assignments to or from other jurisdictions, and other factors. While the initial review of trial courts determined a need for additional judges, an extended analysis was not conducted for some courts due to Michigan's economic situation. The 2009 JRR initial review determined a need for additional judges in the 6th Circuit (Oakland), the 16th Circuit (Macomb), the 17th Circuit (Kent), and the 36th District (Detroit). However, the 2009 JRR recommended a net increase in judgeships only for the 16th Circuit. While the 2009 JRR determined a need for 4.0 additional judges in the 16th Circuit, one new judgeship was recommended along with the conversion of one probate court judgeship to a circuit court judgeship.

Court of Appeals

The Court of Appeals originally consisted of nine judges. The following adjustments were subsequently made to the Court's composition:

<u>Year</u>	<u>Additional Judgeships</u>	<u>Total</u>
1969	3	12
1975	6	18
1989	6	24
1995	4	28

In its 2007 JRR, the SCAO recommended reducing the number of Court of Appeals judges by four, from 28 to 24 judges. No legislative action was taken on the recommendation to reduce the number of Court of Appeals judges. The recommendation was based on a



decline in case filings and reductions to the Court's budget. Since 2007, budget reductions have continued, and filings and dispositions by the Court have continued to decline. The 2009 JRR is again proposing the elimination of four Court of Appeals judgeships.

Budget reductions over recent years have resulted in a substantial reduction in central research attorneys. There are currently 47 central research attorneys compared with 85 in 1985. The JRR maintains that the reduction in central research attorneys has been the main reason for the decrease in dispositions of cases by opinion (rather than by order). The JRR is proposing that half of the savings that would be achieved through the elimination of four judgeships be appropriated back to the Court of Appeals to hire 10 central research attorneys. According to the JRR, this would result in an additional 400 to 450 more cases with research reports being available for assignment to opinion panels.

Fiscal Implications

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 State pays the entire salary of the above judgeships, along with the employer's share of FICA (social security), defined contribution retirement, and travel reimbursement. The local funding unit pays for fringe benefits for judges, court personnel/support staff, facilities, and equipment. The JRR recommends that reductions in judgeships be accomplished by attrition (death, resignation, or removal from office of the incumbent judge, or the incumbent judge's decision not to seek reelection). Therefore, savings will depend on when attrition occurs for each judgeship. Table 3 provides an estimate of annual savings for the State that will eventually be achieved if the judgeships are eliminated.

Table 3		
State Court Administrative Office Judicial Resources Recommendations		
September 2009		
Summary Of State Fiscal Impact		
	Judgeships	State Costs/(Savings)
Eliminated Judgeships		
Trial Court	(15.0)	(\$2,362,386)
Court of Appeals	(4.0)	(1,455,704)
Total Reductions	(19.0)	(\$3,818,090)
Increases		
Macomb County Circuit Court Judgeship	1.0	158,564
Court of Appeals New Staff - 10 Prehearing Attorneys	N/A	\$700,000
Total Increases	1.0	\$858,564
Net Fiscal Impact on the State	(18.0)	(\$2,959,526)



Savings to local units will vary. Macomb County states that it allocates over \$570,000 for each circuit court judgeship. Oakland County annually spends approximately \$450,000 on each circuit court judgeship. Local units in rural areas that share the local costs of judgeships will realize less of a savings.

Conclusion

Statutory changes are required to implement the 2009 JRR. Budgetary considerations are having an increasing impact on proposals to reduce judgeships. Public Act 228 of 2009, for example, temporarily reduces the number of circuit court judgeships in Oakland and Macomb Counties. These temporary reductions were requested by the local court funding units.

Decreased case filings, population changes, a weighted caseload analysis, concurrent jurisdiction, the conversion of all but one part-time probate judgeship to full-time status, and filings have affected reduction proposals. In addition, case management and innovative programs to reduce litigation in courts will have an impact on judicial needs. Increasing demands for limited judicial resources and the recognition that additional budget reductions will be implemented in the near future also have prompted other interested parties to assess the allocation of funding for judicial needs. The State Bar of Michigan has created a special task force "to identify how Michigan's justice system can meet the needs of the public in the face of transformational changes underway in the state's economy", due to past and impending budget reductions. Limited State and local financial resources will require continuing structural changes to enable Michigan's justice system to maintain essential services.