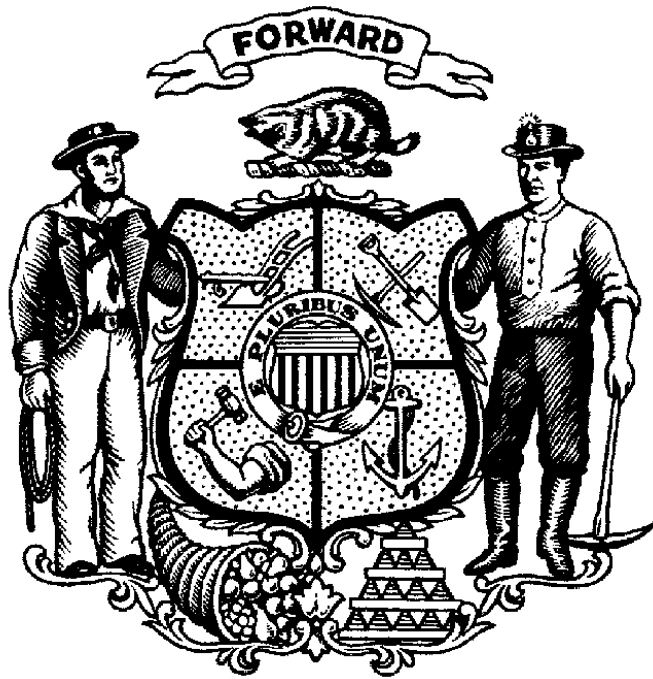


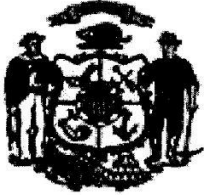
State of Wisconsin Judicial Council



Agency Budget Request
2015 – 2017 Biennium
September 15, 2014

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STATE OF WISCONSIN JUDICIAL COUNCIL

Suite 822, Tenney Building, 110 East Main Street, Madison, WI 53703-3328 (608) 261-8290

September 15, 2014

Michael Heifetz, Director
Division of Executive Budget and Finance
101 East Wilson Street, 10th Floor
Madison, Wisconsin 53703

Dear Mr. Heifetz:

Enclosed please find the Judicial Council's 2015-2017 biennial budget request. This budget contains standard budget adjustments and a request to restore GPR funding for Council operations.

If you have any questions or would like any additional information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "April M. Southwick".

April M. Southwick, Attorney
Wisconsin Judicial Council

Enclosures

cc: Tom Bertz, Chair (w/ encl.)

AGENCY DESCRIPTION

The council is authorized to advise the Supreme Court, the Governor and the Legislature on any matter affecting the administration of justice in Wisconsin, and it may recommend legislation to change the procedure, jurisdiction or organization of the courts. The council studies the rules of pleading, practice and procedure and advises the Supreme Court about changes that will simplify procedure and promote efficiency.

The council consists of 21 members as follows: a Supreme Court justice designated by the Supreme Court; a Court of Appeals judge designated by the Court of Appeals; the director of state courts or his or her designee; four Circuit Court judges selected by the Judicial Conference; the Attorney General or his or her designee; the chief of the Legislative Reference Bureau or his or her designee; the deans of the University of Wisconsin and Marquette University law schools or a designated member of the respective law school faculties; the state public defender or his or her designee; the president-elect of the State Bar of Wisconsin or a designated member of the Board of Governors of the State Bar; three members of the State Bar selected by the State Bar; one district attorney appointed by the Governor; and two citizens at large appointed by the Governor

MISSION

The mission of the council is to study and make recommendations relating to court pleadings, practices and procedures; and organization, jurisdiction and methods of administration and operation of Wisconsin courts.

PROGRAMS, GOALS, OBJECTIVES AND ACTIVITIES

Program 1: Advisory Services to the Courts and the Legislature

Goal: Improve the efficiency and effectiveness of the Wisconsin court system.

Objective/Activity: The council studies the rules of pleading, practice and procedure and advises the Supreme Court on changes that will simplify procedures and promote efficiency. The council studies court administration throughout the state, and can receive, investigate and recommend proposed changes to the administration of justice in Wisconsin. The council is to be aware of judicial decisions and proposed legislation that would impact courts. The council is also empowered to recommend to the Supreme Court, Governor and Legislature any changes in the organization, jurisdiction, operation and business methods of the courts that would result in a more effective and cost-efficient court system

PERFORMANCE MEASURES

2013 AND 2014 GOALS AND ACTUALS

Prog. No.	Performance Measure	Goal 2013	Actual 2013	Goal 2014	Actual 2014
1.	Review and draft recommended amendments to the Code of Criminal Procedure.	Study and draft recommendations concerning the proper procedures for issuing a warrant, executing that warrant and other procedural concerns related to police searches using GPS technology.	Studied current Wisconsin and United States Supreme Court cases, and legislation adopted in other jurisdictions.	<p>Begin working with the LRB to draft bill containing recommended amendments related to police searches using GPS technology.</p> <p>Study and draft recommendations concerning plea withdrawal.</p>	<p>Drafted a white paper for the Legislature to provide guidance in drafting future legislation regarding the use of tracking and geolocation technology.</p> <p>The Legislature enacted 2013 Wisconsin Act 375 prohibiting, with certain exceptions, law enforcement officers from tracking the location of a wireless communications device without obtaining a warrant.</p> <p>Comprehensive bill drafted by the Judicial Council containing revisions to eight chapters of the Criminal Procedure Code was introduced in the Legislature.</p>

Prog. No.	Performance Measure	Goal 2013	Actual 2013	Goal 2014	Actual 2014
1.	Review and research amendments to the Rules of Evidence.	Continue to study and draft recommended revisions to reflect current case law and maintain cohesion and consistency with modern practice.	In November 2012, the supreme court approved rule change petition no. 12-03 drafted by the Judicial Council to modify the Wisconsin rules of discovery and evidence to resolve uncertainty in the courts about the effect of certain disclosures of communications or information protected by lawyer-client privilege or as work product.	Begin working with the Legislative Reference Bureau to draft bill containing recommended amendments and begin drafting a Supreme Court rule change petition to amend the rules of evidence.	Completed comprehensive review and study of the rules of evidence and began drafting recommended amendments to six rules.
1.	Review and research amendments to the Rules of Civil Procedure	Begin comprehensive code amendment process by identifying rules that are inconsistent with current practice or case law.	Identified several rules for study and possible amendment, including Wis. Stat. § 887.24, deposition for use in other state; Wis. Stat. § 803.08, class action statute; Wis. Stat. § 885.03, service of subpoena.	Begin studying rules that have been identified as inconsistent with current practice or case law and drafting recommended amendments.	A supreme court rule change petition drafted by the Judicial Council to amend the rules regarding discovery for use in other states was filed November 13, 2013. A public hearing is scheduled September 29, 2014.

Prog. No.	Performance Measure	Goal 2013	Actual 2013	Goal 2014	Actual 2014
1.	Timely response to requests to review Supreme Court rules.	Draft and file Supreme Court rule change petition to protect the identity of victims in appellate documents publically available via the Internet.	Continue to study and draft proposed rule to protect the identity of victims in appellate documents publically available via the Internet.	Study and recommend amendments to promote greater consistency and completeness of the record on appeal.	<p>Supreme Court rule change petition to protect the identity of crime victims was filed January 21, 2014. Public hearing is scheduled on September 22, 2014.</p> <p>Continued to study ways to promote greater consistency and completeness of the record on appeal.</p>

2015, 2016 AND 2017 GOALS

Prog. No.	Performance Measure	Goal 2015	Goal 2016	Goal 2017
1.	Review and draft recommended amendments to the Code of Criminal Procedure.	Work with Legislature to reintroduce bill drafted by the Judicial Council containing comprehensive revisions to eight chapters of the Criminal Procedure Code.	Study and draft recommendations concerning the preliminary examination process.	Study and draft recommendations concerning discovery depositions in criminal cases.
1.	Review and research amendments to the Rules of Evidence.	Continue drafting bill and Supreme Court rule change petition to amend six rules of evidence.	Provide draft bill to the Legislature for introduction and file Supreme Court rule change petition to amend the rules of evidence.	Draft and file Supreme Court rule change petition to address duty to preserve evidence.
1.	Review and research amendments to the Rules of Civil Procedure.	Continue studying rules that have been identified as inconsistent with current practice or case law and drafting recommended amendments.	Draft recommended amendments to Wis. Stat. § 803.08, class action statute.	Draft recommended amendments to Wis. Stat. § 885.03, service of subpoena.
1.	Timely response to requests to review Supreme Court rules.	Draft and file Supreme Court rule change petition to promote greater consistency and completeness of the record on appeal.	Provide recommendations regarding supreme court rules changes.	Provide recommendations regarding supreme court rules changes.

**Wisconsin Judicial Council
Organization Chart
110 East Main Street, Suite 822
Madison, Wisconsin 53703-3328**

Members of the Council		Staff
Thomas W. Bertz, Chair Attorney at Law APPT: State Bar	Hon. Gerald P. Ptacek Racine County Circuit Court APPT: Judicial Conference	April M. Southwick Attorney at Law
Hon. Brian W. Blanchard, Vice Chair Court of Appeals - District IV APPT: Court of Appeals	Hon. Patience Drake Roggensack Wisconsin Supreme Court APPT: Supreme Court	
Hon. Michael R. Fitzpatrick Rock County Circuit Court APPT: Judicial Conference	District Attorney Brad Schimel Waukesha County APPT: Governor's DA Appointment	
William C. Gleisner Attorney at Law APPT: State Bar	David E. Schultz Professor of Law APPT: Dean, UW Law School	
Senator Glenn Grothman Senate Judiciary Committee Chair APPT: Legislature Designee	Thomas L. Shriner Attorney & Adjunct Prof. of Law APPT: Dean, Marquette Law School	
Jill M. Kastner Attorney at Law APPT: State Bar President-Elect	A. John Voelker Director of State Courts APPT: Dir. State Courts	
Tracy K. Kuczenski Legislative Reference Bureau APPT: Legislative Reference Bureau	Hon. Jeffrey A. Wagner Milwaukee County Circuit Court APPT: Judicial Conference	
Devon M. Lee Office of the State Public Defender APPT: State Public Defender Designee	Greg Weber Assistant Attorney General APPT: Attorney General Designee	
Dennis Myers Washington County Supervisor APPT: Governor's Appointment	Hon. Maxine A. White Milwaukee County Circuit Court APPT: Judicial Conference	
Representative Jim Ott Assembly Judiciary Committee Chair APPT: Legislature Designee	Amy E. Wochos Milwaukee County Probate APPT: State Bar	
Benjamin J. Pliskie Attorney at Law APPT: Governor's Appointment		

Agency Total by Fund Source

Judicial Council

1517 Biennial Budget

		ANNUAL SUMMARY					BIENNIAL SUMMARY				
Source of Funds		Prior Year Total	Adjusted Base	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	Biennial Request	Change From (BYD)	Change From BYD %
GPR	S	\$68,029	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.8%
Total		\$68,029	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.8%
PR	S	\$45,354	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	
Total		\$45,354	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	
Grand Total		\$113,383	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.8%

Agency Total by Program

Judicial Council

1517 Biennial Budget

Source of Funds	ANNUAL SUMMARY						BIENNIAL SUMMARY			
	Prior Year Actual	Adjusted Base	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	Biennial Request	Change From (BYD)	Change From BYD %
01 ADVISORY SERVICES TO THE COURTS AND THE LEGISLATURE										
Non Federal										
GPR	\$68,029	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
S	\$68,029	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
PR	\$45,354	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.00%
S	\$45,354	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.00%
Total - Non Federal	\$113,383	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
S	\$113,383	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
PGM 01 Total	\$113,383	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
GPR	\$68,029	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
S	\$68,029	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
PR	\$45,354	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.00%
S	\$45,354	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.00%
TOTAL 01	\$113,383	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
S	\$113,383	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%
Agency Total	\$113,383	\$70,400	\$118,700	\$119,000	1.00	1.00	\$140,800	\$237,700	\$96,900	68.82%

Agency Total by Decision Item

Judicial Council

1517 Biennial Budget

Decision Item	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
2000 Adjusted Base Funding Level	\$70,400	\$70,400	1.00	1.00
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$39,800	\$39,800	0.00	0.00
3010 Full Funding of Lease and Directed Moves Costs	\$900	\$1,200	0.00	0.00
7100 Restore Funding and Position	\$7,600	\$7,600	0.00	0.00
TOTAL	\$118,700	\$119,000	1.00	1.00

Program Revenue

1517 Biennial Budget

	CODES	TITLES
DEPARTMENT	670	Judicial Council
PROGRAM	01	Advisory services to the courts and the legislature
SUBPROGRAM		
NUMERIC APPROPRIATION	30	Dir state crts and law library

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	(\$44,400)	(\$45,400)	\$0	\$0
	\$44,400	\$90,800	\$46,100	\$47,700
Total Revenue	\$0	\$45,400	\$46,100	\$47,700
Expenditures	\$45,354	\$45,400	\$0	\$0
2000 Adjusted Base Funding Level	\$0	\$0	\$0	\$0
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$0	\$0	\$44,400	\$44,400
Compensation Reserve	\$0	\$0	\$700	\$1,400
Health Insurance Reserves	\$0	\$0	\$1,000	\$1,900
Total Expenditures	\$45,354	\$45,400	\$46,100	\$47,700
Closing Balance	(\$45,354)	\$0	\$0	\$0

Decision Item (DIN) - 2000

Decision Item (DIN) Title - Adjusted Base Funding Level

NARRATIVE

Adjusted Base Funding Level

Decision Item by Line

1517 Biennial Budget

	CODES	TITLES
DEPARTMENT	670	Judicial Council
	CODES	TITLES
DECISION ITEM	2000	Adjusted Base Funding Level

	Expenditure items	1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$32,500	\$32,500
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$16,500	\$16,500
06	Supplies and Services	\$21,400	\$21,400
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$70,400	\$70,400
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	1.00	1.00

Decision Item by Numeric

1517 Biennial Budget

Judicial Council

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	2000	Adjusted Base Funding Level			
01	Advisory services to the courts and the legislature				
	01 General program operations	\$70,400	\$70,400	0.50	0.50
	30 Dir state crts and law library	\$0	\$0	0.50	0.50
	Advisory services to the courts and the legislature SubTotal	\$70,400	\$70,400	1.00	1.00
	Adjusted Base Funding Level SubTotal	\$70,400	\$70,400	1.00	1.00
	Agency Total	\$70,400	\$70,400	1.00	1.00

Decision Item by Fund Source

1517 Biennial Budget

Judicial Council

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	2000	Adjusted Base Funding Level				
	GPR	S	\$70,400	\$70,400	0.50	0.50
	PR	S	\$0	\$0	0.50	0.50
	Total		\$70,400	\$70,400	1.00	1.00
Agency Total			\$70,400	\$70,400	1.00	1.00

Decision Item (DIN) - 3003

Decision Item (DIN) Title - Full Funding of Continuing Position Salaries and Fringe Benefits

NARRATIVE

Standard Budget Adjustment - Full Funding of Continuing Position Salaries and Fringe Benefits

Decision Item by Line

1517 Biennial Budget

	CODES	TITLES
DEPARTMENT	670	Judicial Council
	CODES	TITLES
DECISION ITEM	3003	Full Funding of Continuing Position Salaries and Fringe Benefits

	Expenditure items	1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$27,100	\$27,100
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$12,700	\$12,700
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$39,800	\$39,800
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

1517 Biennial Budget

Judicial Council

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	3003	Full Funding of Continuing Position Salaries and Fringe Benefits			
01	Advisory services to the courts and the legislature				
	01 General program operations	(\$4,600)	(\$4,600)	0.00	0.00
	30 Dir state crts and law library	\$44,400	\$44,400	0.00	0.00
	Advisory services to the courts and the legislature SubTotal	\$39,800	\$39,800	0.00	0.00
	Full Funding of Continuing Position Salaries and Fringe Benefits SubTotal	\$39,800	\$39,800	0.00	0.00
	Agency Total	\$39,800	\$39,800	0.00	0.00

Decision Item by Fund Source

1517 Biennial Budget

Judicial Council

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	3003	Full Funding of Continuing Position Salaries and Fringe Benefits				
	GPR	S	(\$4,600)	(\$4,600)	0.00	0.00
	PR	S	\$44,400	\$44,400	0.00	0.00
	Total		\$39,800	\$39,800	0.00	0.00
Agency Total			\$39,800	\$39,800	0.00	0.00

Decision Item (DIN) - 3010

Decision Item (DIN) Title - Full Funding of Lease and Directed Moves Costs

NARRATIVE

Standard Budget Adjustment - Full Funding of Lease and Directed Moves Costs

Decision Item by Line

1517 Biennial Budget

	CODES	TITLES
DEPARTMENT	670	Judicial Council
	CODES	TITLES
DECISION ITEM	3010	Full Funding of Lease and Directed Moves Costs

	Expenditure items	1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$900	\$1,200
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$900	\$1,200
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

1517 Biennial Budget

Judicial Council

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	3010	Full Funding of Lease and Directed Moves Costs			
01	Advisory services to the courts and the legislature				
	01 General program operations	\$900	\$1,200	0.00	0.00
	Advisory services to the courts and the legislature SubTotal	\$900	\$1,200	0.00	0.00
	Full Funding of Lease and Directed Moves Costs SubTotal	\$900	\$1,200	0.00	0.00
	Agency Total	\$900	\$1,200	0.00	0.00

Decision Item by Fund Source

1517 Biennial Budget

Judicial Council

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	3010	Full Funding of Lease and Directed Moves Costs				
	GPR	S	\$900	\$1,200	0.00	0.00
	Total		\$900	\$1,200	0.00	0.00
Agency Total			\$900	\$1,200	0.00	0.00

Decision Item (DIN) - 7100

Decision Item (DIN) Title - Restore Funding and Position

NARRATIVE

The Judicial Council requests reallocation of PR funding and 0.5 FTE unclassified attorney position to GPR funding to return the Council to the funding and staffing level it maintained prior to the 2011-13 biennial budget.

JUDICIAL COUNCIL
2015-17 Biennial Budget Development
Issue Paper

1. Issue

Background: The 2007-09 biennial budget, 2007 Wisconsin Act 20, restored funding for a full-time Judicial Council Staff Attorney. This is the Judicial Council's only staff position. The Council's staff attorney supports 21 council members who serve in a voluntary capacity. 2007 Wisconsin Act 20 funded the 1.0 FTE GPR unclassified attorney position from the Judicial Council's annual general program operations appropriation.

The 2009-11 biennial budget, 2009 Wisconsin Act 28, continued to provide a 1.0 FTE GPR unclassified attorney position funded from the Judicial Council's \$127,600 GPR general program operations appropriation.

Although the Governor's 2011-13 budget proposal continued full funding of the 1.0 FTE GPR unclassified attorney position funded from a \$127,700 GPR general program operations appropriation, 2011 Wisconsin Act 32 eliminated \$58,000 GPR and a 0.5 FTE GPR unclassified attorney position annually from the Judicial Council and created a PR continuing appropriation to be funded with amounts transferred from the Director of State Courts and/or the State Law Library of the Supreme Court, and provided a 0.5 FTE PR unclassified attorney position annually to the appropriation. 2013 Wisconsin Act 20 continued to provide a PR continuing appropriation to be funded with amounts transferred from the Director of State Courts and/or the State Law Library of the Supreme Court, and provided a 0.5 FTE PR unclassified attorney position annually to the appropriation.

Issue: As required, the Director of State Courts and the State Law Library of the Supreme Court have transferred sufficient funds to the PR continuing appropriation to allow the Judicial Council to maintain its one full-time staff person. However, the Judicial Council is an independent agency and should not continue to rely on funding from another agency to maintain its only staff position. If the Director of State Courts or the State Law Library are unable or unwilling to transfer PR funds to support the 0.5 FTE attorney position for the Judicial Council, the Council risks the loss of its only staff person. A loss of staff would severely diminish the Judicial Council's efficiency and effectiveness to the detriment of the Wisconsin justice system.

Solution: The Judicial Council requests reallocation of \$58,000 PR and 0.5 FTE PR unclassified attorney position to \$52,000 GPR and a 0.5 FTE GPR unclassified attorney position to return the Council to the funding and staffing level it maintained prior to the 2011-13 biennial budget.¹

¹ The Director of State Courts and the State Law Library have been unable to transfer the full \$58,000 in PR funds, but have been providing sufficient funds to maintain the Council's sole staff position. Additionally, the Director of State Courts has directly reimbursed the statutorily authorized travel expenses for the four Judicial Council members appointed by the Judicial Conference. The Judicial Council has been able to reduce its expenditures by approximately \$6,000 per year, so while \$58,000 was reallocated to a PR continuing appropriation, the Judicial Council is only requesting restoration of \$52,000 GPR for each year of the biennium.

2. Costs in 2015-17

The impact of this request would be to increase the Judicial Council budget by \$52,000 GPR for each year of the biennium.

3. Reallocation Opportunities

The Judicial Council, Director of State Courts and State Law Library each has a very different mission. The Director of State Courts manages the day to day operations of the court system, while the State Law Library serves the legal information needs of officers and employees of the state, attorneys and the public.

The Legislature created the Judicial Council in 1951 to advise the Supreme Court, the Legislature and the Governor on issues affecting the administration of justice. Since its formation, the Judicial Council has had as a principal focus the review of court procedure, and the development and drafting of rules and statutes governing those court procedures. While all of the Council's work affects the business of the courts, the Council primarily produces two types of work product: legislative proposals and court rules petitions.

The Judicial Council is a nonpartisan, diverse group of experienced legal professionals with 21 statutorily designated members. The Governor is statutorily tasked with appointing three members of the Judicial Council, including a district attorney and two citizen members. The Judicial Council was established by statute as an independent agency to insure its neutrality, protect the integrity of its work process, and preserve its ability to provide recommendations to all three branches of government.² The 21 members of the Judicial Council receive no compensation except for reimbursement of their travel expenses. Members have a unique skill set and knowledge base that qualifies them to perform their very important duties.³ To fulfill the Judicial Council's statutory duties, it is crucial that Council members who volunteer for this work have the support and assistance of at least one full time staff person to conduct legal research; draft memoranda, proposed legislation, rule change petitions, articles for professional journals and correspondence; represent the Judicial Council before legislative committees, other agencies and offices, the courts, and the public; and provide administrative and support services to the Council and its standing committees.

The 1995-97 biennial budget, 1995 Wisconsin Act 27, removed funding for the Judicial Council's two staff positions and reassigned the staff support duties to the Judicial Commission. The Judicial Commission's mission and duties are very different from the statutory duties of the Judicial Council. The Commission is responsible for judicial

² In Wisconsin, like many other states, both the Supreme Court and the Legislature have a shared role in regulating court procedure. Wisconsin Statutes, § 751.12 (1) provides, "the state supreme court shall, by rules promulgated by it from time to time, regulate pleading, practice, and procedure in judicial proceedings in all courts, for the purposes of simplifying the same and of promoting the speedy determination of litigation upon its merits. The rules shall not abridge, enlarge, or modify the substantive rights of any litigant." The Wisconsin Supreme Court has also recognized an inherent authority for rule making in certain areas.

³ The 21-member Judicial Council is comprised of a Supreme Court justice; a Court of Appeals judge; four circuit Court judges; one district attorney; three members of the state bar; two citizen members; and all of the following individuals (or their designees): the Director of State Courts, the chairs of the Senate and Assembly standing committees with jurisdiction over judicial affairs, the Attorney General, the chief of the Legislative Reference Bureau, the deans of the law schools of the University of Wisconsin and Marquette University, the State Public Defender, and the president-elect of the state bar.

conduct and discipline. The Commission had very limited resources or staff time to devote to supporting the Judicial Council so the work of the Council suffered greatly. For example, most of the research and drafting for the Council's work is done by standing committees. The Judicial Commission had no staff available to support the work of the standing committees so research and drafting, as well as administrative support for the committees, had to all be done by the volunteer members. As a result, work moved much more slowly than when the Council had its own staff.

The 2007-09 biennial budget, 2007 Wisconsin Act 20, restored the Judicial Council's independence from the Commission, and re-appropriated funding for one full-time staff attorney. Since the restoration of its staff attorney, the Council has nearly doubled the number of rules petitions on which it worked and submitted to the Court. Additionally, the successful adoption rate of the Council's petitions has risen from approximately 55% to 100%.

At the same time that Council members work on proposed rule changes, however, Council members also work on proposed legislation. A current, long-term effort to revise the criminal procedure code is one example of the legislative study and drafting done by the Council. The Council labored on this project for more than a decade prior to restoration of its staff attorney. With the assistance of staff, the project has been completed and a bill was introduced in September 2013, with reintroduction anticipated in January 2015. Additionally, in the eight years prior to restoration of the Council's staff attorney, no proposed legislation drafted by the Council saw successful passage. In the four years since restoration of its staff attorney, three bills drafted by the Judicial Council have been signed into law.⁴

The Judicial Council's independence, neutrality, and impartiality are crucial to its effectiveness in advising all three branches of government. All three branches of government benefit by funding the Judicial Council and its staff position from a GPR appropriation. Additionally, the Director of State Courts and the State Law Library of the Supreme Court benefit when the transferred funds can be used for their intended purpose, instead of transferred to support another agency.

4. Long-Term Costs

This request would increase the Judicial Council budget by \$52,000 GPR annually.

5. Positions

This request would eliminate 0.50 FTE PR position from the Judicial Council's budget and increase GPR positions by 0.5 FTE GPR position in each year of the biennium, thus restoring the position back to the 2009-11 biennial budget level.

⁴ 2009 Wisconsin Act 25 tolls the time limit for filing a petition for review in the Supreme Court while a motion for reconsideration is pending in the court of appeals. The rule promotes more efficient court process and saves parties' unnecessary attorneys' fees incurred by filing duplicative pleadings. *See* Wis. Stat. § 809.24. 2009 Wisconsin Act 26 specifies that appeals in chapter 980 (sexually violent person) and section 971.17 (not guilty by reason of mental disease or defect) commitment proceedings are subject to the unified appeal procedure in Wis. Stat. §§ (rules) 809.30 through 809.32, creating a more efficient and consistent court process. *See* Wis. Stats. §§ 809.30-.32, 48.465, 938.47, 971.17(7m), and 980.038(4)(a). 2009 Wisconsin Act 27 allows suppression of evidence issues to be raised on appeal in chapter 938 (Juvenile Justice Code) cases in which the juvenile has admitted to the delinquency petition. This amendment preserves constitutional rights of juvenile defendants, and improves judicial efficiency by avoiding unnecessary trials. *See* Wis. Stats. §§ 808.03(3), 938.297(8), and 971.31(10).

6. Statutory Language

Brief Description of Intent: This request eliminates the PR appropriation created in the 2011-13 biennial budget and restores \$52,000 GPR to the Council's GPR appropriation. The request also eliminates the 0.5 FTE PR unclassified attorney position and recreates a 0.5 FTE GPR unclassified attorney position for the Judicial Council.

Related Statutory Citations:

Delete s. 20.670 (1) (k), Wis. Stats. - Director of state courts and law library transfer. All moneys received from the appropriations under s. 20.680 (2) (a) to (ke) and (4) (a) to (h) for the purposes of the judicial council under s. 758.13.

Delete s. 751.20, Wis. Stats. - Transfer authority. Notwithstanding s. 20.680 (2) (a) to (ke) and (4) (a) to (h), the supreme court may transfer money from the appropriations under 20.680 (2) (a) to (ke) and (4) (a) to (h) to the appropriation under s. 20.670 (1) (k) for the purposes of the judicial council under s. 758.13.

7. Impact of Denial

The provision under s. 751.20 provides that the Supreme Court may transfer money from its appropriations to fund the operations of the Judicial Council, but does not require such funding.

Therefore, if the GPR position and funding are not restored, the Council faces an ongoing risk of insufficient funds to maintain its only staff position. As described previously, staff support is crucial to the Council's on-going effectiveness and efficiency.

Decision Item by Line

1517 Biennial Budget

	CODES	TITLES
DEPARTMENT	670	Judicial Council
	CODES	TITLES
DECISION ITEM	7100	Restore Funding and Position

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$7,600	\$7,600
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$7,600	\$7,600
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

1517 Biennial Budget

Judicial Council

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	7100	Restore Funding and Position			
01	Advisory services to the courts and the legislature				
	01 General program operations	\$52,000	\$52,000	0.50	0.50
	30 Dir state crts and law library	(\$44,400)	(\$44,400)	(0.50)	(0.50)
	Advisory services to the courts and the legislature SubTotal	\$7,600	\$7,600	0.00	0.00
	Restore Funding and Position SubTotal	\$7,600	\$7,600	0.00	0.00
	Agency Total	\$7,600	\$7,600	0.00	0.00

Decision Item by Fund Source

1517 Biennial Budget

Judicial Council

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	7100	Restore Funding and Position				
	GPR	S	\$52,000	\$52,000	0.50	0.50
	PR	S	(\$44,400)	(\$44,400)	(0.50)	(0.50)
	Total		\$7,600	\$7,600	0.00	0.00
Agency Total			\$7,600	\$7,600	0.00	0.00