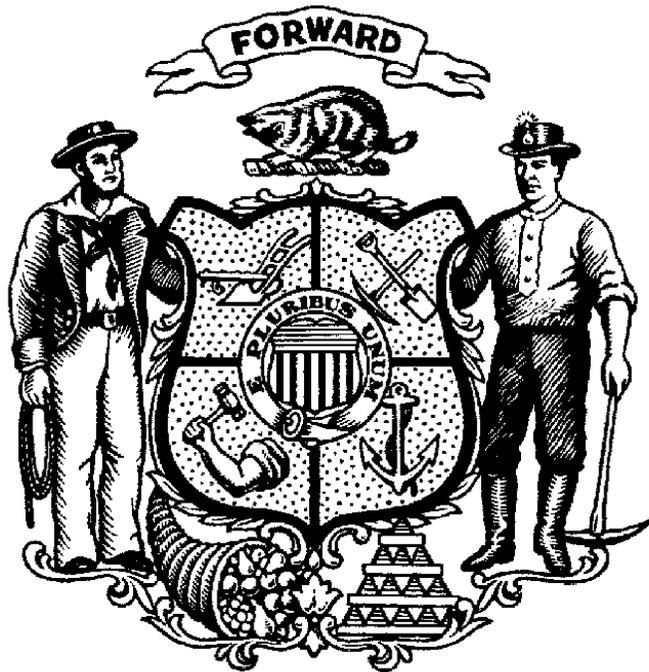


State of Wisconsin

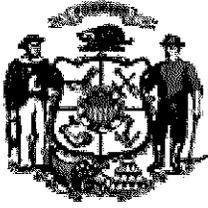
Judicial Council



Agency Budget Request
2019 – 2021 Biennium
September 21, 2018

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STATE OF WISCONSIN JUDICIAL COUNCIL

September 21, 2018

Mr. Waylon Hurlburt, Administrator
Division of Executive Budget and Finance
Department of Administration
101 East Wilson Street, 10th Floor
Madison, Wisconsin 53703

Dear Mr. Hurlburt:

Enclosed please find the Judicial Council's 2019-2021 biennial budget request.

As you are aware, 2017 Assembly Bill 64 (the state's 2017-19 biennial budget) was signed into law on September 21, 2017. The Governor exercised his partial veto authority to reduce the 1.0 FTE position and the amount under s. 20.670(1)(k), Wis. Stats., Director of state courts and law library transfer, to \$0 in each fiscal year of the biennium based on the Supreme Court's August 17, 2017, order to discontinue the discretionary transfer of funds from the Courts to the Judicial Council. Statutory language related to the Council and the Council's appropriations remained.

The Council has continued to meet to fulfill its duties under to s. 758.13 (2), Wis. Stats., without the benefit of staff assistance or an office. The work of the Council, including staff assistance thereto, has been performed by its members from the State Bar, the Judiciary and the Legislature who receive no compensation. Moreover, due to the nonappropriation of funds, members are unable to receive reimbursement for mileage or any other expenses in connection with their work for the Council, as otherwise permitted under s. 758.13(1)(b), Wis. Stats.

The Council's 2019-21 biennial budget seeks to restore position authority and salary, fringe and supplies and services expenditure authority so that the Council may appoint outside of the classified service an attorney to provide staff services to the Council.

On behalf of the Council, I would be pleased to answer any questions that you may have about the Council's proposed 2019-21 biennial budget.

Sincerely,

A handwritten signature in cursive script, reading "William C. Gleisner, III", with a stylized "WCG" monogram to the right.

William C. Gleisner, III, Chair
Wisconsin Judicial Council

cc: Judicial Council Executive Committee

AGENCY DESCRIPTION

The council is authorized under s. 758.13, Wis. Stats. to advise the Supreme Court, the Governor and the Legislature on any matter affecting the administration of justice in Wisconsin, and it may recommend Supreme Court rules or 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. Pursuant to Wis. Stat. §751.12(5), the Supreme Court is authorized to accept assistance from the Judicial Council.

As prescribed by s. 758.13(1), Wis. Stats. 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 Judicial Council is set forth in s. 753.13 (5), Wis. Stats., as follows:

- (a) Observe and study the rules of pleading, practice and procedure, and advise the supreme court as to changes which will, in the council's judgment, simplify procedure and promote a speedy determination of litigation upon its merits.
- (b) Survey and study the organization, jurisdiction and methods of administration and operation of all the courts of this state.
- (d) Receive, consider and in its discretion investigate suggestions from any source pertaining to the administration of justice and to make recommendations.
- (e) Keep advised concerning the decisions of the courts relating to the procedure and practice therein and concerning pending legislation affecting the organization, jurisdiction, operation, procedure and practice of the courts.
- (f) Recommend to the legislature any changes in the organization, jurisdiction, operation and methods of conducting the business of the courts, including statutes governing pleading, practice, procedure and related matters, which can be put into effect only by legislative action.
- (g) Recommend to the supreme court, legislature and governor any changes in the organization, operation and methods of conducting the business of the courts that will improve the efficiency and effectiveness of the court system and result in cost savings.

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 and the Legislature 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.

To this end, the Judicial Council meets approximately eight times each year. The Council does most of its work through committee. There are three committees of the Council: a) the Evidence & Civil Procedure Committee; b) the Criminal Procedure Committee; and c) the Appellate Committee.

The programs and goals of the Council are set from time to time by the Council after receiving input from the Legislature or the Supreme Court. In terms of Legislative input, the Council works closely with the Chair of the Senate Judiciary Committee, Senator Wanggaard, as well as the Chair of the Assembly Judiciary Committee, Representative Ott.

PERFORMANCE MEASURES¹

2017 AND 2018 GOALS AND ACTUALS²

Prog · No.	Performance Measure	Goal 2017	Actual 2017	Goal 2018	Actual 2018
1.	Review and draft recommended amendments to the Code of Criminal Procedure.	Study issues related to discovery rules in criminal cases	The Criminal Procedure Committee completed and provided to the Legislature major review of criminal procedure.	Draft recommendations to update discovery rules in criminal cases	The Criminal Procedure Committee provided several recommendations to the Legislature.
1.	Review and research amendments to the Rules of Evidence.	Study possible amendments to address duty to preserve evidence in civil cases; study codification of expert witness privilege	The Council prepared extensive amendments to rules, which were embodied in Petition 16-02 to the Supreme Court.	Draft and file a Supreme Court petition to address expert witness privilege	This was done, primarily in connection with the work performed on Petition 16-02.

¹ The Council's minutes describe in more detail these and other accomplishments of the Council.

² The Council calendar is unique, beginning in September of each year and continuing until the following June. The Council ordinarily does not meet in April, July, August and December.

Prog No.	Performance Measure	Goal 2017	Actual 2017	Goal 2018	Actual 2018
1.	Review and research amendments to the Rules of Civil Procedure.	Draft recommended amendments to s. 885.03, Wisconsin Statutes, service of subpoena Draft and file Supreme Court rule change petition to amend s. 803.08, Wisconsin Statutes, class action statute	Prepared Draft Supreme Court Rule Change Petition to Amend Wis. Stats. §§ 803.08 and 426.110, Class Actions.	Study possible amendments to s. 804.01(2)(d), Wisconsin Statutes, trial preparation: experts to improve efficiencies and decrease litigation costs	Work on this goal was not completed due to the closed meetings of 2018. ³
1.	Review and research amendments to the Rules of Appellate Procedure.	Work with Legislature to introduce bill drafted by the council reorganizing the procedural rules for prisoner challenges to agency decisions to make the rules easier to locate and understand	Much of 2017 was devoted to consideration of amendments to §§ 809.15, 809.19, 809.30, 809.32, and 885.42, Record on Appeal and Videotape Procedure	Study and draft recommendations concerning substitution or withdrawal of counsel in appellate cases	Work on this goal was not completed due to the closed meetings of 2018. ³
1.	Timely response to requests to review Supreme Court rules.	Provide recommendations regarding Supreme Court rules changes	Provided recommendations regarding Supreme Court rules changes.	Provide recommendations regarding Supreme Court rules changes	Provided recommendations regarding Supreme Court rules changes.

³ The “actuals” for the Council for 2018 were negatively impacted by the Council’s need to consider matters in closed session during the period September to December 2018.

2019, 2020 AND 2021 GOALS

Prog No.	Performance Measure	Goal 2019	Goal 2020	Goal 2021
1.	Review and draft recommended amendments to the Code of Criminal Procedure.	Draft and file Supreme Court rule change petition to update discovery provisions in criminal cases	Review and draft recommended amendments at the direction of the Legislature	Review and draft recommended amendments at the direction of the Legislature
1.	Review and research amendments to the Rules of Evidence.	Draft and file a Supreme Court petition to update rule regarding duty to preserve evidence in civil cases	Review and recommend ways in which to incorporate the federal rules of evidence into Wisconsin's rules	Continue to review and recommend ways in which to incorporate the federal rules of evidence into Wisconsin's Rules
1.	Review and research amendments to the Rules of Civil Procedure.	Draft and file Supreme Court rule change petition to amend s. 804.01(2)(d), Wisconsin Statutes, trial preparation: experts	Review and recommend modifications to the Rules of Civil Procedure created by Act 235 in order to synchronize Act 235 with the Federal Rules of Civil Procedure	Continue to review and recommend modifications to the Rules of Civil Procedure created by Act 235 in order to synchronize Act 235 with the Federal Rules of Civil Procedure
1.	Review and research amendments to the Rules of Appellate Procedure.	Draft and file Supreme Court rule change petition to adopt a rule regarding substitution or withdrawal of counsel in appellate cases	Review and research amendments to the Rules of Appellate Procedure at the direction of the Supreme Court or Council	Continue to review and research amendments to the Rules of Appellate Procedure at the direction of the Supreme Court or Council
1.	Timely response to requests to review Supreme Court rules.	Provide recommendations regarding Supreme Court rules changes	Provide recommendations regarding Supreme Court rules changes	Provide recommendations regarding Supreme Court rules changes



Judicial Council



Agency Total by Fund Source

Judicial Council

1921 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	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.0%
Total		\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.0%
PR	S	\$0	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.0%
Total		\$0	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.0%
Grand Total		\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.0%

Agency Total by Program

670 Judicial Council

1921 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	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
S	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
Total - Non Federal	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
S	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
PGM 01 Total	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
GPR	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
S	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
TOTAL 01	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
S	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%
Agency Total	\$0	\$0	\$98,300	\$111,400	1.00	1.00	\$0	\$209,700	\$209,700	0.00%

Agency Total by Decision Item

Judicial Council

1921 Biennial Budget

Decision Item	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
2000 Adjusted Base Funding Level	\$0	\$0	0.00	0.00
4000 Judicial Council Attorney and Funding	\$98,300	\$111,400	1.00	1.00
TOTAL	\$98,300	\$111,400	1.00	1.00

Program Revenue

1921 Biennial Budget

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

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	(\$122,000)	\$600	\$0	\$0
Director of State Courts and Law Library Transfer	\$162,400	(\$600)	\$0	\$0
Total Revenue	\$40,400	\$0	\$0	\$0
Expenditures	\$39,800	\$0	\$0	\$0
2000 Adjusted Base Funding Level	\$0	\$0	\$0	\$0
Total Expenditures	\$39,800	\$0	\$0	\$0
<u>Closing Balance</u>	\$600	\$0	\$0	\$0

Decision Item (DIN) - 2000

Decision Item (DIN) Title - Adjusted Base Funding Level

NARRATIVE

Adjusted Base Funding Level

Decision Item by Line

1921 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	\$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	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unallotted 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	\$0	\$0
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

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				
	30 Dir state crts and law library	\$0	\$0	0.00	0.00
	Advisory services to the courts and the legislature SubTotal	\$0	\$0	0.00	0.00
	Adjusted Base Funding Level SubTotal	\$0	\$0	0.00	0.00
	Agency Total	\$0	\$0	0.00	0.00

Decision Item by Fund Source

Judicial Council

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	2000	Adjusted Base Funding Level				
	PR	S	\$0	\$0	0.00	0.00
	Total		\$0	\$0	0.00	0.00
Agency Total			\$0	\$0	0.00	0.00

Decision Item (DIN) - 4000

Decision Item (DIN) Title - Judicial Council Attorney and Funding

NARRATIVE

The Judicial Council [Council] requests the creation of a 1.0 FTE GPR unclassified attorney and the provision of \$9,000 in one-time financing in the first year. The Council also requests salary, fringe, and supplies and services authority of \$89,300 GPR in the first year and \$111,400 GPR in the second year, for a total of \$98,300 GPR and \$111,400 GPR in the first and second year, respectively.

As passed by the Legislature, Assembly Bill 64 [the 2017-19 biennial budget bill] provided a budget for the Council of \$111,400 PR annually, with 1.0 PR FTE. Funding for the Judicial Council was provided from revenues transferred from the Wisconsin Supreme Court's Director of State Courts appropriations in amounts determined by the Supreme Court under s. 751.20, Wis. Stats. The Governor partially vetoed section 183 [as it related to s. 20.670(1)(k)] by reducing the amount under s. 20.670(1)(k), Wis. Stats., to \$0 in each fiscal year. Additionally, the Governor requested that the Secretary of the Department of Administration not authorize position authority for the Council and none was authorized.

This initiative requests the creation of a 1.0 FTE GPR unclassified attorney so that the Council may appoint an attorney outside of the classified service as permitted under s. 758.13 (3)(g)2, Wis. Stats. It also requests GPR supplies and services authority in an amount equal to that which was reduced from s. 20.670 (1)(k), Wis. Stats., by the veto; and \$9,000 GPR one-time financing in the first year for costs associated with the recruitment of an unclassified attorney and the establishment of an office for the attorney.

It should be noted that although funding for the Council's appropriations was eliminated, statutory language related to the Council and the Council's appropriations remain under current law. Further, although the Council's last appropriated budget [the 2015-17 biennium] was funded 100% with program revenue transferred from the Courts, funding for the 2011-13 and 2013-15 biennia was split 50% PR and 50% GPR; and funding for the 2007-09 and 2009-11 biennia was 100% GPR.

Decision Item by Line

1921 Biennial Budget

	CODES	TITLES
DEPARTMENT	670	Judicial Council
	CODES	TITLES
DECISION ITEM	4000	Judicial Council Attorney and Funding

	Expenditure items	1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$44,700	\$59,600
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$22,000	\$29,200
06	Supplies and Services	\$22,600	\$22,600
07	Permanent Property	\$0	\$0
08	Unallotted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$9,000	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$98,300	\$111,400
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

Judicial Council

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	4000	Judicial Council Attorney and Funding			
01	Advisory services to the courts and the legislature				
	01 General program operations	\$98,300	\$111,400	1.00	1.00
	Advisory services to the courts and the legislature SubTotal	\$98,300	\$111,400	1.00	1.00
	Judicial Council Attorney and Funding SubTotal	\$98,300	\$111,400	1.00	1.00
	Agency Total	\$98,300	\$111,400	1.00	1.00

Decision Item by Fund Source

Judicial Council

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	4000	Judicial Council Attorney and Funding				
	GPR	S	\$98,300	\$111,400	1.00	1.00
	Total		\$98,300	\$111,400	1.00	1.00
Agency Total			\$98,300	\$111,400	1.00	1.00