



Judicial Council Minutes

February 15, 2024

9:00 a.m.

Room 230, MN Judicial Center and via Zoom

The Judicial Council met on Thursday February 15, 2024, in St. Paul, Minnesota and via Zoom. Tenth Judicial District Assistant Chief Judge Elizabeth Strand attended for Chief Judge Hiljus. Eighth Judicial District Assistant Chief Judge Rodney Hanson attended for Chief Judge Beckman.

1. Decision Item: Approval of Draft January 18, 2024, Meeting Minutes

A motion was made and seconded to approve the draft January 18, 2024, Meeting Minutes as submitted. The motion prevailed.

Council Action

The Judicial Council approved the draft January 18, 2024, Meeting Minutes, as submitted.

2. Discussion Item: Compensation Council

Minnesota District Judges Association (MDJA) Vice President Judge Richard Kyle, Second Judicial District and MDJA President Judge Mary Mahler, Seventh Judicial District presented proposed amendments to the Compensation Council statute.

Minnesota Statute §15A.082 creates a Compensation Council in each odd-numbered year to assist the legislature in establishing the compensation of constitutional officers, judges, and heads of state and metropolitan agencies. Compensation Council recommendations are due to the Legislature by April 1 in each odd-numbered year. The Compensation Council is also prohibited from having conversations with members of the judiciary until recommended salaries are submitted to the legislature.

An ad-hoc group of former Compensation Council members is proposing several amendments to the statute including two that relate to the Judicial Branch. The first amendment is to change the timing of the Compensation Council's recommendations to the even-numbered year to ensure the Compensation Council's work coincides with the Judicial Branch budgeting process to make the report and recommendations more useful

to the Branch and the Legislature. The second change would address what communications are permissible with the Compensation Council.

MDJA proposed that MDJA and the Judicial Council collaborate in supporting the proposed amendments to the Compensation Council statute.

A motion was made and seconded to collaborate with MDJA and support proposed amendments to the Compensation Council statute. The motion prevailed.

Council Action

The Judicial Council approved collaborating with MDJA to support proposed amendments to the Compensation Council statute.

3. Discussion Item: OHI Update

Judge Kathryn Messerich and Heather Kendall, OHI Co-Chairs, provided an update on preliminary data gathered through the oneCourtMN Hearings Initiative (OHI). OHI solicited feedback from judicial officers and staff regarding remote hearings in civil and criminal cases. The staff survey resulted in nearly 1,800 responses. OHI is seeing consistent themes in feedback and are analyzing the data to determine next steps.

OHI will return to Judicial Council in March to share data from the Resources and Practices Time Study, share data on outcome indicators, provide an overview of OHI's recommendation development approach, and provide an update on the flexible courtroom concept. OHI will also be bringing recommendations to Judicial Council in June 2024.

4. Discussion Item: Special Topic—Artificial Intelligence Part II

Presenters: Jason Betz, Information Technology Director, State Court Administration; Katie Schurrer, Strategic Planning & Projects Office Manager, State Court Administration; Sara Taylor, Sixth Judicial District Administrator.

Jason Betz, Katie Schurrer, and Sara Taylor presented part two of the Artificial Intelligence (AI) special topic.

Presenters provided a summary of the January AI conversation and objectives, and discussed the Minnesota Judicial Branch response to AI, ways to prepare the Branch for AI, and next steps.

The AI planning group requested Judicial Council endorsement to draft a proposed AI policy and governance framework for consideration at the March 2024 Judicial Council meeting. Judicial Council members suggested that the AI planning group consider evaluating governance models in other states, determine the cost-benefit analysis of implementing AI initiatives, and ensure data used is accurate and unbiased.

The AI planning group will return to Judicial Council in March 2024 with a proposed AI policy and governance framework.

5. Decision Item: Generative AI Westlaw

Rick Konkoly-Thege and Kayla Dube, Legal Counsel Division, State Court Administration presented information on the Generative AI functionality in Westlaw called AI Assisted Research. The District Courts, Court of Appeals, and Supreme Court purchased a Westlaw Precision subscription that contained AI Assisted Research in December 2023. At that time, the AI Assisted Research feature was not turned on out of an abundance of caution. The agreement with Westlaw provided the courts additional time to decide whether to add (‘turn on’) AI Assisted Research by February 29, 2024, at no additional cost. The AI Assisted Research feature was reviewed and approved by the Minnesota Judicial Branch IT Cyber Security Team and was recommended that the tool be made available under the current Westlaw subscriptions by the Legal Counsel Division.

A motion was made and seconded to turn on the AI function for the District Courts and the Supreme Court and to turn on the AI function for the Court of Appeals upon the approval of Chief Judge Segal between now and February 28, 2024. The motion prevailed.

Council Action

The Judicial Council approved turning on the AI function for the District Courts and the Supreme Court and to turn on the AI function for the Court of Appeals upon the approval of Chief Judge Segal between now and February 28, 2024.

6. Discussion Item: Minnesota Court Payment Center Internal Audit

Jamie Majerus, Branch Audit Manager, State Court Administration presented the Minnesota Court Payment Center (CPC) Internal Audit. The audit found that the CPC’s internal controls were generally adequate to ensure they had safe guarded assets, produced reliable financial information, and complied with finance-related legal requirements and judicial policies. There were two written observations. The first observation found that the CPC did not always conduct their review of eFS refunds in compliance with procedure. The second observation found that the CPC did not have adequate controls over its daily deposits and cash funds. Written observations are considered not major, and observations are related to internal control processes that need improvement.

7. Discussion Item: Second Quarter Financial Projection

Dan Ostdiek, Finance Director, State Court Administration shared the Second Quarter Financial Projection. The current general fund budget of the Judicial Branch in FY 2024 is \$455.5 million with expenditures of \$203.8 million and projected expenses for the

fiscal year of \$448.3 million, leaving an uncommitted balance of \$7.2 million. The uncommitted fund balance of \$7.2 million is down from \$11.4 million two years ago. The uncommitted fund balance is lower due to less turnover thus less vacancy savings, rising inflation costs, pre-pandemic activity levels, an increase in mandated services activities, and the continual growth and appetite for technology.

Mr. Ostdiek informed Judicial Council members of long-term budget issues that need to be addressed. First, the growth and appetite for more technology cannot be absorbed within the Information Technology base budget. There either needs to be transfers from other areas of the budget or be part of the next biennial budget request from the Legislature. Second, the amount that was once set aside as Strategic Off the Top (.91% of the budget) for projects and investments has now been used for permanent needs of the courts and there is no longer any available funds for projects/investments. Third, there is too much reliance on Unfunded Needs. Fourth, Statewide Systems and Standards may help decrease support costs. Lastly, the Mandated Services budget formula needs to be examined. A three-year rolling average of mandated services operating costs in an expense growing area will almost always produce a deficit situation.

8. Discussion Item: Education Opportunities for Judges

Dana Bartocci, Human Resources and Development Director, State Court Administration presented proposed revisions to Judicial Council Policy 400, Education Policy. The current policy allows Judicial Officers to claim up to 15 hours of credit within the 45-hour Continuing Judicial Education (CJE) reporting period for on-demand courses and Senior Judges to claim up to 5 hours of credit within their 15-hour reporting period. As of January 1, 2024, the Minnesota Continuing Legal Education Board decided that Minnesota licensed lawyers can satisfy 100 percent of their continuing legal education (CLE) requirements through on-demand CLEs. Proposed revisions align Judicial Council Policy 400 with Minnesota CLE requirements, allowing judges to satisfy 100 percent of the CJE credits through on-demand courses.

There being no objection to acting on the proposed revisions at the current meeting, a motion was made and seconded to approve revisions to Judicial Council Policy 400, Education Policy. The motion prevailed.

Council Action

The Judicial Council approved revisions to Judicial Council Policy 400, Education Policy.

9. Decision Item: Proposed Revisions to Judicial Council Policy 221, Court Reporter Transcript Rates

Dawn Torgerson, Deputy State Court Administrator, returned to Judicial Council to discuss proposed revisions to Judicial Council Policy 221, Court Reporter Transcript Rates. At the January 2024 Judicial Council meeting, it was agreed that Judicial Council

members would discuss transcript rates with their districts and bring information back to the February Council meeting.

A discussion ensued. Questions were raised why transcript rates are reviewed in the odd-numbered year when the judicial branch biennial budget request is developed in the even-numbered year. There was general agreement that transcript rates should be considered when the Council is evaluating other Judicial Branch funding priorities. It was noted that if transcript rates are discussed during the Judicial Council budgeting process, transcript rates would not necessarily be included in the Branch's legislative budget request. A suggestion was made to review the Judicial Council Policy 221 requirement that the policy be reviewed in every odd-numbered year. A suggestion was also made that a group, including Judicial Council members, court reporters, and SCAO staff, gather relevant information on transcript rates to be considered during the next budget cycle.

A motion was made and seconded to consider IFP transcript rates during the next biennial budget development cycle and obtain information as needed from relevant sources. The motion prevailed.

Council Action

The Judicial Council approved to consider IFP transcript rates during the next biennial budget development cycle and obtain information as needed from relevant sources.

10. Other Business

a. Performance Measures Review

Chief Justice Hudson explained that the Judicial Council reviews performance measure results twice each year. The measures have been in policy for nearly 20 years, and because of the significant changes the Branch has undergone in that time, there is an operational plan task to conduct a formal review of the measures. The COPS committee led the development and review of the original measures, and Chief Justice Hudson proposed referring the performance measures review to COPS to put together recommendations.

There being no objection, the performance measures review was referred to the COPS committee.

b. Legislative Update

Jeff Shorba, State Court Administrator, provided a legislative update. February 12, 2024, was the first day of the legislative session. The Judicial Branch will present our supplemental budget request to the House Judiciary Committee on February 20, 2024, and to the Senate Judiciary Committee on February 21, 2024. Whether there will be a budget surplus continues to be a matter of concern and we will know more after the February forecast.

11. Executive Session

A motion was made and seconded to go into Executive Session to discuss personnel matters. The motion prevailed.

Following discussion, a motion was made and seconded to exit Executive Session. The motion prevailed.

There being no further business the meeting adjourned.