



Legislative Fiscal Bureau

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May 9, 2001

Joint Committee on Finance

Paper #860

Court Commissioner Judicial Education (Supreme Court)

[LFB 2001-03 Budget Summary: Page 627, #5]

CURRENT LAW

Under current law, counties with a population of 100,000 or more may create full-time court commissioners, while a county with a population of 500,000 or more must establish at least one full-time court commissioner to assist in small claims actions. In any county, circuit judges must appoint the number of part-time court commissioners as the proper transaction of business requires, except in counties with a population of 200,000 or more, each judge may not appoint more than two part-time commissioners and in counties with a population of less than 200,000, each judge must, as nearly as possible, appoint an equal number of commissioners within the county.

Under current law, with the approval of the chief judge of the judicial administrative district, a court commissioner may perform certain duties otherwise performed by judges, generally in the areas of criminal, juvenile, family, probate, small claims, traffic and other ordinance actions. In criminal matters, for example, this includes the authority to issue summonses, arrest warrants or search warrants; conduct initial appearances of persons arrested; and set bail. Full-time court commissioners may conduct preliminary examinations and arraignments to the same extent as a judge and, with the consent of both the state and the defendant, may accept a guilty plea.

Under current Supreme Court rule, a court commissioner is required to participate in programs of continuing education designed for court commissioners. Specifically, a court commissioner is required to earn at least 60 education credits during each six-year period and must earn not less than 10 nor more than 30 education credits every two years. A full-time court commissioner must earn these credits by participating in continuing education programs approved by the Judicial Education Committee and a part-time court commissioner must earn not more than 40 of the required 60 credits in any six-year period by participating in continuing legal education programs approved by the Board of Bar Examiners. The remaining credits for a part-

time court commissioner must be approved by the Judicial Education Committee. Finally, a supplemental court commissioner (a person authorized to perform specified duties of a court commissioner on a temporary or occasional basis) must earn not less than three education credits in programs approved by the Judicial Education Committee in any year in which his or her performance of court commissioner duties requires 40 or more hours. Under Supreme Court rule, the Judicial Education Committee is responsible for approving continuing legal education courses for circuit court and municipal judges and court commissioners, while the Board of Bar Examiners is responsible for approving continuing legal education courses for Wisconsin attorneys.

The Supreme Court's Office of Judicial Education (OJE) provides continuing education programs for court and municipal judges. Current statutes do not address continuing education programs for court commissioners.

GOVERNOR

Provide \$42,700 PR in 2001-02 and \$56,500 PR in 2002-03 and a 0.5 PR education manager position annually. Create a program revenue court commissioner training appropriation to provide training programs for court commissioners and provide that program revenue would be generated by fees charged for the court commissioner training program.

DISCUSSION POINTS

1. The Supreme Court rule requiring court commissioner education does not require OJE to provide such continuing education programs. The bill would provide 0.5 position and associated funding to allow OJE to plan for and provide court commissioner education programs. According to the Supreme Court, its Planning and Policy Advisory Committee recommended that court commissioner education be planned for and provided by OJE. Since OJE does not now have the resources to provide education programs specifically designed for court commissioners, the Judicial Education Committee has adopted an interim policy that permits full-time court commissioners to earn credits for the judicial education component through Board of Bar Examiner, State Bar, local bar and State Public Defender programs not specifically designed for court commissioners.

2. Currently, court commissioners are able to participate in OJE continuing legal education courses provided to court and municipal judges on an "as space is available" basis. The Court indicates that, under the bill, OJE would provide continuing education programs for court commissioners that are more tailored to the continuing education needs of court commissioners than other legal continuing education programs.

3. The bill would create a program revenue appropriation to receive fees for court commissioner training programs. In its budget request, the Court estimated that fees of \$500 per year per full-time court commissioner and \$250 per year per part-time court commissioner would be

needed to cover the costs of the court commissioner training program. Based on current employment of full- and part-time court commissioners by the counties, these fees would generate an estimated \$56,000 in program revenue annually. The Court indicates that these flat yearly fees would allow unlimited participation by a given court commissioner in the OJE court commissioner training programs. Depending on the number of court commissioners in the future and the cost of the programs, the Court may need to increase these fees to maintain the self-funding nature of the program.

4. Court commissioners are county employees. According to the Court, all but eight counties (Bayfield, Burnett, Calumet, Crawford, Menominee, Price, Vilas and Waupaca) use some form of court commissioner. Currently, there are 78 full-time and 68 part-time court commissioners. The largest counties are more likely to employ more full-time court commissioners: Milwaukee County has 25 full-time court commissioners, Dane County has 11, Waukesha County has five, and Brown and Racine Counties each have four.

5. Currently, municipalities are required by statute to bear the costs of OJE-provided municipal judge training and the state pays for the costs of circuit judge training. The bill does not specify who would be responsible for the costs of OJE court commissioner training: whether counties would be required to cover these continuing education costs on behalf of their court commissioners or whether these costs would potentially be the responsibility of the court commissioners themselves.

6. Requiring counties to pay OJE-imposed court commissioner training fees would be consistent with the current provisions concerning municipal and circuit judge training. It would, however, have a disparate impact among counties. According to the Court, some counties currently cover all or a portion of their court commissioner training costs, while other counties do not. Of those counties that do cover these costs, some pay actual expenses, others set a maximum reimbursement limit and some pay for full-time commissioners only. An alternative to requiring counties to bear the costs of OJE-provided court commissioner training programs would be to allow counties to continue to set their own reimbursement policies, by providing that participants bear the costs associated with the OJE education programs.

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$42,700 PR in 2001-02 and \$56,500 PR in 2002-03 and a 0.5 PR education manager position annually and create a court commissioner training program revenue appropriation to provide training programs for court commissioners, with revenue generated by fees charged for the court commissioner training programs.

2. Approve the Governor's recommendation. In addition, provide that court commissioners must participate in a program of continuing education as required by the Supreme Court and specify that counties bear the cost of the programs provided by the Supreme Court.

3. Approve the Governor's recommendation. In addition, provide that court commissioners must participate in a program of continuing education as required by the Supreme Court and specify that participants bear the costs of programs provided by the Supreme Court, to allow county-specific reimbursement policies to continue.

4. Maintain current law.

Alternative 4	PR
2001-03 FUNDING (Change to Bill)	- \$99,200
2002-03 POSITIONS (Change to Bill)	- 0.50

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