

Board of Judicial Policy and Administration  
Minutes  
January 5, 2007

The Board of Judicial Policy and Administration met by conference call on January 5, 2007. In attendance were Chief Justice Barton Voigt, Justice Michael Golden, Justice Jim Burke, Judge Jeff Donnell, Judge John Brooks, Judge John Perry, Judge Mike Huber, Judge Bob Skar, and Judge Victoria Schofield. Holly Hansen and Ronda Munger also attended. Judge Steve Brown attended part of the meeting.

**Old Business**

**Committee Updates:**

**E-Filing Committee** - Justice Voigt reported that the E-Filing Committee is scheduled to meet on January 17, 2007, in Cheyenne. Susan Larsen, the consultant that has been retained to facilitate the project, will be in attendance, and the committee will be given a demonstration of the Wyoming Federal Court E-Filing system. This same presentation was given to the Wyoming Judges and Clerks last October in Casper. The presentation was well received, so it was decided that the E-Filing Committee should see it as well. Justice Voigt reported that the overall direction for this project is to implement an e-filing system at the Supreme Court in criminal cases. This will allow some of the kinks to be worked out before it is implemented at the trial court level.

**Retirement Committee** – Holly Hansen discussed the two retirement bills that the Joint Judiciary is sponsoring in the upcoming session. Both bills were offered to the Committee by the Board's retirement committee, which is chaired by Justice Kite and also includes Judges Price, Kautz, Day, and Castor. The first bill is identified as House Bill 20, Senior Status Judge Compensation Bill. This bill relates to the retirement of Justices and District Court Judges. The bill in essence changes the way that retired judges who are called back to serve on the bench get paid. At the present time, a retired judge is only paid the difference between his retired salary and that of a sitting judge - meaning in actuality, that the judge is required to give up his retirement pay to serve on the bench. The proposed bill changes that pay structure so that retired judges get to keep the retirement benefit that they have already earned, and in addition to that he/she is paid a rate of pay equal to that of an active judge. The bill carries an appropriation of \$50,000. As a side discussion to this bill, Judge Perry informed the Board that there are numerous condemnation cases that are about to be filed in the Fourth, Sixth, and Eighth Judicial Districts by the DM&E Railroad. Apparently that railroad is attempting to get a rail spur put into the Powder River Basin to compete with the Burlington Northern Santa Fe. Judge Perry estimates that currently there are 40-50 railroad condemnation cases that are in their early stages. These cases are likely to take a tremendous amount of time, and Judge Perry believes that it might be best to appoint a special master to handle them all so consistency is achieved. The reason Judge Perry raised this issue in conjunction with the retirement bill is that it initially seemed most logical to him that the funding for the special

master be attached to this bill; however, after further consideration he suggested that the funding be sought as a Section 300 footnote in the Supreme Court Budget that sets over funding to the BIPA, providing distribution of that money to the districts effected. Judge Perry prefers not to attempt to change the retirement committee bills. The Board discussed this issue at length. The Board decided to tackle the funding of a special master for the condemnation cases in the next budget cycle. The Board decided to let HB 20 move forward as it is written.

The second retirement bill is identified as Senate File 11. This bill addresses the issue of the "actuarially reduced" amount for judges that take early retirement. The bill proposes language to change the actuarially reduced language to a system allowing for a 5% reduction per year in the retirement amount for every year under age 60. In order to qualify for full retirement, a judge needs to have worked for four years and be at least age 60. The new language will also drop employee contributions. Holly reported that the bill received a lot of attention and discussion in the Joint Judiciary Committee, and there was little opposition to the concepts in the bill.

Judge Mike Huber addressed the Board regarding his proposed changes to SF 11. Judge Huber outlined specific changes that he would like to see made in the existing retirement bill:

9-3-713(a)(i) Change the 'election date' from 12/31/99 to 12/31/07 or 08 depending upon the effective date of any new legislation.

Delete the following language "...and making any payment required under paragraph (iii) of this subsection..."

9-3-713 (a)(ii) Change County to Circuit.

9-3-713 (a)(iii) Delete entirely.

Ultimately the changes would allow judges who are still in the "old" systems to opt into the new judicial system without suffering penalties. He believes that it is important to have everyone in the same system, with the same sort of benefits. The suggestions that Judge Huber proposes would require an additional appropriation of more than 3.1 million dollars. The main concern expressed by several Board members was that too many drastic changes at once will kill the bill entirely and that initially it would be better to allow the committee bill to go forward, as written, and then to attempt to make additional changes in the next session. Judge Huber moved the Board endorse the changes he proposed to statute 9-3-713, and Judge Skar seconded the motion. The Board discussed Judge Huber's motion at length. Motion failed.

**Court Security** – Judge Donnell reported to the Board regarding the work of the Court Security Committee. The committee met with the Joint Judiciary in late November to ask them for funding to run three security pilot courts. The Joint Judiciary positively received the security committee's presentation, and agreed to put

forth a bill that provided one million dollars in funding over a period of a year and a half. The bill that accomplishes this project is Senate File 47. Judge Donnell emailed all districts to see who would like to be the three courts - ten courts have responded that they would be willing to be a pilot court. Judge Donnell also reported that he and the security committee are working with the Law Enforcement Academy to put together a class on courthouse security. If the funding is approved, the committee will report back and ask the Board to select the three courts.

### **Legislative Report**

Holly Hansen reported to the Board on several additional bills that are being proposed this legislative session. She pointed out to the Board that any of the bills that have been proffered by the Joint Judiciary Committee that have an appropriation attached to them will have to go to the Joint Appropriations Committee before they go to the floor. Holly reported on the following bills:

SF 38 - This is a Judicial Salary Bill which appropriates money for the salary increase that was approved last session as a section 300 footnote. The bill provides for changing the judicial salary statute to comport with the increase. If this bill does not pass, then the increase that was given through the section 300 footnote will go away after this biennium. Holly reported that there is also a "public officials" salary bill, that may be introduced, but that did not even have a bill number at the time of the meeting. The bill includes the five elected officials and the judges. Holly will keep the Board posted on its progress.

HB 109 - Judicial Sabbatical bill sponsored by Representatives Gingery and Olson. The bill authorizes a paid or unpaid sabbatical for circuit judges, district judges, and supreme court justices, who have served a minimum of seven years on the bench. The sabbatical lasts for a period of 120 days. The judge would then have to agree to stay an additional three years. If a judge did not stay that period of time, then he/she would be required to reimburse the state for that money. Only one sabbatical can be granted in an eight year period. The bill carries an appropriation of \$100,000. The Board discussed this bill at length.

SF 49 - Jury Sequestration. This bill is sponsored by Senator Case and it removes the requirement that a jury be sequestered in a capitol case.

SF 34 - Jury pay. This bill is sponsored by Representative Gingery and it increases the pay for a juror from \$30 to \$40 per day.

SF 54 - Drug Court Security Committee. This bill is sponsored by the Management Audit Committee that recently completed an audit of the drug courts. The steering committee is tasked with studying the administration of drug courts. The bill lists all the proposed committee members; four judges are to be appointed to this committee, and those judges are to be named by the Board.

## **New Business**

### **W.S. 6-10-105 Refusal to Pay Fines**

Judge Steve Brown made a presentation to the Board regarding a change he would like to see made to W.S. 6-10-105, which reads in part: "A person committed to jail for refusing to pay a fine or costs may be imprisoned until the imprisonment, at the rate of fifteen dollars (\$15.00) per day, equals the amount of the fine or costs, or the amount shall be paid or secured to be paid when he is discharged." Judge Brown explained that, at least in Casper, the number of defendants that this affects is tremendous. His interpretation of the statute is that a judge is required to jail a defendant one day for every fifteen dollars that is due and owing. Judge Brown believes that the jail is reporting a cost of anywhere from fifty to seventy dollars a day to house the defendants. Judge Brown requested the Board make a recommendation to the Joint Judiciary to change the daily amount assessed in W.S. 6-10-105. By increasing the amount assessed in the statute, the county sheriff would not have to house the defendants as long, thereby saving taxpayers money. The statute was implemented in 1982 and has not been changed since. Justice Golden moved that the Board ask the Joint Judiciary to review this statute and change the amount to a number that the Committee feels is appropriate. Judge Huber seconded the motion. The motion passed unanimously. Holly Hansen will write a letter to the Joint Judiciary to request they review the statute.

### **Supervision of Circuit Court Clerical Staff**

Holly Hansen presented an Order Appointing Supervising Judges to the Board and explained that it is the Board's policy to appoint supervising judges for each calendar year in those circuit courts without resident circuit judges and in counties with multi-judge circuit courts. Judge Skar moved and Judge Donnell seconded a motion to approve the Order. Motion carried unanimously.

The Board discussed a possible change to the policy regarding appointing these judges each year. In March, the Board will discuss amending the policy.

### **New Legislators School**

Chief Justice Voigt and Holly Hansen reported that they made a thirty minute presentation to the new legislators on January 4, 2007. There were a couple of questions from the new legislators, but for the most part the presentation was uneventful.

Board adjourned.

### **Schedule of Future Meetings**

March 22, 2007	Cheyenne
June 21, 2007	Casper
September 27, 2007	Cheyenne
December 6, 2007	Casper

Approved by email February 8, 2007