

Please note a revised version of the Savings Chart was created to reflect the 2010 budget process. This report can be found under the tab "Commission Meeting – November 6, 2009" titled "Revised Savings Chart for Work Group on Resources, Facilities, and Personnel"

WORKING GROUP ON RESOURCES, FACILITIES AND PERSONNEL

REPORT to the VERMONT COMMISSION on JUDICIAL OPERATION

September 3, 2009

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- I. **Introduction** – This working group has two interrelated functions. The first is to propose positions to the commission with respect to judicial personnel and facilities. The second is to develop a budget proposal that meets the requirement of the Commission’s mandate to show annual savings of at least 1 million dollars. The work of this working group was informed by the results of the focus groups and driven by the principles adopted by the Commission, most notably providing access to quality judicial services in an effective and efficient manner.

- II. **Personnel** – As has been identified in commission discussions, the structure of four separate courts per county, each with independent staff and a court manager is greatly inefficient. It produces excessive middle management and does not facilitate good service to the public. Indeed, it facilitates duplication and overlap that significantly increases the cost of judicial operations while limiting opportunities to improve public service in a cost-efficient way. Thus, the working group supports the policy of consolidating the four courts into one superior court for purposes of using personnel resources while maintaining some public separation of divisions to ensure public trust and confidence.

Full and necessary consolidation can be achieved only if the staff of the current superior court, whose salaries and expenses are currently paid from property tax revenues at the county level, are brought into the state system as state employees subject to the administrative control of the court administrator. In addition, the current superior court clerks, who are state employees, would be hired and supervised by the court administrator rather than by the Assistant Judges of the County.

Similarly, full and necessary consolidation requires that the probate registers and staff, who are also state employees, be placed under the administrative control of the court administrator rather than under control of the probate judge.

Once all the local staff are under the court administrator, it will be possible to manage the work at the local court level through one clerk and appropriate staff. This clerk would have the powers and responsibilities now spread among the clerks of the superior, district and family courts and the probate register. Staff would be assigned to the divisions of the court, and the clerk could delegate powers and responsibilities to serve the public and the litigants appropriately. In many cases, the clerk will manage the staff in one unit of the superior court that covers one county. But the flexibility should exist to consolidate across county lines where appropriate.

The working group recognizes that the artificial separation of courts at the local level has meant that staff are not trained in functions that occur in different courts and become specialists in their functions and assignments. Some of the specialization will continue, but it will be important to cross-train staff to perform functions in all the divisions of the new superior court.

It is impossible to precisely determine the staff efficiencies that will be possible in the one-court system and turn them into personnel cost savings. The working group looked at alternatives for courts of various sizes looking at the most efficient of the current courts and is informed by that process. In doing so, it was aware that the judiciary is currently carrying 35 vacancies, many in local clerk's office positions. Also, the group understands that opportunities for savings will increase as technology is implemented, particularly as the electronic case file is introduced. In general, the greatest savings appear to be in the reduction of dedicated middle management in favor of a flexible system that relates job titles, and accompanying salaries, to specific duties and assignments.

It is clear, however, that ratios of staff to caseload are not uniform and efficiency gains are possible even within the current system. This is most true with respect to the current staffing in the superior court. Combining staff into one court at the local level, with the opportunity to assign staff with any function in any unit of the court, will produce greater efficiencies. The working group recommends implementation of a reduction in local staff personnel costs of roughly \$1 million in the first year, primarily from middle management costs and secondarily from gains in consolidation of current superior court and probate staff into a common clerk's office, as shown in the chart below.

The goal is to achieve these savings in a way that is the least disruptive to existing staff by using attrition, early retirement and retraining existing state and county staff before considering layoffs.

- III. **Facilities** – As with personnel, the structure of four courts per county creates inefficiencies in availability and use of facilities in many areas, particularly in use of courtrooms. Currently, except where agreed between the county and the state or in joint facilities, superior and probate court cases proceed only in county facilities and district and family cases proceed only in state facilities. In some counties, these facilities are not in the same community.

Consistent with the recommendation for a single trial court, with divisions, and a single clerk, the judiciary should have control over what events occur in what facilities, irrespective of whether the cases involved formerly proceeded in state or county facilities. For example, it may be more appropriate to conduct juvenile cases in a particular county courthouse rather than civil cases.

While this may be desirable at some time in the future, the working group does not recommend state take over of county buildings. The buildings are generally owned by the counties, often are of historic value and are a great asset to the communities in which they are sited. The complexity and cost of state ownership are not warranted at this time. The cost of operation and maintenance will be significant, too great to absorb at the time that cost savings must be found. Thus, the working group recommends that the counties be required to make available the same facility area that it currently dedicates to judicial operation, under the current cost-sharing arrangement, although the counties would no longer determine what occurs in the judiciary space. To the extent that judicial activities occur in county buildings, it is critical that they comply with the requirements of the Americans with Disabilities Act. Three current buildings are not handicapped accessible to the main courtroom and must be brought into ADA compliance.

Another working group has proposed the near closing of court operations in Grand Isle and Essex counties, moving most of the staffing for the operations in those counties, and all of the judge time, to Franklin and Caledonia counties respectively. The county courthouses are historic buildings that are protected in part by law and are great assets to their communities. It would be very undesirable for them to fall into disuse and disrepair. To the extent that the judiciary does not use these buildings, it should work with the counties and the Vermont Historic Preservation office and non-profit agencies to find alternative appropriate uses.

- IV. **Funding Levels** – The 2009 Appropriations Act contains the following language with respect to the Commission.

Sec. E.204.2 COMMISSION ON JUDICIAL
OPERATION;
RECOMMENDATIONS

(a) The general assembly acknowledges that the commission on judicial operation was established by the Vermont supreme court in response to Act 192 of 2008, in which the general assembly asked the court to convene a commission to examine the efficient and effective delivery of judicial services and to address the allocation of resources within the judiciary. The commission is now engaged in this work and intends to report its recommendations for resource reallocation and improvement of service-delivery to the general assembly prior to January 1, 2010. The general assembly finds that it would be disruptive of the commission's ongoing processes to make substantial structural changes to the judiciary in fiscal year 2010 and that the interests of justice would be best served by deferring any such changes until after the commission's report is received and considered.

(b) The general assembly expects the work of the commission on judicial operation to make recommendations which will both preserve the ability of the judiciary to meet its constitutional responsibilities as a separate branch of government and to find savings of \$1,000,000 in the fiscal year 2011 budget.

(c) Notwithstanding any other provision of law, the judiciary budget shall not be subject to any rescissions during fiscal year 2010.

The working group has examined the recommendations of other working groups and our own recommendations, for the purpose of recommending to the commission how the mandate of the Appropriations Act can be met.

Based on an examination of county budgets done by the Court Administrator, the best estimate is that the counties are currently spending \$2.3 million on personnel costs connected with judicial operations. Attached is a chart showing the distribution of those costs by county. The recommendation of this working group is that these costs be shifted to the judiciary budget. Consistent with this recommendation, the commission plan must find \$3.3 million in total savings (\$1 million target plus addition of \$2.3 million to absorb county expenditures) to meet the requirements of the Act. The working group recommends that some intent language be added to the commission's proposed bill and report to be sure that reductions in county expenses

for staff shifted to the state be reflected in county budgets and passed on to the towns in assessing property taxes for county operations.

The following are the working group’s recommendations. These recommendations exceed the target mandated by the legislation for general fund and produce an additional \$1.6 million in property tax savings.

Table on Potential Savings to Meet Funding Levels

	State	County	Total	Running Total v. Target
Savings Target			3,333,000	
Small Claims Fees		-700,000	-700,000	2,633,000
Asst Judge Salary	-411,000		-411,000	2,222,000
Add Hearing Officer	122,950		122,950	2,344,950
Probate Judges	-637,978		-637,978	1,706,972
Probate Staff	-388,743		-388,743	1,318,229
Trial Court Staff	-792,852	-281,831	-1,074,683	243,546
Ex	-262,425	-55,523	-317,948	-74,402
GI	-282,393	-98,841	-381,234	-455,636
Hire Dep TCOps	89,328		89,328	-366,308
Incentives	150,000		150,000	-216,308

Detail – Small claims fees -- Small claims filing fees go directly to the county under an arrangement made when the superior court took over small claims cases. This savings is achieved from redirecting filing fees to the general fund in connection with county staff being moved to state employees.

Assistant Judges – All judicial responsibilities of assistant judges are eliminated so all state payments for assistant judges are eliminated. A vacant hearing officer position is filled to cover judicial bureau hearings now presided over by assistant judges.

Probate Savings – Per working group proposal, probate court is merged into superior court with five full time judges and integrated staff. Assumes probate judges use existing state facilities. Estimate of net savings from the court administrator.

Staff Savings – Per discussion above, trial court personnel savings of \$1 million from reduction of local management and efficiencies from a single clerks office. Estimate of net savings from the court administrator.

Essex Reduction – All judicial operations moved to Caledonia County except one FTE docket clerk

Grand Isle Reduction – All judicial operations moved to Franklin County except one FTE docket clerk.

Deputy for Trial Court Operations – Add back deputy to trial court operations chief in the court administrator’s office to manage transition to one clerk per unit and introduction of technology

Retirement Incentives – Add fund for incentives (similar to system in 2009 Appropriations Act) to encourage retirement of staff near retirement age.

Respectfully submitted to the Commission on Judicial Operation

By: _____
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