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Board on Judicial Standards

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<http://www.bjs.state.mn.us/>

AT A GLANCE

The Board on Judicial Standards:

- Investigates complaints of judicial misconduct or disability
- Seeks or imposes discipline on judges when appropriate
- Advises and educates judges on proper conduct
- Has jurisdiction over all Minnesota trial and appellate judges (322 positions), retired judges in active service (99), Judges of the Minnesota Tax Court (3), and the Workers’ Compensation Court of Appeals (5), the Chief Judge of the Office of Administrative Hearings (1), referees, and other judicial officers.

PURPOSE

The mission of the Board on Judicial Standards is to maintain public confidence in the integrity and impartiality of the Minnesota judiciary by enforcing the Minnesota Code of Judicial Conduct and by educating and advising judges how to comply with the Code.

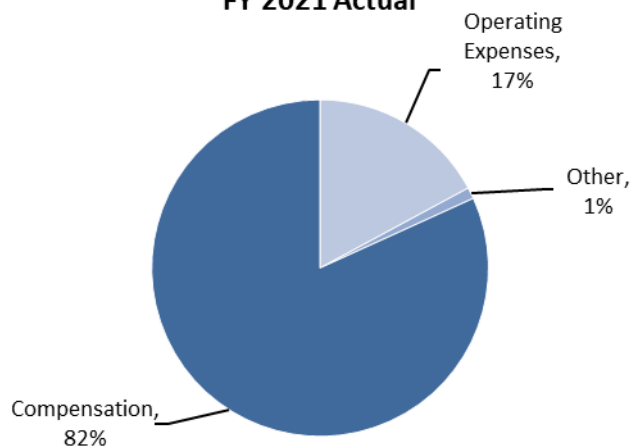
A society cannot function without a fair and effective way to resolve disputes. Acceptance of judicial rulings is based on public recognition that the judiciary and the court system are worthy of respect and trust. Public confidence in our judicial system directly depends on the proper conduct of our judges.

The Minnesota Constitution authorizes the Legislature to provide for the retirement or discipline of any judge who is disabled or guilty of conduct prejudicial to the administration of justice. The Legislature created the Board on Judicial Standards to carry out this task. The Minnesota Supreme Court adopted the Code of Judicial Conduct which sets forth the standards for judges to follow.

The Board has ten members: one judge from the Court of Appeals, three district court judges, two lawyers, and four citizens who are not judges or lawyers. All members are appointed by the Governor and, except for the judges, require confirmation by the Senate. The Board is supported by an Executive Secretary, a Staff Attorney, and an Executive Assistant.

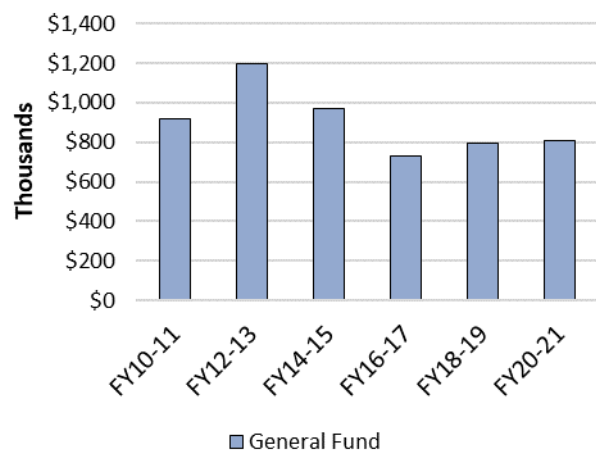
BUDGET

**Spending by Category
FY 2021 Actual**



Source: Budget Planning & Analysis System (BPAS)

Historical Spending



Source: Consolidated Fund Statement

STRATEGIES

To accomplish its mission, the Board uses the following strategies:

- The Board promptly reviews complaints alleging judicial misconduct or disability, conducting investigations when necessary.
- The Board uses fair and open procedures that respect the judge’s right to due process.
- If the Board finds serious misconduct, the Board may issue a public reprimand; or, if the misconduct is isolated and non-serious, the Board may issue a private admonition.
- If the Board issues a private admonition, the judge may request a panel to consider the Board’s decision in a private hearing.
- In serious cases, the Board files a formal complaint against the judge, which can result in a public hearing by a panel and a recommendation to the Minnesota Supreme Court for discipline such as censure, suspension, or removal from office.
- The Board and its Executive Secretary advise and educate judges on applications of the Code of Judicial Conduct.
- The Board is not a substitute for the Court of Appeals. The Board does not review judicial decisions for legal error unless the judge acts in bad faith, or otherwise violates a provision of the code.

The Board continues to successfully reduce its expenditures for litigation by increasing its educational activities and through the thorough investigation and preparation of cases before seeking public discipline.

The Board continually strives to become more transparent to the judges, the public, and the Legislature. The board regularly updates its website with greatly revised and supplemented content to display more information about the Board’s activities and to provide better guidance on ethics issues faced by judges.

RESULTS

<i>Type of Measure</i>	<i>Name of Measure</i>	<i>Previous</i>	<i>Current</i>	<i>Dates</i>
Quantity	Complaints received and reviewed by Board	158	237	2020-2021
Quantity	Complaint files opened	33	41	2020-2021
Quantity	Informal written advisory opinions to individual judges	150	167	2020-2021
Quantity	Public reprimands	1	1	2020-2021
Quantity	Private admonitions, letters of caution, deferred dispositions	8	9	2020-2021

Performance Measures Notes:

The data shown is for calendar years 2020 and 2021. The Board’s activities in previous years are described in the Board’s Annual Reports, available at the Board’s website.

The Minnesota Constitution authorizes the Legislature to “provide for the retirement, removal, or other discipline of any judge who is disabled, incompetent, or guilty of conduct prejudicial to the administration of justice.” Minn. Const. Art. 6, Sec. 9 (https://www.revisor.mn.gov/constitution/#article_6).

The 1971 Legislature created the Board on Judicial Standards to carry out this task. M.S. 490A.01-.03. (<https://www.revisor.mn.gov/statutes/cite/490A/pdf>). The Board operates under the Rules of Board on Judicial Standards adopted by the Minnesota Supreme Court.

(Dollars in Thousands)

	Actual FY20	Actual FY21	Actual FY22	Estimate FY23	Forecast Base	
					FY24	FY25

Expenditures by Fund

1000 - General	409	401	445	970	586	586
Total	409	401	445	970	586	586
Biennial Change				605		(243)
Biennial % Change				75		(17)

Expenditures by Program

Judicial Standards Board	409	401	445	970	586	586
Total	409	401	445	970	586	586

Expenditures by Category

Compensation	334	328	374	389	391	380
Operating Expenses	76	69	71	581	195	206
Other Financial Transaction	0	4				
Total	409	401	445	970	586	586

Full-Time Equivalent

	2.58	2.36	2.74	2.80	2.40	2.40
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(Dollars in Thousands)

	Actual FY20	Actual FY21	Actual FY22	Estimate FY23	Forecast Base FY24 FY25	
1000 - General						
Balance Forward In	223	351	249	384		
Direct Appropriation	535	509	580	586	586	586
Cancellations		210				
Balance Forward Out	349	249	384			
Expenditures	409	401	445	970	586	586
Biennial Change in Expenditures				605		(243)
Biennial % Change in Expenditures				75		(17)
Full-Time Equivalents	2.58	2.36	2.74	2.80	2.40	2.40

(Dollars in Thousands)

	FY23	FY24	FY25	Biennium 2024-25
Direct				
Fund: 1000 - General				
FY2023 Appropriations	586	586	586	1,172
Forecast Base	586	586	586	1,172

Board on Judicial Standards

FY 2024-25 Biennial Budget Change Item

Change Item Title: Maintenance of Staffing and Service Levels

Fiscal Impact (\$000s)	FY 2024	FY 2025	FY 2026	FY 2027
General Fund				
Expenditures	69	59	59	59
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	69	59	59	59
FTEs	0	0	0	0

Request:

The funds will be used to maintain current staffing and service levels. The Board seeks \$69,000 from the General Fund in FY 2024 and \$59,000 in FY 2025.

The requested increase is 12% of the Board’s FY 2022 base budget (operations and major investigations) for the first year and 10% for subsequent years.

Rationale/Background:

The Board is requesting an increase to its appropriation to fund one-time costs and support increasing costs to maintain its current level of staffing and service. The cost drivers for this request include personnel costs resulting from salary and fringe benefit increases; the pending retirement of the Board’s Executive Secretary; rent increases; increased costs for MNIT services; and furniture needs. Merit salary increases for staff are anticipated in FY 2024 and 2025 as well as increases to employer-paid insurance. The Board’s Executive Secretary is expected to retire in 2024 and will receive a severance payout. Additionally, the Board’s rent and MNIT services costs will increase. Last, the Board needs to replace furniture that has reached the end of its useful life. And it would like to replace a traditional desk with an adjustable workstation and buy additional furniture for its office waiting area.

The Board has a relatively small budget and operates in a fiscally lean fashion. Compensation costs comprise 82% of the Board's budget. Consequently, increased salary and fringe benefit costs coupled with a retirement payout significantly impact the Board's ability to maintain its current level of staffing and high service. Additional operational cost increases compound the situation. In 2021, the Board saw a 50% increase in the number of complaints received and a 24% increase in the number of complaint files opened compared to 2020. And the Board is on track to see similar increases in 2022. As a result of the significant increase in work volume, Board staff are currently operating at a maximum capacity.

The requested increase will ensure the Board maintains its current staffing level of 2.8 FTE and high level of service. It will ensure that the Board continues to respond to every complaint in a timely and thorough manner and provide thoughtful advice and education to judges regarding the Code of Judicial Conduct.

Proposal:

This request is for additional funds to maintain the Board’s current staffing and service levels amid rising costs and significant one-time costs. Here is a breakdown of the request and each cost driver.

\$33,000 is requested from the General Fund for FY 2024 to fund a staff retirement payout. The Board's Executive Secretary plans to retire in FY2024. As a result, the Board will incur a severance obligation of approximately \$33,000. This assumes:

- The Executive Secretary retires in February 2024.
- The Executive Secretary receives a 6% merit salary increase effective July 1, 2023.
- The Executive Secretary's use of sick and vacation time is minimal.

\$21,000 is requested from the General Fund for FY2024 and \$46,000 for FY2025 to fund employee merit salary increases. The following factors and assumptions apply to this request:

- The Board follows Minnesota Judicial Branch (MJB) personnel policies for its staff.
- The MJB Unrepresented Pay Plan is for employees of the Judicial Branch who are not covered by collective bargaining agreements and is applicable to the Board's Staff Attorney and Executive Assistant.
- The salary of the Executive Secretary is set by statute and increases automatically with increases in the salary of a district judge.
- The Board assumes the Legislature will award 6% performance-based merit salary increases to Judicial Branch employees and district judges in FY 2024 and FY 2025. The Judicial Branch requested 6% employee and district judge salary increases for FY 2023 as part of the Omnibus Public Safety Bill, but the bill did not pass. As a result, no salary increases were awarded for Judicial Branch employees or district judges for FY 2023. However, 6% lump sum payments were awarded to Judicial Branch employees for FY 2023.
- The amount of the performance-based merit increase depends upon the score received during the employee's last performance review. Employees who received a performance evaluation score of 15 receive the maximum salary increase.
- This request assumes that Board staff will receive a performance evaluation score of 15 on their performance evaluations and thus, a 6% salary increase in FY 2024 and FY 2025.

\$3,000 is requested from the General Fund for FY 2024 and \$8,000 for FY 2025 for employer-paid insurance cost increases. This assumes:

- A 6% increase in medical insurance premiums in calendar years 2024 and 2025.
- A 2.7% increase in dental insurance premiums in both calendar years.
- A 9.5% increase for the administration fee in calendar year 2024.

\$2,000 is requested from the General Fund for FY 2024 and \$4,000 for FY 2025 to fund rent increases. The following factors apply to this request:

- The Board's lease period is May 1st to April 30th.
- The lease stipulates that the Board's rent will increase by 5% for lease period 5/1/23 to 4/30/24.
- The lease stipulates that the Board's rent will increase by another 5% for lease period 5/1/24 to 4/30/25.
- The Board's lease expires on April 30, 2025.
- The Board assumes its current lease will be renewed for an additional five years.
- The Board assumes a new lease will stipulate 5% rent increases for every subsequent year after 4/30/25.

\$1,000 is requested from the General fund for FY 2024 and FY 2025 for cost increases for MNIT services. The Board receives WAN, Computing and Voice Services from MNIT. The Board currently receives no technical support from MNIT for its Computing Services. The Board would like to change its Computing Services account so that it receives MNIT technical support and can implement some additional platforms to capture more information about complaints. This request assumes:

- A 7.3% increase in WAN Services costs in FY 2024 and FY 2025.
- A 119% increase in Computing Services costs in FY 2024 and FY 2025 to cover increasing costs and to include MNIT technical support.
- No increase in MNIT Voice Services.

\$9,000 is requested from the General Fund for FY 2024 to replace furniture and buy additional furniture for the Board's new office. \$2,000 is requested to replace the Staff Attorney's traditional desk with an adjustable workstation. \$500 is requested to replace the Executive Assistant's file cabinet which has reached the end of its useful life and is currently held together with tape. \$6,500 is requested to buy two additional pieces of furniture for the Board's lobby. The Board's new office has a larger lobby than its previous office and the current lobby is sparsely furnished. This request assumes:

- The Staff Attorney will benefit from having an adjustable workstation instead of a traditional workstation. A study published in the International Journal of Workplace Health Management found that height adjustable standing desks are linked to improved overall health.¹
- The Board will also benefit from the Staff Attorney having an adjustable workstation. The study cited above also found that, over a twelve-month period, height adjustable desks are linked to increased productivity and better concentration.²
- The tape that is holding the Executive Assistant's file cabinet together will not last forever.
- The Board's office does not currently have an appropriate place to meet with the public.
- Visitors to the Board's office will benefit from having ample, comfortable seating in the Board's lobby.

Note: The above fiscal detail and assumptions for each cost driver are also contained in a spreadsheet that is included with this Change Item.

If this request is not funded, the Board will need to take the following action:

- The Board will need to reduce its staffing level from 2.8 FTE to 2.4 FTE in FY 2024 and subsequent years. This represents a reduction of .2FTE for the Board's Staff Attorney position and a reduction of .2FTE for the Board's Executive Assistant position. This reduction of staffing level could result in longer response times to complaints, phone calls, and requests for advisory opinions. In lieu of reducing the FTEs for the Staff Attorney and Executive Assistant positions in FY 2024, the Board could delay the hiring of the new Executive Secretary when the current Executive Secretary retires. This delay could result in longer response times to complaints, longer investigation periods, and delayed advisory opinions.
- The Board will need to reduce its In-State Travel budget for FY 2024 from \$5,000 to \$1,000. The reduction of in-state travel will translate into fewer educational sessions provided to judges at judicial conferences and district court bench meetings regarding the Code of Judicial Conduct.
- The Board will need to eliminate all out-of-state travel in FY 2024 and reduce its out-of-state travel budget in subsequent years. As a result, the benefits board staff and board members receive from attending out-

¹ "Stand Up to Work: Assessing the Health Impact of Adjustable Workstations", Elizabeth Garland, Abigail Watts, John Doucette, Mary Foley, Araliya Senerat, and Sadie Sanchez, International Journal of Workplace Health Management, ISSN: 1753-8351

² Ibid.

of-state professional training and networking events will be eliminated in FY 2024 and reduced in subsequent years.

- The Board will need to reduce its Employee Development budget for FY 2024 from \$3,000 to \$1,000. As a result, employee development opportunities will be diminished.
- The Board will need to reduce its IT Support budget for FY 2024 and subsequent years from \$9,000 to \$5,000 per year. It will also need to continue to operate without MNIT technical support for its Computing Services. This could result in work disruption due to technology failure, delayed response times to complaints, and delayed advisory opinions.
- The Board will need to continue to use furniture that has reached the end of its useful life and that does not promote productivity and wellness. Additionally, the Board will need to continue to operate without an appropriate place to meet with the public.

Impact on Children and Families:

There are no significant impacts on children and families as a result of this change.

Equity and Inclusion:

There are no significant impacts on specific groups as a result of this change.

Tribal Consultation:

This proposal does not have a substantial direct effect on one or more of the Minnesota Tribal governments.

Results:

Funding this request will ensure that the Board has the capacity to maintain its current lean level of staffing at 2.8 FTE. This in turn will ensure the Board continues to provide a timely and thorough response to every complaint and thoughtful advice and education to judges about the Code of Judicial Conduct.

Statutory Change(s):

None.