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Court Committee Lining Up to Punt Away Public Dollars

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In 2011, the state Legislature asked the Louisiana Supreme Court to provide it with a comprehensive study re-assessing the number of judgeships at each of the state's courts. The study was supposed to provide the Legislature, which sets the number of judgeships, with guidance.

The Supreme Court appointed a committee, known as the HCR 143 Committee, to handle the matter. The committee's report assessing the state's 97 district and city courts is due in 10 days. Unfortunately, information presented at a recent public hearing suggests that the committee will not draw conclusions about how many judges those courts need. Instead, the Supreme Court and its HCR 143 Committee appear to be lining up in punt formation.

At a public hearing held by the HCR 143 Committee on January 23, the chairman of another Supreme Court committee (the Trial Court Committee on Judgeships) stated that the Supreme Court's formula for estimating how many judges a court needs is unrealistic and that the HCR 143 Committee should not use it as a basis for its report. Similarly, consultants from the National Center for State Courts (NCSC), which the Supreme Court hired to review the formula, testified that the Supreme Court's methodology needs an overhaul. It indicated that the work would take 12 to 15 months to complete.

These 11th-hour declarations position the committee to claim that it lacks reliable data and,

therefore, cannot reach conclusions as to the appropriate number of judgeships by the February 14 deadline for its study. A failure to complete the assessment will complicate any effort by the Legislature to eliminate unnecessary judgeships during the 2014 session.

Timing is critical. This fall, 80% of the judgeships in Orleans Parish and all of the district court judgeships in the state will be up for election. If the Legislature does not take action to eliminate any unnecessary judgeships before then, a constitutional prohibition against shortening a judge's term will forestall meaningful reform until 2020. The public will bear a significant cost burden as a result.

Clearly, there has been more than enough time in the two and a half years since the Legislature requested a study for the Supreme Court and the HCR 143 Committee to address any concerns about the court's workload formula. Yet, the Supreme Court's Judicial Council waited until October – just four months before the HCR 143 Committee's report is due – to ask the Trial Court Committee on Judgeships to reassess the formula. Similarly, the Supreme Court waited until three months before the report was due to contract with the NCSC to review the formula.

If the Supreme Court or the HCR 143 Committee had concerns about the formula's basic integrity, they should have commissioned the NCSC's review at the outset. In that case, the review could have been used to inform, rather than sabotage, timely reform.

If the HCR 143 Committee does indeed punt, it will not be the first time the Supreme Court and its various committees have booted away the issue of surplus judgeships. Following Hurricane Katrina's demographic upheaval, the Legislature asked the Supreme Court to recommend the appropriate number of judges for each of the state's trial courts. In response, the Supreme Court's Judicial Council provided a series of annual reports with preliminary estimates. However, it never reached conclu-

sions as to how many judges the courts need.

It is bad enough that the HCR 143 Committee's report is likely to repeat this pattern of inconclusive studies on the topic. Even worse, there is no guarantee that the Supreme Court will take the steps needed to eliminate the obstacle behind which the HCR 143 Committee is expected to hide. In its contract with the Supreme Court, the NCSC recommended a three-phase project to develop a methodology for assessing judicial need. The Supreme Court contracted only for the first two preliminary phases. It did not authorize the critical third phase, which includes the development of a new court workload formula. It should do so.

NCSC officials said the third phase of the study would cost \$175,000 to \$200,000. That is a relatively small price to pay, given the significant costs associated with unnecessary judgeships. In Orleans Parish, for instance, the average cost to the public of a single judgeship, including the judge's staff, is \$3.4 million over a six-year term.

It is shameful that the Supreme Court and the HCR 143 Committee have squandered the last two and half years, and the public has to pay the price for their inaction. Looking forward, if the Supreme Court does not finish the task of determining how many judges the courts need, it will not just have failed to fulfill the Legislature's request – it will have failed the public, yet again.

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