

## MILLION DOLLAR BUDGET

By  
William J. Wernz, Director  
Minnesota Office of Lawyers Professional Responsibility

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Not long ago an attorney tried to distinguish perjury committed in a deposition room at the Office of Lawyers Professional Responsibility from perjury committed in a district court by observing that the office's surroundings were not "august." The observation was not contested. There is no picket fence, baronial desk, or kitchen to be found on Lafayette Road east of downtown St. Paul, but in this era of public accountability, it is best to explain how the office's 1989 budget is about \$1,000,000.

In 1985 the Supreme Court Advisory Committee reported the concern of the bar with the cost of the professional responsibility system. In fiscal 1985 the authorized budget was \$764,000 and the attorney registration fee for Lawyers Professional Responsibility activities was \$70. In fiscal 1989, the budget will be \$1,013,613, and the registration fee will increase to \$80.[Ftn 1](#)

This article addresses several questions about the Lawyers Board (LPRB) budget: 1) How is the budget set and who approves it? 2) How is the money spent? 3) How does the budget compare to other states' budgets and budgets of prior years?

**Budget-Setting and Review Process.** In the last several years, the budget making process of the Supreme Court boards has come under closer scrutiny by the Minnesota Supreme Court and committees it has appointed. Each spring, the directors of the Supreme Court boards[Ftn 2](#) submit to the boards proposed budgets for the next fiscal year. The boards approve budgets and submit them both to the state court administrator's office for technical review and to the Court for consideration and approval. Any budget requiring an increase in the attorney registration fee requires a public hearing, upon notice and comment.

The Lawyers Board budget, in addition to passing through the regular review process, has been subject to review by special committees. It was scrutinized in 1985 by the Supreme Court Advisory Committee. The 1987 and 1988 budgets of all the Court boards were reviewed by the Court-appointed Attorney Registration Fee Committee. The committee was composed of lawyers and met regularly for a period of a year and a half, to review budgets and funding procedures.

On March 6, 1987, the Attorney Registration Fee Committee filed with the Minnesota Supreme Court a statement supporting a fee increase for the Lawyers Board from \$70 to \$80, effective July 1, 1987. Because of the exceptional burden on Minnesota attorneys for financing the Client Security Fund beginning July 1, 1987, the Court (upon request of the Lawyers Board) deferred increased funding for the Lawyers Board until July 1, 1988. The committee reported its conclusions regarding the Lawyers Board budget as follows:

The Committee conducted an independent investigation by obtaining and reviewing numerous documents, reports, and other materials concerning the activities, needs and

expenses of the LPRB. In addition, members met with the Director and his staff at the offices of the LPRB, and spoke with others involved in the disciplinary system and its procedures. Based on this review, the Committee makes the following findings and recommendations.

Rec. 1: That the LPRB operates efficiently and effectively and is entitled to its current level of funding plus its requested \$10 increase in the attorney license fee.

**What Causes Budget Increases?** Inflation and increased services are the main causes. In the last few years, inflation and the increase in complaints against lawyers have both slowed. New services and obligations are now a major factor in current budgets: Client Security Board administrative costs are included in the budget, as are portions of Supreme Court personnel salaries related to the attorney registration fee. Together, these total over \$50,000. Annual increases in overall budgets have been 5.8 percent (FY' 87); 7.4 percent (FY' 88); 6.4 percent (FY' 89).

The services performed by the Office of Lawyers Professional Responsibility have expanded over the years. The director each year has been trustee for the law practices of several attorneys each year who have abandoned their practices. For example, when Mark Sampson absconded with client funds, he left behind nearly 2,000 client files. The office expended over \$2,000 in providing help to private trustees who returned some of the files. The office is in the process of attempting to return over 1,300 closed files. Each year attorneys in the office spend hundreds of hours giving telephone advisory opinions to practitioners. The office also administers the professional corporations statute. At any time there are approximately 70 Minnesota attorneys on probation, many of them requiring supervision. The office furnishes speakers for continuing legal education programs on a regular basis and sponsors its own ethics seminar annually. All of these tasks are over and above the work involved in handling approximately 1,200 professional responsibility complaints each year.

**Comparison With Other States.** The Supreme Court Advisory Committee reported that until the 1984 fee increase, the cost of Minnesota's professional responsibility system was comparable to that of similar states. The 1987 ABA nationwide survey (using 1986 data) indicates Minnesota's cost was \$6 below the national average. The survey shows budget allocations per licensed lawyer ranging from \$298 (Alaska) to \$153 (California) to \$58 (Minnesota) to \$10 (South Carolina), with a national average of \$64.<sup>Ftn 3</sup> The 1986 nationwide average number of lawyers per state (15,046) and total discipline budget (\$1,038,577) are roughly comparable to Minnesota figures. *The California Lawyer* recently reported that the proposed 1988 California discipline budget is \$27,000,000. There are just over 100,000 licensed attorneys in California, about six times as many as in Minnesota.

**How Is the Money Spent?** About 80 percent of the budget is spent on payroll and employee benefits, a total of about \$800,000. There are 20 full-time employees (and one half-time), as there have been since 1985. Salary ranges are set by the Supreme Court personnel plan. Salaries are adjusted annually for cost-of-living increases (3 percent this year) and merit increases (which must average no more than 4 percent this year). Generally, salaries have not kept pace with inflation over the years. For example, the director's FY' 88 salary (\$60,176) is about 75 percent of the director's salary of ten years ago, adjusted for inflation.

The office has spent a considerable amount on modern equipment, particularly word processing and computers, in an effort to avoid additional personnel costs. Among the budget items added in the last few years is an amount for services of the Attorney General when the office is sued in connection with

disciplinary matters. These services were formerly provided without charge. A budget reserve of approximately one-fourth of the annual budget is maintained to provide for certain liabilities which are self-insured and for other unforeseen contingencies.

A detailed budget is filed with the Court each year, and is available for inspection. Every three years, Lawyers Board expenditures are audited by the Legislative Advisory Committee. That committee's only substantive criticism at last report was that the effort to collect cost and disbursements could have been more vigorous.[Ftn 4](#)

Lawyers Board expenditures would be far higher without the generous dedication of the volunteer members of the professional responsibility system. The district ethics committee members and members of the Lawyers Board serve without compensation. The only substantial public financial contribution to the system is the payment of salaries for judges involved in the decisions. The several budget and expenditure review processes, the public availability of all pertinent financial information, and the higher average costs in other states should assure Minnesota attorneys and citizens that – even at a million dollars – the budget is in order.

## NOTES

<sup>1</sup> *Supreme Court boards are on a fiscal year ending June 30. The attorney registration fee supports the activities of several Supreme Court lawyer-related boards. Lower fees are charged for attorneys residing outside the state and not practicing in the state, for attorneys admitted less than three years, and attorneys in the armed forces. Rule 2, Rules for Registration of Attorneys.*

<sup>2</sup> *Supreme Court lawyer-related boards are: State Board of Law Examiners, State Board of Continuing Legal Education, Lawyers Professional Responsibility Board, Client Security Board, and Board of Attorney Specialization. The last is funded by user fees. The Client Security Board is currently funded by a one-time assessment. In addition there is the Lawyer Trust Account Board, which is funded from interest collected on trust accounts. The Board on Judicial Standards is funded by the Legislature.*

<sup>3</sup> *The method used by the survey involves dividing total fee receipts by total licensed lawyers. This yields a dollar figure lower than the fee paid by most individual lawyers.*

<sup>4</sup> *This year about \$25,000 will be collected from publicly disciplined attorneys for costs and disbursements. This office's view is that further collections efforts, particularly against suspended and disbarred lawyers, are not cost-effective.*