

MEMORANDUM

TO: Honorable Justices of the Wisconsin Supreme Court

FROM: Mark D. O'Connell, Executive Director

DATE: June 11, 2018

SUBJECT: Supreme Court Rule Petition 17-06

The Wisconsin Counties Association (WCA) remains opposed to Supreme Court Rule Petition 17-06, most notably the increase in the hourly rate for court appointed attorneys from \$70 per hour to \$100 per hour. The increased hourly rate will place a financial burden on Wisconsin's 72 counties who will be unable to absorb the additional costs due to state imposed levy limits and the absence of a funding appropriation tied to the hourly rate increase. The petition seeks to have the Court determine an arbitrary hourly rate for attorneys without regard to vast differences in availability of potential court appointed legal counsel in counties. If the Court approves the hourly rate increase, a delay in its effective date to January 2020 is critical to ensuring the Wisconsin State Legislature allocates additional funding for this new mandate.

WCA testified to these concerns at the public hearing held on May 16, 2018. During the testimony, WCA spoke to the necessity of the legislature's involvement as the legislature has the power and authority to allocate funds to the county governments. At this time, the legislature is adjourned for the 2017-2018 session and a new Legislature will not be elected until this November. The new legislature will not commence its legislative work until inauguration day in January 2019 and the state biennial budget will likely not be completed until July. Therefore, if an increase in the court appointed rate is approved, it must include a delayed effective date in order for counties to seek additional resources in the state budget.

A delay until January 2020 is also critical due to the differing fiscal years between the state and counties. Currently, counties are drafting their budgets for calendar year 2019. Counties operate on a January 1 to December 31 fiscal year. These budgets will be debated by county supervisors and ultimately approved later this fall. As a result, counties will have no opportunity to seek a funding increase from the state for calendar year 2019 prior to approving their annual budgets in the coming months. If counties are forced to budget for additional legal costs for our calendar year 2019 budgets related to

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this rule implementation, there is little incentive for the legislature to debate allocating funds during state budget deliberations. However, an implementation date of January 2020 permits the judicial system, the counties, and the legislature to engage in fruitful debate regarding a prudent approach to resolving our joint challenge.

WCA respectfully requests the Wisconsin Supreme Court delay the effective date of rule 17-06 until January 2020. This modest delay will provide WCA and its 72 county members the crucial opportunity to request the legislature allocate the funds needed for the \$30 per hour increase for court appointed attorneys. Delaying the effective date of this rule change to January 2020 will provide much needed certainty to counties in their budget processes and will afford local officials time to educate and advocate for additional funding from their respective state legislators.