

STATE JUSTICE INSTITUTE REAUTHORIZATION ACT
OF 2003

SEPTEMBER 25, 2003.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2714]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 2714) to reauthorize the State Justice Institute, having con-
sidered the same, report favorably thereon without amendment and
recommend that the bill do pass.

CONTENTS

| | Page |
|---|------|
| Purpose and Summary | 1 |
| Background and Need for the Legislation | 2 |
| Hearings | 4 |
| Committee Consideration | 4 |
| Vote of the Committee | 4 |
| Committee Oversight Findings | 4 |
| New Budget Authority and Tax Expenditures | 4 |
| Congressional Budget Office Cost Estimate | 4 |
| Performance Goals and Objectives | 5 |
| Constitutional Authority Statement | 6 |
| Section-by-Section Analysis and Discussion | 6 |
| Changes in Existing Law Made by the Bill, as Reported | 7 |
| Markup Transcript | 8 |

PURPOSE AND SUMMARY

H.R. 2714, the “State Justice Institute Reauthorization Act of 2003,” authorizes the operations of the State Justice Institute (“the Institute” or “SJI”) for Fiscal Years 2005–08. The Institute allocates grant money to state courts and other entities that support their operations.

BACKGROUND AND NEED FOR THE LEGISLATION
IN GENERAL

Congress created SJI in 1984.¹ Since becoming operational in 1987, the Institute has awarded more than \$125 million in grants to support over 1,000 projects. Another \$40 million in matching requirements has been generated from other public and private funding sources.

Sustaining the Institute's operations is necessary because the states, as a practical matter, devote the great majority of their judicial funding to address personnel, construction, and maintenance needs. They simply lack the resources to develop programs that improve the administrative efficiency and overall productivity of their courts.

SJI serves a Federal interest precisely because it makes state courts more efficient. State courts are the primary fora in which the vast majority of lawsuits are resolved. In fulfilling that mission, state courts address Federal constitutional and statutory issues everyday. For example, every state court criminal case raises a variety of Federal constitutional issues.

In sum if litigants largely resolve their legal differences at the state level—including those that involve Federal issues—then Congress promotes a Federal interest by supporting SJI.

OPERATIONS OF THE INSTITUTE

The Institute operates according to the following relevant sections of title 42 of the U.S. Code:

§ 10702. Establishment and Duties. Congress established SJI as a private nonprofit corporation. Its stated purpose is to further the development and adoption of improved judicial administration in state courts. SJI is to accomplish this goal by providing funds to state courts and other national organizations or nonprofits which support state courts. SJI also fosters coordination and cooperation with the Federal judiciary in areas of mutual concern. The Institute may not duplicate the work or functions of other existing nonprofit organizations.

§ 10703. Board of Directors. An 11-person Board of Directors supervises SJI. The Board is comprised of six judges, a state court administrator, and four members from the public sector—no more than two of whom shall be members of the same political party. The President appoints the Board with the advice and consent of the Senate. Board members serve 3-year terms. The chief responsibility of the Board is to develop policy and funding priorities for SJI. Board members serve without compensation.

§ 10704. Officers and Employees. The Board appoints a Director to supervise the administration of SJI. The Director is empowered to hire and fire staff. SJI currently employs seven individuals.

§ 10705. Grants and Contracts. The Institute awards grants and enters into cooperative agreements or contracts to conduct research, demonstrations, or special projects that enhance the

¹ Pub. L. No. 98-620, 42 U.S.C. 10701, *et seq.*

operation of state courts and that provide technical assistance and training in support of these activities. SJI functions as a national clearinghouse for information related to the operations of state courts. Section 10705 imposes a statutory duty on the Institute to monitor and evaluate any program supported by SJI funds.

§ 10706. *Restrictions on Certain Activities.* The Institute may not use funds to support any program that advocates particular nonjudicial public policies or encourages nonjudicial political activities.

§ 10710. *Records and Reports.* The Institute is authorized to require all grant recipients to maintain records associated with the awarding of grants. Records developed by SJI which evaluate grant recipients are to remain on file for inspection by the public for 5 years.

§ 10711. *Audits.* SJI is audited annually. The resulting report is filed with the General Accounting Office.

§ 10712. *Report by Attorney General.* The Attorney General was required to submit a report evaluating the effectiveness of SJI on October 1, 1987.

THE 1987 ATTORNEY GENERAL REPORT

Section 10712 of the original authorizing legislation, which took effect on October 1, 1985, required the Attorney General to submit a report governing the effectiveness of SJI operations by October 1, 1987, to the House and Senate Committees on the Judiciary. Since SJI did not become operational until fiscal year 1987, however, the report submitted by former Attorney General Meese is of limited value in assessing the operations of the Institute.

Still, the report praised SJI's start-up activities in the following summation: "Although the Institute has only recently begun implementation of its program, much has been accomplished since it began operation. The Institute has made diligent efforts to develop and implement effective policies, procedures, and guidelines . . ." ² With regard to oversight, the report also noted that the Institute had established ". . . an effective system of internal control by developing procedures and guidelines for its staff and grantees that ensure its resources are protected against fraud, waste, abuse, and mismanagement." ³ The report concluded by noting that a full assessment of SJI activities could not be made until grants had been awarded and other program activities implemented. ⁴

107TH CONGRESS: H.R. 2048 AND THE 2002 ATTORNEY GENERAL REPORT

In the 107th Congress, then Subcommittee Chairman Coble introduced H.R. 2048, to examine whether SJI's authorization should be extended. H.R. 2048 required the Attorney General, in consultation with the Federal Judicial Center, to submit a report to the House and Senate Committees on the Judiciary regarding the effectiveness of the Institute in fulfilling its missions, which include providing funds to improve the quality of justice in state courts, fa-

² REPORT OF THE ATT'Y GEN. TO THE HOUSE AND SENATE COMMITTEES ON THE JUDICIARY REGARDING THE EFFECTIVENESS OF THE STATE JUSTICE INSTITUTE at 2 (Oct. 1, 1987).

³ *Id.* at 7.

⁴ *Id.* at 11.

ilitating enhanced coordination between state and Federal courts, and developing solutions to common problems faced by all courts.

Following enactment of H.R. 2048,⁵ the Attorney General submitted his report in November 2002. His analysis of SJI operations is positive; he specifically notes that the Institute has been “effective” and has complied with its statutory mission. Importantly, the Attorney General observes that “[s]ome degree of support for state court innovation and improvement is a Federal interest.”⁶

HEARINGS

No hearings were conducted on H.R. 2714.

COMMITTEE CONSIDERATION

On July 22, 2003, the Subcommittee on Courts, the Internet, and Intellectual Property met in open session and ordered favorably reported the bill H.R. 2714 without amendment, by voice vote, a quorum being present. On September 10, 2003, the Committee met in open session and ordered favorably reported the bill H.R. 2714 without amendment, by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee consideration of H.R. 2714.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2714, the following estimate and comparison prepared by the Director of the Congressional Budget Office under the section 402 of the Congressional Budget Act of 1974:

⁵ Now Pub. L. No. 107-179.

⁶ REPORT OF THE ATT’Y GEN. TO THE HOUSE AND SENATE COMMITTEES ON THE JUDICIARY REGARDING THE STATE JUSTICE INSTITUTE at 32 (November 2002) (hereinafter 2002 ATTORNEY GENERAL REPORT).

SEPTEMBER 24, 2003.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2714, the State Justice Institute Reauthorization Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lanette J. Walker (for federal costs) and Melissa Merrell (for the state and local impact).

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

H.R. 2714—State Justice Institute Act Reauthorization Act of 2003

H.R. 2048 would authorize the appropriation of \$7 million a year over the 2005–2008 period for the State Justice Institute to make grants to state and local courts for improvements in court management systems, compiling statistical data, training programs for judges, and other purposes. Based on historical spending patterns of the institute, CBO estimates that implementing H.R. 2714 would cost \$20 million over the 2005–2008 period, assuming appropriation of the specified amounts. Enacting H.R. 2714 would have no effect on direct spending or receipts.

| | By fiscal year, in millions of dollars— | | | | |
|--|---|------|------|------|------|
| | 2004 | 2005 | 2006 | 2007 | 2008 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Authorization level | 0 | 7 | 7 | 7 | 7 |
| Estimated outlays | 0 | 2 | 5 | 6 | 7 |

H.R. 2714 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. It would impose no costs on local or tribal governments, and state governments would benefit from grants awarded by the State Justice Institute for programs and activities to enhance the administration of the state court systems. Assuming appropriation of the authorized amounts, CBO estimates that about \$14 million in grants (of the estimated total spending of \$20 million over the 2005–2008 period) would be provided to benefit the operation of state courts.

The CBO staff contacts for this estimate are Lanette J. Walker (for federal costs) and Melissa Merrell (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

Enactment of H.R. 2714 would enable SJI to continue to fulfill its statutory obligations as set forth in 42 U.S.C. 10702 *et seq.* By all accounts, including congressional oversight of its operations and the findings of the 2002 Attorney General Report, SJI is well-run and has contributed to the improved efficiency and productivity of state courts.

The 2002 Attorney General Report also made specific recommendations that the Committee expects SJI to adopt.⁷ Based on a KPMG audit of the Institute in March of that same year, these suggestions include that SJI do the following:

- Take steps to increase the awareness of SJI's work, including advertising with appropriate membership organizations and publications; developing branding of SJI; obtaining the services of a public relations specialist to disseminate information about SJI's projects; allowing interested parties to [subscribe to automatic notification] of new SJI grant projects; expanding the Internet site; redesigning the concept of the State Designated Libraries to reach members of each state court system; maintaining hard copies of products; establishing a process to send information packets to new judges; holding fora on the Internet on each new product; and requiring grantees to have a marketing plan for their grant product.
- Take steps to increase the involvement of state court members with SJI's work and encourage them to take action based on their involvement, including tracking products requested, sending follow-up messages to requesters, and engaging those who express interest in implementation workshops; setting aside a portion of grant monies for grantees to assist court systems to implement the grant products; using the Internet to host discussion groups of bulletin boards on each product; and holding implementation workshops using the Internet.

The Committee looks forward to evaluating SJI's progress in meeting these performance goals and objectives in the years to come.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Sec. 1. Short Title. The Act may be cited as the "State Justice Institute Reauthorization Act of 2003."

Sec. 2. Authorization of Appropriations. Section 2 authorizes to be appropriated for SJI operations \$7 million annually for Fiscal Years 2005 through 2008. (Given the late hour in the present budget and appropriations cycle, H.R. 2714 probably will not be enacted in advance of the relevant appropriations vehicle for Fiscal Year 2004. However, the committee anticipates that the Institute will secure an appropriation for Fiscal Year 2004.)

Appropriated funds under Section 2 are to remain available until expended. The last two bills reauthorizing the Institute contained such language, which reflects the reality that no grant agency can fully expend all of its funds in the year of appropriation.

⁷*Id.* at 33-34.

In addition, the Committee notes the existence of relevant funding sources, including the Crime Victims Fund and the Violence Against Women Act, that could greatly supplement SJI's budget. Given the scarce discretionary resources presently available to Congress, the Committee strongly recommends that SJI vigorously pursue these other options as a means to sustain its operations.

Sec. 3. Technical Amendments. Section 3 authorizes the Institute to purchase goods and services from the General Services Administration (GSA). Because SJI is not a Federal agency, it is not legally authorized to procure goods and services from GSA. In some instances, however, this exclusion can create unnecessary hardships (e.g., SJI could not purchase GSA storage boxes to transfer its records to the National Archives).

Section 3 would extend Federal health insurance benefits to five SJI employees. Congress chose to deny these benefits to non-federal agency workers in 1988⁸ (the two most senior SJI employees were "grandfathered" under the old law and not affected). This provision has produced hardships for the affected individuals and potentially compromises the ability of the organization to retain the bulk of its minuscule workforce. SJI argues that extending these benefits to all of its employees would enable the Institute to reduce its administrative costs significantly and thereby strengthen its operations.

Finally, Section 3 clarifies that meetings of the Executive Committee of the Board of Directors are to be open to the public only on such occasions as the Board delegates this authority to the Committee. This clarification is consistent with the terms of the Government in the Sunshine Act⁹ and will enable the Institute to exercise greater control over its meetings while allowing appropriate public access to its operations.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

STATE JUSTICE INSTITUTE ACT OF 1984

* * * * *

TITLE II

* * * * *

BOARD OF DIRECTORS

SEC. 204. (a) * * *

* * * * *

(j) All meetings of the Board, any executive committee of the Board (*on any occasion on which that committee has been delegated the authority to act on behalf of the Board*), and any council established in connection with this title, shall be open and subject to the

⁸5 U.S.C. 8914.

⁹5 U.S.C. 552(b).

requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

* * * * *

OFFICERS AND EMPLOYEES

SEC. 205. (a) * * *

* * * * *

(c)(1) * * *

* * * * *

(3) *The Institute may purchase goods and services from the General Services Administration in order to carry out its functions.*

(d)(1) * * *

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation of work injuries); chapters 83 and 84 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance), *notwithstanding section 8914 of such title*. The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

* * * * *

【SEC. 215. There are authorized to be appropriated to carry out the purposes of this title \$20,000,000 for fiscal year 1993, \$20,000,000 for fiscal year 1994, \$25,000,000 for fiscal year 1995, and \$25,000,000 for fiscal year 1996. Amounts appropriated for each such year are to remain available until expended.】

AUTHORIZATION OF APPROPRIATIONS

SEC. 215. There are authorized to be appropriated to carry out the purposes of this title, \$7,000,000 for each of fiscal years 2005, 2006, 2007, and 2008. Amounts appropriated for each such year are to remain available until expended.

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MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, SEPTEMBER 10, 2003

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. And now the last bill on the agenda is the adoption of H.R. 2714, the "State Justice Institute Reauthorization Act of 2003."

[The bill, H.R. 2714, follows:]

108TH CONGRESS
1ST SESSION

H. R. 2714

To reauthorize the State Justice Institute.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2003

Mr. SMITH of Texas introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To reauthorize the State Justice Institute.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State Justice Institute
5 Reauthorization Act of 2003”.

6 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

7 Section 215 of the State Justice Institute Act of 1984
8 (42 U.S.C. 10713) is amended to read as follows:

9 “AUTHORIZATION OF APPROPRIATIONS

10 “SEC. 215. There are authorized to be appropriated
11 to carry out the purposes of this title, \$7,000,000 for each
12 of fiscal years 2005, 2006, 2007, and 2008. Amounts ap-

1 appropriated for each such year are to remain available until
2 expended.”.

3 **SEC. 3. TECHNICAL AMENDMENTS.**

4 (a) STATUS OF INSTITUTE.—Section 205(e) of the
5 State Justice Institute Act of 1984 (42 U.S.C. 10704(c))
6 is amended by adding at the end the following new para-
7 graph:

8 “(3) The Institute may purchase goods and services
9 from the General Services Administration in order to carry
10 out its functions.”.

11 (b) STATUS AS OFFICERS AND EMPLOYEES OF THE
12 UNITED STATES.—Section 205(d)(2) of the State Justice
13 Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended
14 by inserting “, notwithstanding section 8914 of such title”
15 after “(relating to health insurance)”.

16 (c) MEETINGS.—Section 204(j) of the State Justice
17 Institute Act of 1984 (42 U.S.C. 10703(j)) is amended
18 by inserting “(on any occasion on which that committee
19 has been delegated the authority to act on behalf of the
20 Board)” after “executive committee of the Board”.

○

Chairman SENSENBRENNER. The chair recognizes the gentleman from Texas, Mr. Smith, the Chairman of the Subcommittee on Courts, the Internet, and Intellectual Property.

Mr. SMITH. Mr. Chairman, the Subcommittee on Courts, the Internet and Intellectual Property reports favorably the bill H.R. 2714 and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point.

The chair recognizes the gentleman from Texas, Mr. Smith, to strike the last word.

Mr. SMITH. Thank you, Mr. Chairman.

Congress established the State Justice Institute as a private, nonprofit corporation in 1984. Its purpose is to improve judicial administration in State courts. SJI accomplishes this goal by providing funds to State courts and other national organizations or nonprofits that support State courts.

SJI also fosters cooperation with the Federal judiciary in areas of mutual concern. Since its creation in 1987, the Institute has awarded more than \$125 million in grants to support over 1,000 projects.

Pursuant to oversight legislation passed in the previous Congress, the Attorney General, in consultation with the Federal Judicial Center, conducted a review of SJI operations and reported his findings to Congress late last year. The results are encouraging.

The Attorney General noted that the Institute has been effective and has complied with its statutory mission and observed that "support for State court innovation and improvement is a Federal interest."

SJI has earned the support of this Committee through a reauthorization. That is the purpose of H.R. 2714. More specifically, Section 2 of the bill authorizes \$7 million annually for SJI operations over a 4-year cycle. Appropriated funds under Section 2 are to remain available until expended.

The last two bills reauthorizing the Institute contained such language, which reflects the reality that no grant agency can fully expend all of its funds in the year of appropriation.

Section 3 of H.R. 2714 authorizes the Institute to purchase goods and services from the General Services Administration. Because SJI is not a Federal agency, it is not legally authorized to procure goods and services from GSA. In some instances, this exclusion can create unnecessary hardships. To illustrate, SJI recently was denied the ability to purchase GSA storage boxes to transfer its records to the National Archives.

Section 3 also extends Federal health insurance benefits to five SJI employees. Congress chose to deny these benefits to non-Federal agency workers in 1988. This provision has produced hardships for the affected individuals and compromises the ability of the organization to retain its small workforce. SJI argues that extending these benefits to all of its employees would enable the Institute to reduce its administrative costs significantly and thereby strengthen its operations.

The Committee on Government Reform has been notified of this provision and, to date, has not objected to its inclusion in the bill.

In sum, Mr. Chairman, H.R. 2714 is a noncontroversial bill that allows our Subcommittee to plant a jurisdictional flag and support

a small, but important, organization that assists our State court systems, and I urge my colleagues to support the bill, and I yield back the balance of my time.

Chairman SENSENBRENNER. The gentleman from California, Mr. Berman?

Mr. BERMAN. Thank you, Mr. Chairman. I move to strike the last word.

I endorse the reauthorization of the State Justice Institute and urge my colleagues to pass this bill. The SJI does important work. I've been told that by judges. The Attorney General gave high marks to the State Justice Institute in a report issued last year.

They are facilitating enhanced coordination between State and Federal courts and work on solutions common to problems faced by all of our courts. The last time we reauthorized the Institute was 1992. The Appropriations Committees have continued to fund it, but I think it's our responsibility to reauthorize this, and I urge us to move this legislation.

Thank you.

Chairman SENSENBRENNER. Without objection, all Members' opening statements will be placed in the record at this point.

Are there amendments?

[No response.]

Chairman SENSENBRENNER. There are no amendments.

The question occurs on the motion to report the bill H.R. 2714 favorably. The chair notes the presence of a reporting quorum.

All of those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days, as provided by the rules, in which to submit additional dissenting, supplemental or minority views.

This concludes the matters on the agenda before the Committee. The chair thanks the Members for their cooperation, and the Committee stands adjourned.

[Whereupon, at 11:29 a.m., the Committee was adjourned.]