

**Trial Court Budget Commission  
Meeting Minutes  
February 10, 2009**



**Attendance - Members Present**

|                                  |                         |
|----------------------------------|-------------------------|
| Hon. Belvin Perry, Jr., Chair    | Hon. Wayne Miller       |
| Hon. Charles Francis, Vice Chair | Hon. Robert Morris      |
| Mike Bridenback                  | Carol Ortman            |
| Hon. Catherine Brunson           | Hon. James Perry        |
| Hon. Paul Bryan                  | Hon. Judy Pittman       |
| Ruben Carrerou                   | Hon. Robert Roundtree   |
| Hon. Joseph Farina               | Walt Smith              |
| Tom Genung                       | Hon. Margaret Steinbeck |
| Hon. Carroll Kelly               | Hon. Patricia Thomas    |
| Hon. John Laurent                | Mark Weinberg           |
| Hon. Mark Mahon                  | Robin Wright            |

**Attendance - Members Absent**

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| Hon. Alice Blackwell | Hon. Susan Schaeffer |
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Judge Belvin Perry called the Trial Court Budget Commission (TCBC) meeting to order at 8:35 a.m.

**I. Welcome and Introduction of Guests**

Judge B. Perry welcomed the members and the roll was called. He also welcomed Chief Justice Quince and recognized the guests in attendance.

**Approval of December 6, 2008 Meeting Minutes**

A motion to adopt the December 6, 2008 meeting minutes as drafted was made by Judge Mahon. The motion was seconded by Judge Francis, and passed without objection.

**Chief Justice Remarks**

Chief Justice Quince reported that in January, leaders from the Florida Bar, judiciary and business participated in Funding Justice, The Summit for Florida's Courts. She presented seven basic principles for stabilizing court funding as follows:

Principle One: The elements of the State Courts System codified in section 29.001, Florida Statutes, should be adequately funded by the State to ensure the guarantee of court access by Florida's citizens.

Principle Two: Court fees assessed and paid by Florida's citizens to access their court system should be dedicated to the court system, as already provided for by state law.

Principle Three: Unless adequate safeguards are in place, court-related revenue other than filing fee revenue (revenue derived from fines, services charges, and costs) should not be dedicated to court funding but used to support other justice system partners.

Principle Four: All current court-related revenue being collected should be re-evaluated to determine what portion of current filing fee revenue should be dedicated to court funding.

Principle Five: Additional or increased filing fees should be considered, but only after an adequate review of the distribution of the current filing fee revenue has been made.

Principle Six: Some components of the State Courts System are more appropriately funded from the general revenue fund and should remain so.

Principle Seven: State Court Trust Funds are the appropriate depositories for court filing fee revenue.

The seven principles will be used throughout the upcoming legislative session. During Special Session 2009A, the legislature established the State Courts Revenue Trust Fund.

## **II. Status of Current Year Funding**

Lisa Goodner briefed the members on reports from the Ways and Means Committee of the state's deficit forecast increasing. The legislature is scrutinizing all expenditures. Staff has completed a legislative exercise, a base budget review, which details our expenditures down to how much was expended for freight, travel, printing, etc.

### **A. Salary Budgets**

Dorothy Wilson provided a review of the trial court payroll projections as of January 31, 2009 and reported the following:

After applying salary lapse and leave payout, the payroll liability was \$978,622 under the circuit court salary appropriation. This amount represents 0.4% of the circuit court salary appropriation. Although a hard hiring freeze remains in place, little turnover was experienced. The payroll liability was \$51,739 under the county court salary appropriation. This amount represents 0.1% of the county court salary appropriation. Historically, the county courts are over appropriations and the payroll liability is covered with circuit funds by way of a budget amendment. The county courts have experienced a high turnover of county judges this year.

### **B. Operating Budgets**

Dorothy Wilson provided a status of the trial court operating budgets as of January 31, 2009 and reported the following:

The operating budgets were reviewed by category. Average spending rates by January should be about 58.3% of total budget. The actual spending rates are considerably lower. Due process expenditures are also lower compared to the same time period last fiscal year; however, due process expenditures are in arrears about one month.

Senior judge usage and remaining balances were reviewed, noting that lag time exists between days served and compensation. This category experienced a reduction in Special Session 2009A. Circuits that anticipate unobligated days were asked to notify OSCA.

### **C. Trust Fund Cash Balances**

Charlotte Jerrett provided a review of the cash balances for the Operating Trust Fund and Mediation and Arbitration Trust Fund as of January 30, 2009 and reported the following:

- **Operating Trust Fund** – After expenditures, including the 7% surcharge of revenue to General Revenue Fund, the cash balance was \$2,572,828 and is considered a healthy balance for this fund.
- **Mediation and Arbitration Trust Fund** - The expenditures were reviewed, including the 7% surcharge mandated for General Revenue. The cash

balance was \$7,905,060. This balance does not reflect the \$1.5 million in beginning cash balance that was swept during Special Session 2009A.

#### **D. Requests for OCO Allocations**

Dorothy Wilson provided a review of the requests from the 4<sup>th</sup> and 13<sup>th</sup> Circuits to access the OCO Reserve and reported the following:

- **4<sup>th</sup> Circuit**
  - The circuit requests \$8,286 to purchase furniture for relocation of a judge's office, chamber, and judicial assistant into a newly renovated space.
  - The circuit requests \$9,384 to purchase furniture for two new judges' chambers and judicial assistants in a newly renovated space; workstation in the juvenile courtroom, and bookcase for the newly appointed Trial Court Administrator.

The 4<sup>th</sup> Circuit withdrew their request for the workstation. The Budget Management Committee and the Executive Committee recommended approving the requests. Judge Farina made a motion, seconded by Ruben Carrerou to approve the 4<sup>th</sup> Circuit's OCO requests as follows: \$8,286 for request 1 and \$7,765 for request 2. The motion passed without objection.

- **13<sup>th</sup> Circuit**
  - The circuit requests \$37,444 to purchase and install two digital court recording (DCR) units for two of the seven new courtrooms in the circuit. The circuit is purchasing five of the seven units.

The Budget Management Committee and the Executive Committee recommended approving this request with the caveat that if the LBR for maintenance costs is not funded, the 13<sup>th</sup> Circuit will absorb the maintenance costs. Judge Roundtree made a motion, seconded by Judge R. Morris, to approve the request. The motion passed without objection.

### **III. Update on Special Session 2009A**

#### **A. Special Session 2009A Conference Report**

Judge B. Perry thanked the lobbying team: Judge Farina, Judge Mahon, Judge Francis, Judge Laurent, and Carol Ortman.

Dorothy Wilson briefed the members on the Trial Court portion of the final conference report for Senate Bill 2-A and reported the following:

Line 7 of the report reflects the FY 2008-09 base budget reductions (4% holdback) of 20 FTE and \$3,079,229. Lines 8 and 9 reflect the transfer of GR to the new State Courts Revenue Trust Fund. Back of bill language included cash balance sweeps of \$1,450,000 from the Mediation and Arbitration Trust Fund and \$2,000,000 from the Court Education Trust Fund.

### **B. Operating Category Reductions**

Ms. Wilson provided a review of the Special Session 2009A reductions by category and noted the large reduction of \$1,311,930 in the Due Process Contractual Services category.

### **C. Allocation of FTE Reductions**

Judge B. Perry stated that the Civil Traffic Infraction Hearing Officer program was suspended when the TCBC held back the total appropriation of \$1.3 million to use toward the potential statewide 4% salary reduction. The legislature wanted to restore the program. During Special Session 2009A, 20 FTE and a net of \$1,236,380 in the Salaries and Benefits category were reduced from the circuit court budget.

Dorothy Wilson provided a review of the options to allocate the FTE reductions and reported the following:

Option A: Reduce 4.50 "Banked" FTE and the \$253,867 in their associated salary and benefit dollars (which are currently being used to offset circuit court salary shortfall) before calculating the options.

Option B: Do not reduce the "Banked" FTE and their associated salary and benefit dollars before calculating the options.

Next:

1. Use the same methodology as the May 2008 Reduction in Force (RIF) plans, base reductions on each circuit's percentage of the total General Revenue (GR) salaries and benefits for all circuit and all county positions (excluding judges).

2. Reduce each circuit by 1.00 FTE with a target of \$61,819 in salary dollar reductions (1/20 of the salary dollars reduction).

Option C: Judge B. Perry reported that the Executive Committee recommendation is to use the banked FTE's and salary lapse to reduce the target reduction amount to \$582,513. Judge Roundtree stated that if Option C is approved, the trial courts should continue with the hiring freeze to accumulate more lapse.

Judge Roundtree made a motion to approve Option C. Judge Brunson seconded, and the motion passed without objection. OSCA staff will be available to assist trial court administrators formulate their plans.

Charlotte Jerrett presented considerations for the Commission as follows:

1. Should circuits be allowed to reduce GR FTE in an element down to zero? The TCBC previously voted no. Walt Smith stated that these are extraordinary times. Mike Bridenback made a motion to modify the policy to allow circuits to reduce an element down to zero, with justification, and approval by the Budget Management Committee. Judge Steinbeck seconded, and the motion passed without objection.
2. Should the implementation of the reductions allow circuits to reduce a GR position that is at 1.0 FTE or at .75 FTE down to a .50 FTE (no position being reduced lower than to a .50 FTE)? Judge R. Morris made a motion, seconded by Judge Roundtree, to approve. The motion passed without objection.
3. Should the implementation of the reductions allow circuits to meet their salary and benefits target by means of a downward reclassification of a vacant position? Judge Laurent made a motion, seconded by Carol Ortman, to approve. The motion passed without objection.

#### **D. Civil Traffic Hearing Officer Allocations**

Judge B. Perry stated that in June 2008, based on the Governor's Office release plan, the TCBC held back the total civil traffic infraction hearing officer appropriation for use toward the potential statewide 4% salary reduction. The appropriation was not reduced during Special Session 2009A and is available to reallocate back to the circuits. Patty Harris reviewed the following options:

Option One – Allot funding based on each circuit's requested need amount.

Option Two – Allot funding based on each circuit's average percent of the total statewide expenditures over the last four years applied to the total available appropriation.

Mike Bridenback made a motion, seconded by Judge Roundtree, to approve Option One. The motion passed without objection.

#### **E. Mediation Allocation Adjustments**

Dorothy Wilson reported that in July 2008, based on the Governor's Office release plan, the TCBC held back 4% across-the-board of Expenses and Mediation Services category allocations. The appropriation was not reduced during Special Session 2009A and is available to reallocate back to the circuits as reduced.

Judge Laurent made a motion to reallocate the hold back as reduced. Judge Farina seconded, and the motion passed without objection.

#### **F. Due Process Cost Recovery Allocation Adjustments**

Dorothy Wilson reported that in July 2008, based on the Governor's Office release plan, the TCBC held back 4% across-the-board of Expenses, Due Process Cost Recovery, and State Funded Services Cost Recovery category allocations. The appropriation was not reduced during Special Session 2009A and is available to reallocate back to the circuits as reduced.

Judge Roundtree made a motion, seconded by Carol Ortman, to reallocate the hold back as reduced. The motion passed without objection.

### **IV. Implementation of State Courts Revenue Trust Fund**

Charlotte Jerrett briefed the Commission on the State Courts Revenue Trust Fund (SCRTF) created during Special Session 2009A to fund the activities of the State Courts System with fines and penalties collected and deposited. In the current fiscal year, \$10,804,935 will be fund shifted from General Revenue to the SCRTF, with an annualized amount of \$45,459,511 for FY 2009-10. Ms. Jerrett provided status of implementation and other informational issues as follows:

1. Prioritize costs/activities to be paid from the SCRTF
  - a. By element

- b. By category
  - c. Most vulnerable for future cuts
2. Determine the amount of cash reserves, if any. Setting aside amounts for reserve is a standard management practice that is used to provide for contingencies, unfunded salary and/or benefit increases, and other variable events like changes to cash flow trends.
  - a. The legislature appropriated budget authority (and reduced GR funding) in the same amount as projected collections.
  - b. Standard cash reserve amounts are typically set at 5% of projected annual collections.
  - c. Pursuant to s. 215.22, F.S., a general revenue surcharge in the amount of 7% is assessed quarterly on all revenue collections for payment to the state. This amount is not currently budgeted for as part of the SCRTF revenue collections.
3. Determine the timing for the fund shift of expenditures.
  - a. The legislature calculated the fund shift amounts based on 3 months of budgeted expenditures, which provide for an April 1 effective date. Revenue collections start in February and the expenditures will be paid starting in April.
4. Determine reporting information to be provided by FACC, if any.
  - a. The FACC has agreed to add discrete line items to their standard consolidation report to capture revenue associated with fines and penalties collected and deposited to the SCRTF as outlined in Senate Bill 12-A. The FACC has agreed to share their report that is submitted to the Department of Revenue.
  - b. The OSCA is working with FACC staff to reconcile differences between official state accounting records and their standard consolidation report.
5. Monitor revenue collections and report the status of the trust fund to the Budget Management Committee. No history is available on how these revenues will come in; therefore, close monitoring is essential. Judge Morris stated concern with the lag time with the collection of fines. Tickets have to be written February 1 or later for collections into the new trust fund. Judge B. Perry pointed out that without the new trust fund approximately \$45 million would need to be reduced from General Revenue.

Dorothy Wilson provided a review of the four proposals to meet the fund shift target of \$45,459,511 as follows:

All proposals start with a “base”, the fund shift target from GR to the SCRTF minus court administration, case management, law clerks, and magistrates elements. All proposals include operating categories, except Proposal 4, which only includes the dollars tied to FTE’s. The proposals do not include judges and judicial assistants.

- **Proposal 1** – After deducting the base, the proposal is \$19,867,575 over target. To reach the target, the proposal adds back to GR: entire magistrate element (173.25 FTE); court administration court technology officers (20 FTE); post conviction law clerks (38 FTE); and \$828,595 from the Expense operating category.
- **Proposal 2** – After deducting the base, the proposal is \$19,867,575 over target. To reach the target, the proposal adds back to GR: entire law clerk element (169.5 FTE) less post conviction law clerks; magistrates (salary only) less administrative support (93.25 FTE); and \$1,128,102 transfer from GR civil traffic funds.
- **Proposal 3** – After deducting the base, the proposal is \$19,867,575 over target. To reach the target, the proposal adds back to GR: entire law clerk element (207.5 FTE); magistrate administrative support (80 FTE); court administration court technology officers (20 FTE); case management drug court positions (21.5 FTE); and \$272,169 transfer from GR civil traffic funds.
- **Proposal 4** - After deducting the base, which did not include operating categories, the proposal is \$16,914,970 over target. To reach the target, the proposal adds back to GR: law clerk element less post conviction law clerks (169.5 FTE); court administrators (20 FTE); court technology officers (20 FTE); and case management drug court positions (21.5 FTE). This option is short \$52,701 from the target amount and would be covered by lapse.

The Executive Committee recommended approving Option 4. Charlotte Jerrett stated that Option 4 is the least disruptive until we can get through year end. Dorothy Wilson added that 7% general revenue surcharge is not currently budgeted for as part of the revenue collections. Judge B. Perry stated that trust fund and general revenue positions will be treated the same. If the trust fund is short, the general revenue will also be affected.

Judge Mahon made the motion, seconded by Judge Francis, to approve Option 4. The motion passed without objection.

## **V. Operating Issues Through End of FY 08/09**

### **A. Hiring Freeze**

Charlotte Jerrett reported that the Executive Committee reviewed the current status of the hiring freeze and recommended keeping all policies in place. The current status is as follows:

- New hires should not be authorized unless they are absolutely essential to the mission of the Judicial Branch.
- Judicial assistant positions may be filled after being vacant for 30 calendar days.
- Due process positions may be filled after they have been vacant for 60 calendar days.
- Mediation and Child Support trust-funded positions are exempt from the hiring freeze.
- On December 6, 2008, the TCBC approved lifting the hiring freeze temporarily for new judicial assistant openings associated with newly elected judges.

### **B. Travel Freeze**

Charlotte Jerrett briefed the Commission that the Legislature has issued a travel freeze mandate to all state government entities, which the Judicial Branch already has in place. The Executive Committee reviewed the current status of the travel freeze and recommended keeping all policies in place. The current status is as follows:

- Travel expenditures should not be authorized unless they are absolutely essential to the mission of the Judicial Branch.
- Court committees should consider delaying or eliminating meetings and utilizing teleconferencing or web-based options.
- Chief judges may need to consider limiting judicial participation in external activities that are not essential to constitutional requirements.
- When travel is absolutely necessary and appropriate, judges and court staff must use the most economical form of transportation available.
- Same-day travel must be utilized whenever possible, and lodging, rental cars and other expenses must be held to a minimum.

- Intra-circuit travel that is necessary for judges and court staff to conduct the routine administrative business of the courts is authorized if sufficient funds are available within the circuit's budget to cover those costs.
- Intra-state travel necessary as a result of case-related activities or administrative matters may be approved by the chief judge provided such travel is in support of the administration of justice as provided for in the Rules of Judicial Administration and provided sufficient funds are available within the circuit's expense budget to cover those costs.
- Out-of-state travel is prohibited.
- Circuit court judges, county court judges, and other court staff who are serving as chair or vice-chair of selected committees and sections of The Florida Bar may be reimbursed for reasonable travel expenses associated with meetings of those groups with prior approval from the chief judge or designee and submission of a Travel Authorization Request (TAR) form. These expenses will be charged against the local circuit budget.
- Chief judges and the chair and chair-elect of the Florida Conference of Circuit Judges and Florida Conference of County Court Judges will be reimbursed for reasonable travel expenses for their attendance at the mid-year and annual meetings of The Florida Bar. These expenses will be charged against the local circuit budget.
- Reasonable travel expenses necessary for participation in State Courts System committees or commissions (e.g. Trial Court Budget Commission, Criminal Court Steering Committee) will be paid without prior authorization, from the budget of and in accordance with the travel guidelines established for each committee.
- Generally, the OSCA will coordinate travel by judges for participating in legislative hearings. Expenses associated with such travel will be paid from the local circuit budget with prior approval of the chief judge or designee, or if such participation is associated with membership on a Supreme Court committee, expenses will be reimbursed from that committee budget. When judges receive personal invitations to appear and testify before a legislative committee, expenses for associated travel will be paid from the circuit budget with prior approval from the chief judge.

The travel restrictions mandated in Senate Bill 44-A included the following:

- Travel by state employees is to be limited, until July 1, 2009, to travel for activities that are critical to the state agency's mission.
- Funds may not be used to pay for travel by state employees to foreign countries, other states, conferences, staff-training activities, or other

administrative functions unless the respective agency head has determined that such activities are critical to the agency's mission.

- Travel for law enforcement purposes, military purposes, emergency management activities, and public health activities is not covered by this section.
- The agency head, or his or her designee, must consider the use of teleconferencing and other forms of electronic communication to meet the needs of the proposed activity before approving mission-critical travel.

## **VI. Additional Funding Sources for State Courts Revenue Trust Fund**

Kris Slayden reported on additional funding sources for the State Courts Revenue Trust Fund and provided the following:

### **A. Fines and Fee Proposals**

On December 6, 2008, the TCBC approved the proposed FY 2009-10 budget for the State Courts System based on the Funding Stabilization Project estimates. Filing fee and fine proposals were also approved. Four of the fine proposals were passed in Special Session 2009A and signed into law effective February 1, 2009.

OSCA staff has continued to refine the proposals and assess the accuracy of the fine proposals that passed during Special Session 2009A. Ms. Slayden reviewed the methodology and calculation of estimated revenues for the commission's approval for the following fines and fee proposals:

#### Fines

1. \$100 Fine Misdemeanors and Felonies/Adjudication Withheld Fine
2. Deputy Memorial Traffic Safety Act/Impound Assessment

#### Fee Proposals

1. Reopen Filing Fee Increase to Modifications
2. Repeat Violence Filing Fee
3. Motions Filing Fee
  
4. Sliding Scale Filing Fee Increase
5. Reschedule Fee
6. Filing Fee/Service Charge Increase for District Courts of Appeal
7. Filing Fee/Service Charge for Supreme Court

The Executive Committee recommended striking the Impound Assessment proposal due to difficulty in tracking impound fees or delinquent fee payments. Members discussed redirecting the Repeat Violence fee to the respondent and how this action may cause a victim to hesitate.

Judge Morris made a motion to strike the Impound Assessment fine proposal and amend the Repeat Violence filing fee proposal and apply the fee to the respondent found guilty of domestic, repeat, sexual, and dating violence. Walt Smith seconded and the motion passed by the majority, with one opposed.

Judge Laurent stated that the logistics and implementation issues of the Reschedule Fee may offset benefits of the generated revenue. Judge Laurent made a motion to remove the Reschedule Fee proposal and approve the remaining proposals as amended. Judge Miller seconded and the motion passed by the majority with two opposed.

## **B. Legislative Bills Directing Revenue to the State Courts Revenue Trust Fund (SCRTF)**

Kris Slayden briefed the members on two additional bills that have been filed for Regular Session 2009 and reported the following:

1. HB 217 amends s. 938.10(1), F.S. by expanding the list of offenses committed against minors that are subject to the imposition of a mandatory court cost of \$101. The amended bill increases the costs with the specified offenses by \$50 and directs \$40 of that to the SCRTF; \$5 to the state attorneys; and \$5 to the public defender trust funds. The impact of this bill to the SCRTF is under \$50,000.
2. HB 165 narrows the factors the judge may use to waive community service. In addition, the amended bill increases the fine paid per hour of waived service from \$10 to \$50 and remits \$30 to the SCRTF. The impact of this bill is expected to be minimal.

## **C. New Proposed State Courts System Budget FY 2009-10**

Dorothy Wilson reviewed the proposed State Courts System budget for FY 2009-10 and provided the following:

The total proposed budget is now \$567,761,476, including the current trust funds. The budget does not include the 5% contingency or the 7% general revenue administrative surcharge. These numbers are subject to change as decisions are made on what to move to the SCRTF. In addition, the budget does not include a \$46 million placeholder for the Trial Court Integrated Court Case Management System.

**VII. Other Legislative Updates**

Lisa Goodner provided a summary of fee bills and notified the Commission of a public records request from the Florida Association of Clerks of Court. The clerks are reporting a 50% revenue decline in their budgets.

**Adjournment**

Judge B. Perry thanked Chief Justice Quince for her leadership during this difficult time and also thanked members, chief judges, and trial court administrators. With no other business before the commission, Judge Perry adjourned the meeting at 11:30 a.m.