

**Trial Court Budget Commission  
Meeting Minutes  
March 22, 2010**



**Attendance - Members Present**

The Honorable Belvin Perry, Jr., Chair  
The Honorable Charles Francis  
The Honorable Peter Blanc  
Mr. Mike Bridenback  
The Honorable Catherine Brunson  
The Honorable Paul Bryan  
The Honorable Joseph Farina  
The Honorable Gary Flower  
Mr. Tom Genung  
Ms. Sandra Lonergan  
The Honorable John Laurent

The Honorable Thomas McGrady  
The Honorable Mark Mahon  
The Honorable Wayne Miller  
Ms. Carol Ortman  
The Honorable Robert Roundtree  
The Honorable Clayton Simmons  
Mr. Walt Smith  
The Honorable Margaret Steinbeck  
The Honorable Patricia Thomas  
Mr. Mark Weinberg  
Ms. Robin Wright

**Attendance - Members Absent**

The Honorable Judy Pittman

The Honorable Susan Schaeffer

**Welcome and Approval of 12/11/09 and 02/02/10 Minutes**

Judge Perry called the Trial Court Budget Commission (TCBC) meeting to order at 9:02 a.m. He asked the guests in attendance to introduce themselves and the roll was called. Judge Perry welcomed two new members, Chief Judge Thomas McGrady, 6<sup>th</sup> Circuit and Sandra Lonergan, 11<sup>th</sup> Circuit Trial Court Administrator.

Judge Perry asked if there were any revisions to the December 11, 2009 and February 2, 2010 meeting minutes. A motion was made by Judge Roundtree to adopt the minutes as drafted. Judge Mahon seconded and the motion was passed without objection.

**Status of Current Year Funding**

**Salary Budgets**

Theresa Westerfield provided a review of the trial court payroll projections as of February 28, 2010 and reported the following:

After applying salary lapse or what has been made up so far, and leave payouts, the payroll liability was \$2,319,223 under the circuit court salary appropriation. The payroll liability was

\$97,629 under the county court salary appropriation, and the combined trial court payroll liability was approximately \$2.4 million under the salary appropriation.

### **Operating Budgets**

Theresa Westerfield provided a review of the trial court operating budgets as of February 28, 2010. She noted that year to date expenditures at this time should be approximately 67% of the total appropriation. However, some billings are two months in arrears. The total expended/encumbered in the Trial Court Expense category was 31.34% and slightly higher than this same time period last fiscal year. For the Contracted Services category, 36.26% was expended/encumbered, and was somewhat higher than last year.

The Due Process categories also have billings in arrears and a total of 50.43% has been expended/encumbered, which is also slightly higher than last year. The Budget Management Committee (BMC) directed OSCA staff to contact all circuits and request the completion of the Template for Forecasting of Unobligated Funds for the Expense, Operating Capital Outlay and Due Process Costs categories for FY 2009-10 to determine any unobligated funds that may be available to fund court reporting equipment and the furnishings for new courthouses in the 7<sup>th</sup> and 20<sup>th</sup> circuits. The BMC requested that the 7<sup>th</sup> and 20<sup>th</sup> circuits determine what amounts, if any, can be covered from their current year budget before accessing any unobligated funds. Judge Perry added that a legislative budget request was submitted for these issues but were not included in either the Senate or House proposed appropriations bill for FY 2010-11. Therefore, the BMC recommended funding the expansion issue from FY 2009-10 unobligated funds.

The total unobligated funds available for court reporting refresh are \$1,907,111 (Expenses-\$509,113 and OCO-\$1,397,998) and for court reporting expansion are \$3,148,630 (Expenses-\$234,323 and OCO-\$2,914,307). The total available for the 7<sup>th</sup> Circuit is \$44,000 (Expenses-\$28,000 and OCO \$16,000). The total available for the 20<sup>th</sup> Circuit is \$118,500 (Expenses-\$33,900 and OCO \$84,600). Judge Roundtree made a motion, seconded by Judge Miller, to approve funding these issues using FY 2009-10 unobligated funds. The motion passed without objection.

### **Trust Fund Cash Balances**

Charlotte Jerrett provided a review of trust fund revenues and cash balances and stated that cash statements reflect the actual cash available for spending as of February 28, 2010 and reported the following:

**Mediation Arbitration Trust Fund (MATF)** – The year to date revenue received was \$23 million. The total expenditures including the payment to General Revenue for the 8% service charge were \$8.3 million. The ending cash balance was approximately \$14.7 million. The House appropriations bill proposes a \$4 million sweep. The Senate is also expected to propose a sweep.

**Operating Trust Fund (OTF)** – The trust fund is comprised of two components: cost sharing from the Justice Administrative Commission and cost recovery. The total of beginning cash and year to date revenue received was \$5.5 million. The total expenditures including the payment to General Revenue for the 8% service charge were \$3 million. The ending cash balance was approximately \$2.4 million.

**State Courts Revenue Trust Fund (SCRTF)** – The total fee revenue received to date was \$260.5 million. The total fine revenue received was \$19.8 million. The total available cash was \$282.1 million. The total expenditures including the payment to General Revenue for the 8% service charge were \$174.5 million. The ending cash balance was approximately \$107.7 million.

## Report from Budget Management Committee

**Court Reporting Equipment** – Theresa Westerfield reviewed the preliminary estimated projections as of February 28, 2010 which indicate approximately \$1,959,021 statewide in unobligated funds in the circuit's State Courts Revenue Trust Fund combined Due Process Services contractual category and \$307,634 in the Expenses category in the Court Reporting cost center statewide. These projections do not include any large expenditures at year end.

**Personnel Policies** – Gary Phillips reported on this agenda item and stated that the Trial Court Salary Budget Management Schedule calls for a mandatory minimum of days in which certain positions must stay vacant to build the salary dollars necessary to support payroll.

- **Internal Promotions** - Vacancies created by internal promotions are also included in this policy. Several circuits have stated that applying the schedule to internal promotions creates a disincentive to promote from within as each time this occurs both the higher and lower level positions are required to stay vacant for the requisite number of days. This has a greater impact on smaller and multiple county circuits.

The BMC and Executive Committee recommendations were to table this item and review in 90 days, due to the uncertainty concerning the budget. Judge Roundtree made a motion to approve the recommendation. Carol Ortman seconded and the motion passed without objection.

- **General Magistrate Positions** – General magistrate positions must stay vacant for 90 days. Several circuits have requested exceptions from the schedule due to the hardship it causes and the detrimental effect of these vacancies on dockets. Judge Perry stated that the trust fund has enough cash but not spending authority to meet our payroll liabilities. The legislature did not replace the 2% staff salary cut which resulted in the State Courts System starting the year with a larger salary deficit. The House is proposing a 3% salary reduction.

Judge Farina stated that tabling this item for 90 days will allow time for completion of legislative session. Judge Laurent added that due to the lifting of the hiring freeze, a decrease in lapse is projected.

Judge Blanc asked what needs to be done to restore the 2% cut. Lisa Goodner stated that a restore issue for the 2% cut was included in this year's request. Judge Perry stated that the TCBC has been trying to fix the salary deficit since Judge Schaeffer was chair. Judge Roundtree made a motion, seconded by Judge Brunson, to maintain the 90 day hold on vacant general magistrate positions and review the issue in 90 days. The motion was passed by the majority, with Mr. Genung opposed.

### **Update on 2010 Session**

#### **Overview of House and Senate Budget Proposals**

Theresa Westerfield reviewed the side-by-side budget comparison of the State Court System's request, the House and Senate committee appropriations bills as of March 19, 2010. The Senate fully funds the Foreclosure and Economic Recovery issue and the House provides \$1 million in OPS funds and \$1 million for civil legal aid. Items initiated by the legislature are fund shifts of circuit and county judges' salaries and benefits from General Revenue to the State Courts Revenue Trust Fund (SCRTF).

Back of bill language in the Senate bill, Section 8 includes a transfer of \$18.6 million from the SCRTF to the Clerk of Courts Trust Fund in JAC for the purpose of paying the Clerks' General Revenue Service Charge. Back of bill language in the House bill, Section 8 includes a 3% cut to all salary and benefits appropriations. Section 83 of the House bill included a \$4 million sweep in the Mediation and Arbitration Trust Fund.

#### **Proposed Budget Reductions from the Department of Revenue for the Child Support Hearing Office Contract for FY 2010-11**

Charlotte Jerrett briefed the members and stated that Senate Proposed Committee Bill 7080 includes a \$200,000 reduction in budget authority for the FY 2010-11 child support hearing officer contract, proposed by the Department of Revenue (DOR). This issue is a placeholder pending a recommendation by the TCBC. The placeholder reduces \$168,488 in Salaries and Benefits and \$31,512 in Other Personal Services (OPS).

Staff indicated to DOR that based on payroll projections, the Salaries and Benefits category cannot take a cut. The DOR asked the courts to look at how the resources are allocated. The Funding Methodology Committee will review in April; however, DOR would like to recommend to the Legislature now where the resources need to be. The following four options were reviewed:

1. Reduce the authority as proposed in SB 7080: \$168,488 reduction in the Salaries and Benefits category and \$31,512 in the OPS category. This would leave \$25,000 in the OPS category.
2. Reduce the entire Expense allotment of \$110,616 and reallocate Circuit Expense Reserve (from the State Courts Revenue Trust Fund) to offset the reduction in this budget. Additionally, take a reduction of \$41,512 in the OPS category (leaving \$15,000) and \$47,872 from the Salaries and Benefits category.
3. Reduce the OPS category by \$41,512 (leaving \$15,000) and reduce the Expense category by \$41,419 (leaving \$69,197). Take the remaining reduction from the Salaries and Benefits category in the amount of \$117,069.
4. Take the entire reduction of \$200,000 from the Salaries and Benefits category.

The Executive Committee recommended Option 4 with a hiring freeze with the intent of not using funds from the State Courts Revenue Trust Fund, to save every dollar for possible cuts. Lisa Goodner noted that with Option 4, layoffs would need to occur if all positions are filled. The members discussed other options for taking the reduction. After receiving additional information from staff, Judge Roundtree made a motion to make the reduction in the following categories, based on expenditures from FY 2007-08 and FY 2008-09: \$124,872 Salaries and Benefits, \$36,512 OPS, and \$38,616 Expense. Mr. Bridenback seconded and the motion passed without objection. Judge Mahon made a motion, seconded by Judge Roundtree, to institute a hiring freeze for the Child Support Hearing Officer program effective March 26, 2010. The motion passed without objection.

### **Implementation of Foreclosure and Economic Recovery Funding on July 1, 2010**

Judge Perry stated that if this issue is funded by the legislature, the implementation date would be July 1, 2010. The circuits need to quickly implement and start showing results. Chief judges will have to monitor these cases and get them through quickly. Judge Perry recommended putting a model docket together now and be ready to go on July 1. He also suggested providing education at the circuit judges conference for senior judges and others on how to move these cases efficiently. Lisa Goodner noted that the requested senior judge days would more than double the current allocation and asked that circuits ensure the senior judge resources are available.

### **Overview of Budget Conforming Bills and Implementing Legislation**

Greg Smith reviewed the following bills:

- SB 1400 – Many suggestions for streamlining processes with the goal of making government smarter, faster, and cheaper were combined in this bill. The bill also addresses glitch issues.
- HB 5401 – Repeals SB 2108 which became law in 2009 and takes clerks out of the state budget.

## **Overview of Pay and Benefits Legislation**

Gary Phillips briefed the members on the following pay and benefits bills:

- CEED 02 House Appropriations Bill – Cuts 3% of elected officials pay, including judicial pay, with the following flexibility. In lieu of a 3% across the board salary reduction, the Chief Justice may impose layoffs, reclassify employees, terminate employees or impose salary reductions or adjustments for individuals or groups of employees. The retiree health insurance subsidy would be eliminated effective 12/31/10. State contributions toward retirement for the senior management service optional annuity plan would be lowered.
- SB 2282 - Pay for elected officials making over \$65,000 would be cut 5%.
- HB 1319 – Employees hired on or after 07/01/11 would contribute 1% of gross salary toward retirement. Bill language redefines compensation and eliminates overtime, leave payments, additives, and bonuses. Language also redefines average final compensation to total years average instead of highest 5. Changes normal retirement age to 65 or 33 years service. Caps benefit at 80% of the Average Final Compensation (AFC). Lowers benefit factor for regular, special risk and SMS beginning 10/01/2011.
- HB 1543 – Repeals the Elected Officers and Senior Management Retirement classes and limits the maximum accrued percentage of the AFC to 70% for members with less than 10 years of creditable service on 07/01/10. The bill places judges and senior management employees into the regular membership class. It reduces the percentage of the AFT accrued.
- SB 1902 – Limits the maximum accrued percentage of the AFC.
- HB 413 – Requires all new hires on or after 01/11/11 to be enrolled in the FRS Defined Contribution Plan (Investment Plan) and closes the Defined Benefit Pension Plan.
- SB 1710 – Increases health care costs for retirees.
- SB 2022 – Shell bill for changing retirement laws.
- A bill is likely to be filed for employees who are currently eligible for 100% state paid health insurance premiums to lose that benefit.

Judge Emas asked if there is a historical reason why judges earn a higher retirement rate. Lisa Goodner stated that most judges come in at mid-career and not many serve 30 years on the bench, unlike a regular class employee. The judges also have restrictions on employment. The judges' compensation package is also aimed to bring in seasoned attorneys to the bench.

## **Other Bills of Interest**

Brenda Johnson briefed the members on recent legislative activities and provided a brief status on the following bills:

- HB 1513 Relating to Clerks of Court
- HB 1523 Relating to Homeowner Relief
- HB 0013 Relating to Senior Judges
- HB 0181 Relating to Senior Judges

- SB 0790 Relating to Retired Justices and Judges
- HB 0735 Relating to State Judicial System
- HB 0891 Relating to Jury System Administration
- HB 1491 Relating to State Financial Matters
- SB 2640 Relating to Circuit Courts

### **Judicial Conference and TCBC Legislative Conference Activities**

Lisa Goodner briefed the members on the meeting held February 15, 2010 with justices, judicial conference and budget commission leadership to plan legislative strategy to better organize lobbying efforts.

### **Adjournment**

Judge Perry thanked the members and staff. With no other business before the commission, Judge Perry adjourned the meeting at 12:25 p.m.