

**Trial Court Budget Commission
Meeting Minutes
Tallahassee, Florida
April 4, 2006**



Members Present

Stan Morris, Chair
David Demers
Doug Henderson
Wayne Peacock
Judy Pittman
Patricia Thomas

Belvin Perry, Jr., Vice Chair
Joseph Farina
John Laurent
Nancy Perez
William Roby
Mark Weinberg

Ruben Carrerou
Charles Francis
Donald Moran
James Perry
Walt Smith

Members Absent

Stan Blake
Thomas Reese

Mike Bridenback
Susan Schaeffer

Paul Bryan
Mary Vanden Brook

Others Present

Britt Beasley-4th Circuit
Hugh Hayes, 20th Circuit
Alice Blackwell-White, TCP&A

David Trammell, 5th Circuit
Caron Jeffreys, 20th Circuit
OSCA Staff

Kathleen Kroll, 15th Circuit
Lisa Kiessel, 20th Circuit

I. Welcome and Introduction of Guests

The April 4, 2006, meeting of the Trial Court Budget Commission (TCBC) was called to order at 9:15 a.m. by Judge Morris, Chair, who welcomed members and recognized the guests in attendance.

With the Chair's authorization, Judge Demers and Walt Smith joined the meeting via tele-conference, due to the cancellation of their flight.

Approval of Meeting Minutes

Judge Morris asked if there were any revisions to the draft minutes from the December 3, 2005, meeting. Carol Lee Ortman requested that the minutes be revised to reflect her absence from the meeting. Judge Francis made a motion, seconded by Judge Laurent, to approve the meeting minutes as amended. The motion passed without objection.

II. Appeals of Executive Committee Decisions

- A. Chief Judge Kathleen Kroll, Fifteenth Circuit, requested that the TCBC review a decision by the Executive Committee to deny her request for a 5% special pay increase for her judicial assistant. The request was made to recognize the additional administrative duties that are performed in association with the administrative responsibilities of a chief judge. Judge Kroll added that her JA was entitled to a 10% increase in January 2005, for her promotion from Administrative Secretary to Judicial Assistant, but due to misinformation received at the time, this personnel action did not occur.

Judge Laurent stated that the Executive Committee's decision was based on a "special increase" request for service to the chief judge, and that if the request was approved the same accommodation would have to be made for the other 19 chief judges. Judge B. Perry added that the Executive Committee did not know the employee may have been entitled to the increase due to the promotion.

Judge Morris stated that Judge Kroll may allow the Commission to vote now on the original request, or withdraw the request and resubmit it as it relates to the promotion.

Judge Kroll withdrew her request.

- B. Chief Judge Kerry Evander, Eighteenth Circuit, appeals the Executive Committee decision to deny his request that a judicial assistant retain her former salary upon her appointment as judicial assistant to a county judge. The Executive Committee denied this request since it has consistently denied similar requests for appointments above the minimum for employees who have moved from county-funded positions to state-funded positions, subsequent to Revision 7 implementation.

Judge Morris called for a vote and all members were opposed to overruling the Executive Committee's decision, and the decision to deny the request stood.

III. Legislative Update

1. Trial Court Budget Request

1. Classification and Pay Study Update

David Pepper reported that Management Advisory Group (MAG) drafted a final report which was submitted to the Executive Committee. MAG analyzed the Job Analysis Questionnaires (JAQ), completed by 87% of State Courts System (SCS) employees, to determine the proper classification of all positions. MAG developed a Classification and Pay Schedule based on a point factor ranking, determined by the

completed JAQ, to assign classes to appropriate pay grades and properly align classes of positions. MAG recommends the following:

- Adjustments to the minimum salary of each class of positions according to a market survey of competing employers for comparable positions in state and local government, other state government, and appropriate private sector employers.
- Pay adjustments to increase salaries to the proposed minimum for SCS employees currently paid below the proposed minimum and to increase salaries to the market rate (midpoint of the salary range) for employees paid below the survey market rate based on the years of service in their current position classification. Employees who are paid below the market rate and who have less than ten years of service in the class would receive a pro rated increase based on their in class service.

Executive Committee members are meeting regularly with legislative leadership and staff to advocate for full implementation of the recommendations of the study. The Committee's positions are:

- All SCS employees would receive the legislatively authorized across-the-board salary increase.
- Salary adjustments guided by the consultant's study would incorporate funding provided for the across-the-board increases. Employees would receive a pay adjustment based on the consultant's report or the legislative increase, whichever is greater.
- The Committee is holding firm on the need to increase the minimum salaries and provide increases toward the market rate. Ultimate adjustments may have to be reduced depending upon approved legislative funding, if any.

Lisa Goodner stated it is important to remember that only employees who are below market will receive an increase. Employees above market will only receive the legislatively authorized across-the-board increase. Judge Morris cautioned that it is not known what funding will be received, if any, and suggested to not create an expectation that may not be met. David Pepper is working on an equitable plan should partial funding be received.

Judge Morris stated that after the original study was distributed, several concerns were raised. Since that time, the study was revised several times. Judge Perry added that no one employee will receive more than \$10,000 and no employee will receive zero dollars. All employees will at least receive the legislatively approved cost of living increase. Judge Laurent stated that no plans should be made to spend funds we do not have.

2. Operating Budget

Dorothy Burke reviewed several items of the side-by-side chart for the State Courts System legislative budget request, Senate Proposal, and House Proposal.

- Line 41 in administered funds was amended. The original request was \$8.1 million. Line 42 was added to include 53 FTE and the requested funds split between the two lines, and all are non-recurring. The 53 FTEs are a portion of the positions requested by the SCS.
- Line 44-management of court appointed counsel in OPS funds
- Line 48-\$2 fee moved to trust
- The remainder of the administered funds issues are member projects.
- Lines 80 and 81-certification of additional judgeships are placed in a bill and not taken up in the appropriations bills.
- Lines 83 through 90 – pay and benefits issues are handled by the House and Senate leadership.
- Line 99 – equipment transfer was funded last year but was placed in non-recurring.
- Lines 100 and 101 – Fund Shift is intended to shift benefits and expense to trust for the 20 trial court technology officer FTE.

B. Other Bills of Interest

Lisa Goodner distributed and reviewed a chart showing the status of judicial certification. Also reviewed was the proviso language for line 3261 regarding leave policies for circuit and county judges in the proposed Senate general appropriations bill. Ms. Goodner stated that if we can demonstrate that all circuits have entered an order, the proviso may be deleted. Judge Morris explained that the legislature has authority to direct how funds are spent and a proviso expresses intent of the legislature.

IV. Budget Management Committee Report

A. Summary of Executive Committee Emergency Decisions

Due to time limitations the materials for this section was not reviewed. Judge Morris encouraged the members to review at their convenience.

B. Status of Current Year Budget

1. Salary Budget

Dorothy Burke reviewed the status of the current year salary budget. As of February 28, 2006, the actual total payroll expenditures in Circuit Court is under appropriation by \$4.8 million. Almost \$2.5 million has been generated in lapse. Annual leave/sick leave payouts to date are \$365,653. It is estimated that an additional \$250,000 will be paid through June 30th. According to calculations by the Office of Personnel Services, a permanent savings of \$707,807 in salary dollars has been realized and is attributable to terminations, with replacements being hired at the minimum.

In County Court, the total payroll expenditures are about \$700,000 under the appropriation. Lapse in the amount of \$962,250 has been generated. Annual leave/sick leave payouts to date are \$96,177. It is estimated that an additional \$50,000 will be paid through June 30th. According to calculations by the Office of Personnel Services, a permanent savings of \$81,042 has been realized and is attributable to terminations with new hires being hired at the minimum.

The Office of Personnel Services is researching other personnel actions that may have impact on the permanent savings amount.

2. Expense, Due Process and OPS Funds

Dorothy Burke reported that as of February 28, 2006, the percent of budget expended should be less than or equal to 67% based on 8 months' of expenditures (assuming an average monthly amount). An increase in expenditures is expected to occur closer to year end due to billings in arrears.

➤ Expense

- Circuit – The Expense category is below the 67% target with \$5,541,308 (38.3% of the \$14,453,465 appropriation) expended/encumbered.
- County Expense – The Expense category is below the 67% target with \$1,358,417 (31.9% of the \$4,261,554 appropriation) expended/encumbered.

➤ OPS

The Other Personal Services (OPS) category is below the 67% target with \$385,900 (41.3%) of the \$934,801 appropriation expended. The majority of OPS funds are for temporary employment for JA illness/absence.

➤ Due Process

- In the Expert Witness element, of the current appropriation of \$5,984,720, 45.7% (or \$2,735,930) of the budget has been expended/encumbered.

As of March 30, 2006, the 1st, 2nd, 10th, 11th, and 16th Circuits have initiated *Procedures for Contingency Fund Access for Deficits in Due Process Services Appropriation Categories* affecting this element.

- In the Court Reporting element, of the current appropriation of \$7,790,608, 49% (or \$3,943,794) has been expended/encumbered.

As of March 30, 2006, the 10th, 11th, 14th, and 16th Circuits have initiated *Procedures for Contingency Fund Access for Deficits in Due Process Services Appropriation Categories* affecting this element.

- In the Court Interpreting element, of the current appropriation of \$2,532,092, 66.7% (or \$1,688,862) has been expended/encumbered.

As of March 30, 2006, the 1st, 2nd, 10th, 14th, and 16th Circuits have initiated *Procedures for Contingency Fund Access for Deficits in Due Process Services Appropriation Categories* affecting this element. Seven other circuits have reported that they project deficits but felt they could cover the deficits with other funds within their own circuit.

3. Cost Recovery for Mediation

Circuits are limited to spending the mediation fee collection funds on contractual mediation services based on cash received and spending authority. Spending authority was set by TCBC for each circuit in both fiscal years 2004-2005 and 2005-2006. For trust fund/cost recovery in fiscal year 2005-2006, spending authority for each circuit for contractual mediation services was set by projecting out 2004-2005 deposits to year-end and allocating the remainder of the appropriation back to the circuits based on the percentage of annualized deposits.

Spending authority for mediation cost recovery for fiscal year 2005-2006 is set at \$2,229,292. As of February 28, 2006, cash revenues for mediation fees are \$1,171,210, which totals 52% of the spending authority set.

Expenditures/encumbrances from the cost recovery fund for contractual mediation services through February 28, 2006 total \$591,481 (26.53% of the spending authority set and 50.5% of the cash revenues). Circuits that collect more than their allotted spending authority may offer assistance to other circuits.

C. Year End Spending Plan for Circuit Funds

Judge Laurent reviewed data from the circuit forecasting of unobligated funds and the estimated unobligated funds based on actual expenditures. He reminded the members that funds in the Expense and OPS categories cannot be used for technology. He reiterated TCBC policy that due process funds can be used for technology related to due

process services. Judge Laurent also stated that a change in statute requires goods to be ordered and encumbered by June 30th. Goods must be received and paid by September 30th.

Judge Moran stated that all chief judges recently received a Supreme Court report regarding pandemic preparedness and would like the TCBC to address the impact to the budget. He also asked if the expenses associated with the preparedness is considered a due process expense. Judge Moran was concerned about the additional funds needed for this new plan and as it would relate to the year end spending plan. He expressed interest in keeping funds at the circuit level, instead of pooling for the statewide plan.

Greg Cowan stated that the pandemic preparedness report does not state circuits must or must not spend money on the plan. The report outlines seven specific tasks that circuits must address and contains a deadline of November 30, 2006. Judge Morris stated that because the majority of the commission has not seen the report, no action would be taken until the seven tasks were reviewed and compared to existing TCBC policies.

Judge Laurent stated that a specific year end spending plan has not been developed. Suggestions from the circuits, court reporting plan data, and now the pandemic preparedness information, will be compiled and forwarded to the Budget Management Committee and the Funding Methodology Committee. The purpose of this discussion was to address the difference in the circuit and OSCA forecasts and to identify all possible funds for the plan to avoid reversion.

D. Service Awards Policy for Trial Court Employees

Judge Morris reviewed the proposed policy. The award: must be an allowable state expenditure; may not cost more than \$100 each, plus applicable taxes; and may not be awarded prior to May 1 of each fiscal year. The employee must: have been on the SCS payroll in an established or OPS state funded position for at least six continuous months prior to the award; not have been on leave without pay consecutively for more than six months during the fiscal year; have sustained no disciplinary action during the period beginning July 1 through the date awards are distributed; and have demonstrated a commitment to the court's mission.

Judge Laurent stressed that the intent is to recognize distinguished service and is not the intent of the program to provide awards across-the-board to all employees at one time.

Wayne Peacock made a motion to approve the State Courts System Employee Awards Program as outlined in the policy. Carol Lee Ortman seconded and the motion was passed without objection.

V. Funding Methodology Committee Report

Carol Lee Ortman stated that the Executive Committee recommended this item be deferred until the June meeting. This item is very important, as there is a recommendation to modify the TCBC Operational Procedures to create a formalized allocation review process for the trial courts.

Sharon Buckingham summarized that the Funding Methodology Committee was formed to assist with the establishment of a unified approach for determining the trial court budget. Two functions of the Committee are to provide recommendations to the Commission regarding the allocation of new and existing resources and to provide recommendations for the development of the Legislative Budget Request for the trial court elements. One of the Committee's recommendations is to formally codify the process for determining circuit allocations in order to bring structure and organization to the existing process.

Carol Ortman also pointed out that there are recommendations from the Committee for an effective date for the formalized allocation review process and criteria for evaluating resources requests during the review process. Further, the Committee is recommending the continued prohibition of grant project requests; a set of criteria for reviewing funding methodologies as directed by the Commission; and a deferment in reviewing general magistrate and hearing officer funding methodologies.

Judge Morris expressed the importance of reading the materials for this issue in depth before the next meeting.

Chief Justice Barbara Pariente addressed the Commission. She stated that the issue of the pandemic preparedness plan is how to keep the courts open, and how does our emergency preparedness plan we already have in place compare. With the mortality rate at 50%, how do we address situations if court staff or jurors are down 50%? Multitudes will look to the court for emergency orders, quarantines, etc. Florida is leading the country in addressing this issue.

Chief Justice Pariente reiterated the LBR funding strategy of the judicial branch. Her priority is pay and benefits for judicial branch employees. She will do whatever she can to advance the priorities of the Judicial Branch. Chief Justice Pariente also commended the work of the TCBC for setting a model of operations and unification.

VI. Update on Commission of Trial Court Performance & Accountability Projects

Judge Alice Blackwell White gave an update on TCP&A Commission projects. In January 2006, Chief Justice Pariente brought together thirty-one individuals, to begin a process that would serve as the foundation for the comprehensive program of services for self-represented litigants in Florida's trial and appellate courts. Participants included clerks, court

administrators and other court staff, trial and appellate judges, lawyers, and others. The effort resulted in general findings, which were summarized in an action report and recommendations prepared by Greacen Associates.

The workshop deliberations, including the consensus on forty-seven threshold services needed by self-represented litigants, were designed to serve as input for the trial and district court performance and accountability commissions. A survey on self-help services was forwarded to chief judges, appellate clerks, and trial court administrators. Judge Blackwell White distributed the summary of responses received to the TCBC members.

Judge Blackwell White has appointed a subcommittee, chaired by Chief Judge Robert Bennett, to develop a service model that will define the threshold level of service needed by self-represented litigants, responsibility for delivering those services, and the methods and technology to deliver them.

The subcommittee is seeking to design a service model with enough detail that the TCBC could devise a funding methodology. The subcommittee may have the framework completed for the tentatively scheduled June TCP&A meeting. The TCBC will need to consider centralized and local funding methodologies, establish priorities, and develop legislative strategies.

Judge Blackwell White also reported that the TCP&A was asked to review the role of the circuit Article V Indigent Services Committees and if chief judges should be involved. A placeholder with non-recurring dollars to provide interim staffing for circuit court-appointed counsel functions may be recommended.

Finally, Judge Blackwell White acknowledged that the TCBC has requested that the TCP&A review the use of expert witnesses in order to identify branch consensus on expert witness practices, costs, and accountability, in sufficient detail for developing funding methodologies.

Judge Morris requested that OSCA staff forward a copy of the legislative budget timeline, when finalized, to Judge Blackwell White. Judge Morris thanked Judge Blackwell White and the TCP&A for their work, which is the foundation of best practices, and allows the TCBC to make important budget decisions.

VII. Legislative Activities Related to Clerk of Court Functions

Greg Smith summarized House Bill 7235 which affects the clerks' budgeting process, court costs, and reporting requirement of traffic fees. Judge Francis added that a change in the distribution of the \$4 service charge is proposed, reducing the portion for CCIS to 5 cents and increasing the portion for court-related technology services for the state courts, state attorneys, and public defenders to \$2.05. Also proposed is that the \$2.05 fee be distributed to

a Court Technology Trust Fund instead of the board of county commissioners, and gives the chief judge final authority on the use of funds.

Judge Moran stated that language is needed to clarify the entity responsible for court technology. Judge Morris added that during the 2004 legislative session, no funding was provided to the county for technology costs. At the end of session, counties received the \$2 fee to assist, but some counties consider this money as a cap. Language may be suggested to clarify that the \$2 fee is provided to assist/supplement the county with their funding responsibility.

VIII. Discussion of Legislative Priorities

Included in the materials was a proposal to amend Subsection (5) of section 119.071, F.S., related to redaction of court records. Judge Morris stated that the official record is not a part of court business and the court does not want any conflict in this matter.

IX. Other Business

Judge Morris reported that the Executive Committee approved the transfer of senior judge days for circuits needing additional resources.

X. Adjournment

The next meeting of the TCBC will be June 10, 2006, prior to the start of the summer educational program of the Conference of Circuit Court Judges, in Naples. The primary purpose of the meeting is to vote on the FY 2006-07 trial court budget allocations.

A TCBC meeting is planned for August 30, 2006, in Tampa. The primary purpose of the meeting is to vote on the FY 2007-08 Legislative Budget Request.

Judge Morris thanked OSCA staff for their work in producing the meeting materials and also thanked the trial court administrators for providing information to OSCA staff for the production of the materials.

With no other business before the commission, Judge Morris adjourned the meeting at 1:30 p.m.