

Trial Court Budget Commission
Meeting Minutes
April 17, 2009



Attendance - Members Present

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

Attendance - Members Absent

Hon. Susan Schaeffer	Ruben Carrerou
Hon. Mark Mahon	

Judge Belvin Perry called the Trial Court Budget Commission (TCBC) meeting to order at 12:03 p.m.

Welcome and Introduction of Guests

Judge B. Perry welcomed the members and the roll was called. He thanked Lisa Goodner and OSCA staff as well as Judge Laurent, Judge Farina, Judge Francis, Judge Mahon, Carol Ortman, and Judge Roundtree for all their hard work during session and for the help received from the Conferences. He stated that the Legislature was preparing for budget conference and there are obstacles to overcome but, with work and discipline, the Courts will survive.

I. Update on Legislative Session

Lisa Goodner briefed the members on the status of the Appropriation bills and stated that the Senate had passed their version of the bill and the House was still debating

theirs on the floor. It was expected the House would finish today and the Conferees would be announced. The Conference block is scheduled to begin Monday, April 20th at 8:00 A.M. but has not yet been noticed.

Dorothy Wilson reviewed a side by side comparison of the House and Senate budgets to show where the major differences occur. The House bill cuts 23 FTE in OSCA and \$2.3M. This cut reduces salary and benefit dollars and all but \$100,000 in OSCA expenses. There is no similar cut in the Senate's bill. Federal Grant Trust Fund Authority in the trial courts is reduced in both the House and Senate bills. This is a technical adjustment to match the Child Support Enforcement grant contract amount. Additionally, the House bill fund shifts \$24.3 M from General Revenue (GR) to the State Courts Revenue Trust Fund (SCRTF) all in the trial courts; however, the Senate's bill fund shifts \$199.1 M throughout the branch except for the JQC budget entity. Both bills provide for additional funds to Drug Court: \$6 M in the House bill to enhance administration and data collection and \$8M in the Senate bill to establish or enhance post plea drug courts in the 9th, 10th, 13th and 17th circuits to pay the salaries and benefits of case manager and other personnel needed in post plea drug courts.

Additionally, the House has proposed a 4% pay reduction for those individuals making \$26,400 to \$80,000; and a 5% pay reduction for those individuals making over \$80,000. The Senate has proposed a 1% pay reduction for those individuals making over \$100,000. The amount this totals to is unknown at the time as it is all lumped in the General Government budget as one number for the entire state.

Kris Slayden reviewed the House and Senate revenue bills and their fiscal impact upon the SCRTF. She stated that HB 5117 was amended to remove a number of fees and now has been enrolled with \$80.7 M from a foreclosure sliding scale filing fee effective June 1st to be directed into the SCRTF. HB 5119 does not affect the SCRTF. SB 1718 directs a total of \$259.4 M to the SCRTF: \$214M from a sliding fee schedule in select civil and probate cases which includes cross claims (foreclosures sliding fee schedule is effective June 1, 2009; all other fees are effective January 1, 2010) and 44.8 M from a redirect of \$80 in circuit court filing fees from the Clerks. Walt Smith asked about the source for the number of foreclosure filings and whether the 2006 filings data was used. Ms. Slayden responded that there were approximately 400,000 foreclosure filings in FY 08-09 with an anticipated 200,000 filings for FY 09-10. The 200,000 was the number used to forecast the revenue. However, that number is still higher than the average 65,000-70,000 foreclosure filings prior to FY 08-09. Ms. Slayden also noted that there is no approximation of when the foreclosure crisis will end.

Ms. Goodner stated staff worked with the TCBC Executive Committee the previous day for a conference proposal to address the differences between the House and Senate bills. The Executive Committee approved a starting point which addresses the Bar's concern regarding the sliding scale fee proposal and the branch's concern on the reliance of the various proposals as stable revenue streams for the courts.

Ms. Slayden reviewed a chart reflecting the potential revenue streams to allow for fund shifts from GR to the SCRTF outlining the three categories of revenues:

1. Existing Revenue that directs current revenues to the SCRTF: For FY 09-10, these revenues would produce only 11 months' worth of collections and, therefore, the projected cash has been adjusted down for 11 months.
2. New Revenues that will be created to be deposited into the SCRTF: Most of these new revenues would only allow for 10 months of collections, therefore, the projected cash has been adjusted down for 10 months.
3. Redirect of SCRTF collections from Special Session A back to GR: Redirect fines authorized for deposit into the SCRTF during Special Session back to General Revenue and only keep the \$5 Traffic Fine Assessment at 12 months projected cash.

Ms. Slayden then reviewed each source of revenue within those categories and their projected amounts for an annual fiscal impact of \$229.5 M and for projected cash of \$207.8 in FY 09-10 based on the number of months cash would be received. She also reviewed the proposed amounts the State Courts System (SCS) would be giving up in GR, the additional trust authority the SCS would receive including the amount needed for the service charge to GR, and the next gain to the SCS budget of approximately \$.3 M. She stated that Ms. Wilson would be reviewing that information with the Commission in more detail further on the agenda. Ms. Slayden then reviewed two additional potential revenue streams where cash would not be available until FY 10-11: a \$100 fee for cases that exceed 365 days and 730 days and a notice of Trust fees increase from \$41 to \$150.

Mark Weinberg asked how the estimated revenue for the \$200 Repeat Violence filling fee was derived. Ms. Slayden replied that the SRS data was used and reduced down to accommodate for the approximately 66% of cases that are dismissed, therefore producing a more realistic number of true repeat violence cases versus those that may be filed frivolously. There was concern voiced regarding this fee due to VAWA (Violence Against Women Act) requirements and it was noted that the only relevant issue to repeat violence cases is stalking. That concern has been

addressed in an amendment which would not require a filing fee for those repeat violence cases involving stalking.

A question was raised regarding the indigent rate for civil cases and Ms. Slayden responded that the indigent rate in civil cases is only about 2% and adjustments to the revenue projections have been made for that. However, she noted, the collection rate in civil cases are almost equal to the filing fees required.

Judge Farina stated he heard the Bar was floating a proposal for indigent filing fees to be waived. Ms. Goodner stated that as of Thursday morning an amendment to SB 2108 regarding this issue was withdrawn and did not go into the bill. Judge Farina asked about the likelihood of the issue coming up again and whether it may be picked up in the House. Ms. Goodner stated it could come up in conference and that staff will have to watch the House side for it.

Ms. Wilson reviewed the detail of the Fund Shift from GR to SCRTF Proposal chart and pointed out that in the Revenue section of the chart, the 20% contingency was to give the SCS a buffer in the event that revenues do not come in as projected during the fiscal year. Ms. Wilson then reviewed the GR reduction section of the chart. Charlotte Jerrett discussed the Trust Fund administration amount of \$296,480 in that section, stating that the Office of the State Courts Administrator (OSCA) has no revenue division and, several factors involving the SCRTF require staff to manage and closely monitor the SCRTF. This proposal is based on researching DCF, DOT, JAC and DJJ's management of significant trust budgets. This issue has not been approved by legislative staff but has been approved by the Executive Committee. Ms. Wilson went on to explain that the proposed fund shift does not impact the Supreme Court, District Courts of Appeal or JQC. In Circuit Courts, all elements but the Judges salaries and benefits and corresponding HR Services are proposed to be fund shifted to the SCRTF. Additionally, the Child Advocacy Grant, Risk Management and Statewide Grand Jury categories were also left in GR since these are pass-through categories to other agencies. In County Courts, all categories would be fund shifted to SCRTF less the judges' salaries and benefits, corresponding HR Services and the Risk Management pass-through category. In OSCA, all GR categories would be fund shifted to SCRTF except for salaries and benefits, \$55,000 in OCO, \$465,000 in Florida Cases, and the Risk Management and HR Services Assessment pass-through categories. Additionally, the new Trust Fund administration positions' salaries and benefits and HR Services Assessment are proposed to be funded with the SCRTF. Ms. Wilson noted that for FY 10-11, \$15.9 M in new trust authority would be needed for annualization with a corresponding reduction in GR.

Greg Smith reviewed a side by side analysis of House Bill 1121 and Senate Bill 2108 pointing out the similarities and differences between the bills. For example, SB 2108 places the Clerks of Courts Operations Corporation (CCOC) in the Justice Administrative Commission (JAC) while the House makes the Clerks subject to the state appropriations process; SB 2108 defines the CCOC as agency for the purposes of chapter 216 while the House bill does not. Mr. Smith noted that at the time the chart was prepared that only the House bill provided that the winning bidder shall pay the service charge for electronic sale and the costs of electronic tax deed sales are to be added to the charges for costs and paid by the certificate holder and allows the counties to pass an ordinance for the payment of a surcharge to fund court facilities. The Senate bill now also contains that language. Ms. Goodner noted that the Senate has passed 2108 and has certified it to the House asking for concurrence to the Senate bill or, in the alternative, for a conference committee to be established.

Walt Smith asked if there was a sense of where all the provisions of these bills will end up and whether the trial courts had a position of one bill over the other. Judge Perry stated that one bill was not preferred over the other and that the trial courts would just point out particular items preferred in each bill. Judge Perry stated that ultimately the trial courts seek accountability and transparency in regards to clerks' operations.

Judge Robert Morris asked what he could tell his judges regarding the likelihood of a pay cut. Judge Perry stated guidance on the issue would be provided next week. Lisa Goodner also stated that the previous day, the Unified Committee of Judicial Compensation, led by the Chief Justice, met to work on a unified approach to the issue for the branch.

II. A. Operating Budgets

Dorothy Wilson provided a status of the trial court operating budgets as of March 31, 2009 which has been reviewed by the Budget Management Committee. Average spending rates by March should be about 75% of total budget while the actual spending rates are considerably lower. Due process expenditures are about 5% lower as compared to the same time period last fiscal year. Ms. Wilson referenced an email she sent out on April 13, 2009 to initiate Step 4 of the procedures for addressing deficits in the Due Process Services appropriation category following the Budget Management Committee's receipt of a certified Due Process deficit. The circuits have another week to respond and the issue will then be brought to the TCBC.

B. Trust Fund Cash Balances

Ms. Jerrett reported on this agenda item stating that the BMC reviews the trust fund balances on a monthly basis to monitor the overall health of the trust funds and identify any areas of fund management that may require special attention. This monitoring includes analyzing revenue streams, expenditure trends, and any build-up of unobligated cash balances.

As of March 31, 2009, the cash balances were as follows:

Mediation/Arbitration Trust Fund –	8,261,362
Operating Trust Fund –	2,135,176
State Courts Revenue Trust Fund –	818,795

The State Courts Revenue Trust Fund was authorized in law effective February 1, 2009, with deposits beginning in the month of March. Revenue collected as of April 14, 2009 is \$1,146,961.

C. Salary Budgets

Ms. Wilson provided a review of the trial court payroll projections as of March 31, 2009 stating the payroll projections had been adjusted for the SCRTF shifts and reported the following:

For General Revenue, after applying salary lapse and leave payout, the payroll liability was \$1,979,275 under the circuit court salary appropriation. This amount represents 0.9% of the circuit court salary appropriation. While a hard hiring freeze remains in place, little turnover was experienced. The payroll liability was \$217,699 under the county court salary appropriation. This amount represents 0.3% 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.

Ms. Wilson noted that the SCRTF salary appropriation is reflected at \$10,804,925 and that this is budget authority, not to be confused with actual cash. The project full employment payroll liability, which assumes that every position is filled, through June 30, 2009 is \$11,229,387, leaving a liability over appropriation of \$424,462. Forecasted payroll adjustments through June 30, 2009, which were calculated using lapse generated in March, and assuming those positions remain frozen, totaled \$984,955. This brings the adjusted payroll liability to \$560,493 under appropriation. Estimated remaining payouts were

calculated using the two year average payout for the positions that have been shifted from GR to SCRTF and that amount adds \$94,555 to the liability for a final adjusted liability of \$465,938 under the appropriation. This amount represents 4.03% of the SCRTF salary appropriation.

D. April Payroll - SCRTF

Ms. Jerrett stated Special Session A provided for the transfer of 704.75 FTE and \$10,804,925 from GR to the SCRTF effective April 1, 2009. The projected payroll expenditures for the month of April are \$3,379,432. Revenue collections through April 14, 2009 were \$1,146,961 and projected to be \$1.2M through April 23rd leaving a cash shortage of \$2,236,748 (after projected April payroll expenditures on April 24th and the 7% GR surcharge due April 15th are applied). Historically, collections increase from the 15th to the 20th of each month so there is hope that revenue generated will increase by the time payroll runs to help with the shortage in cash. The staff recommendation, approved by the Executive Committee, to cover the payroll shortages in the SCRTF was the following:

1. Cover payroll shortage with maximum available General Revenue salary budget amounts and preserve trust fund cash balance from the Operating Trust Fund for future use, if necessary.
2. Seek authority from the legislature to use unobligated trust fund cash balances from the Mediation/Arbitration Trust Fund and the Court Education Trust Fund in the current fiscal year, to alleviate potential payroll shortages in May and June.
3. Monitor the State Courts Revenue Trust Fund closely to identify revenue trends (as data becomes available).

Mark Weinberg asked how confident staff was in regards to the SCS receiving all funds that have been authorized. Ms. Jerrett stated that no audit trail exists before the funds are received by the Department of Revenue so the court has no way of knowing for sure what is coming in. Judge Brunson asked who was responsible to audit these funds at the point they come in to the Clerks' offices. Ms. Goodner responded that the state requires that each Clerk have an annual audit completed by a Certified Public Accountant but these audits do not necessarily test with such specificity.

Judge Farina inquired about the cash balance of the Court Education Trust Fund. Ms. Jerrett stated it is currently around \$2.1 M but the legislature swept \$2M during Special Session A so the amount available for use is currently about \$1M.

Walt Smith made a motion, seconded by Judge Roundtree, to approve the staff recommendation to cover the payroll shortfall in the SCRFT. The motion passed without objection.

E. Requests for OCO Allocations

Dorothy Wilson provided a review of the Operating Capital Outlay funding. She noted that the TCBC voted to pool the total budget amount of \$286,883 in a Reserve account and that, to-date, the TCBC has approved requests from that reserve totaling \$194,027 leaving a balance of \$92,856. The requests before the TCBC, if approved, would leave \$29,456 in the pooled OCO reserve account.

Ms. Wilson then reviewed the requests from the 5th, 10th, 18th and 11th Circuits to access the OCO Reserve and reported the following:

- **5th Circuit**
 - The circuit requests \$20,189 to purchase furniture for judges' offices. No surplus furniture is available to fill this need.
 - The circuit requests \$2,802 to purchase furniture for judges' chambers in the Marion County Judicial Expansion.

The Budget Management Committee and the Executive Committee recommended approving \$20,000 from the OCO Reserve and recommended the 5th circuit utilize existing expense funds for the remaining balance. Judge Roundtree made a motion, seconded by Judge Morris to approve the request. The motion passed without objection.

- **10th Circuit**
 - The circuit requests \$24,780 to purchase a replacement backup recording system for court reporting in Polk County. The 10th circuit was unable to replace their failing backup recording servers for Electronic Court Recording in the prior fiscal year.

The Budget Management Committee and the Executive Committee recommended approving \$19,000 from the OCO Reserve and recommended the 10th circuit utilize existing expense or cost recovery funds for the

remaining balance. Judge Roundtree made a motion, seconded by Judge Bryan to approve the request. The motion passed without objection.

- **18th Circuit**

- The circuit proposes to return \$20,000 to the OCO Reserve that had been approved at the October 31, 2009 TCBC meeting.
- The circuit requests \$8,100 to purchase replacement digital recording equipment for the Courtroom 4D at the Moore Justice Center.

The Budget Management Committee and the Executive Committee recommended accepting the return of the \$20,000 to the OCO Reserve and to deny the request for \$8,100 to purchase replacement digital recording equipment. Judge Roundtree made a motion, seconded by Judge Farina to approve the request. The motion passed without objection.

- **11th Circuit**

- The circuit requests \$4,749 to purchase furniture for relocation of a judge's chamber. The few furnishings existing in the office is over eighteen years old and is in disrepair.

This request was not considered at the last Budget Management Committee meeting and the Executive Committee recommended it be referred back to the BMC for consideration at their next meeting. Judge Farina asked why the request had not been considered since the request was made before the last BMC meeting. Ms. Wilson stated she had been out ill for over a week and the request which was emailed to her was not seen until she returned. By that time, it was too late to get on the agenda. Judge Bryan asked if the TCBC could vote on the request today and Judge Perry stated that in the past these requests have first gone through the BMC.

F. Child Support Enforcement Hearing Officer

Charlotte Jerrett stated that on March 31, 2009, the Florida Department of Revenue (DOR) informed the Office of the State Courts Administrator (OSCA) that they were contacting all of their child support partners to determine if any funds will remain unspent at the end of the current fiscal year. Any unspent funds will be used by DOR to mitigate the impact of their 4% cash release hold-back. DOR proposes to amend the current Inter-Agency agreement with the OSCA in an amount that is determined to have no impact on program operations

for the remainder of this fiscal year. Notwithstanding any unrelated action that may occur during legislative session, this will be a non-recurring reduction in the current fiscal year.

After budget staff's analysis of expenditure data, it was noted that potentially \$480,000 could be reduced, the staff recommendation was to reduce the DOR Inter-Agency agreement by a conservative amount of \$350,000. This amount will provide some cushion for leave payouts or any anomalies with expenditure trends.

The staff recommendation was approved by the Executive Committee. Judge Roundtree made a motion, seconded by Judge Pittman, to approve the request. The motion passed without objection.

III. Discussion and Recommendation on Travel Policy for Upcoming NCSC and NACM Events

- a. CTC 2009, September 22-24, 2009 – Denver, CO
- b. NACM Annual Conference, July 7-11, 2009 – Boston, MA

The BMC and Executive Committee recommend requesting the Chief Justice to lift the travel freeze for these events but only if non-state funds are used, e.g. county funds, personal funds or travel funds compensated by the respective conference. Walt Smith asked why the recommendation would be limited only to these two events and not applied to other education, training and conferences since state funds would not be used. Judge Pittman clarified that although state funds were not being used for travel, the state would be paying the salary during an individual's attendance and therefore, unless annual leave was used, a request would need to be sent to the Chief Justice for approval. Judge Farina asked for a placeholder on the agenda for the next TCBC meeting for further discussion on the issue.

Judge Roundtree made a motion, seconded by Judge Pittman to approve the request as recommended by the Executive Committee. The motion passed without objection.

Judge Farina thanked Judge Perry for his hard work with the legislature and his leadership on behalf of the trial courts.

Adjournment

With no other business before the commission, Judge Perry adjourned the meeting at 1:30 P.M.