

**Trial Court Budget Commission  
Meeting Minutes  
July 24, 2010**



**Attendance – Members Present**

The Honorable John Laurent, Chair  
The Honorable Margaret Steinbeck, Vice Chair  
Mr. Mike Bridenback  
The Honorable Catherine Brunson  
The Honorable Paul Bryan  
The Honorable Kevin Emas  
The Honorable Joseph Farina  
The Honorable Charles Francis  
Mr. Tom Genung  
Ms. Sandra Lonergan

The Honorable Thomas McGrady  
The Honorable Wayne Miller  
Ms. Carol Ortman  
The Honorable Belvin Perry, Jr.  
The Honorable Robert Roundtree  
The Honorable Elijah Smiley  
Mr. Walt Smith  
The Honorable Patricia Thomas  
Mr. Mark Weinberg  
Ms. Robin Wright

**Attendance – Members Absent**

The Honorable Mark Mahon

The Honorable Clayton Simmons

**Welcome and Approval of 06/04/10 Minutes**

Judge Laurent called the Trial Court Budget Commission (TCBC) meeting to order at 8:35 a.m. He expressed his appreciation for Chief Justice Canady providing him the opportunity to serve as Chair of the TCBC. He also thanked Judge Francis for his years as service as Vice-Chair and recognized Judge Steinbeck as the new Vice Chair. Judge Laurent presented outgoing Chair, Judge Belvin Perry, Jr. with an award in recognition of his exemplary service with the TCBC. Judge Laurent then directed TCBC members, staff, and guests to provide a brief introduction. The roll was simultaneously taken and a quorum was present.

Judge Laurent asked if there were any revisions to the June 4, 2010 meeting minutes. Lisa Goodner identified one correction. A motion was made by Judge Roundtree to adopt the minutes as amended. Judge Farina seconded and the motion was passed with none opposed.

**FY 2009-10 Year End Wrap Up**

**Salary Budgets**

Dorothy Wilson presented a breakdown summary of salary budget data by circuit, county and trial court. Ms. Wilson reported that at full employment the projected liability of salary appropriations for the trial courts was over by \$1,692,295. The adjusted liability of salary appropriations for the trial courts was under by \$7,356,909. The final adjusted liability was \$5,664,414 under the salary appropriation which is approximately 1.9% of the appropriation.

A handout providing a summary analysis of vacancy and lapse data was passed out to the members. Gary Philips reported that the total vacant Full Time Equivalents (FTE) at the beginning of FY 2009-10 was 149.25 compared to 72.75 vacant FTE as of July 12, 2010. The estimated lapse amount generated per month for vacant positions was \$691,962 at the beginning of FY 2009-10 and \$317,918 as of July 12, 2010. Additionally, Mr. Philips presented a monthly breakout of the circuit estimated lapse generated for FY 2009-10. The breakout showed both actual and estimated amounts. Lapse amounts were higher in the months of July and August due to the hard hiring freeze that was in place at that time. However, after the freeze was lifted on August 27, 2009 and the 30/60/90 day Salary Management Schedule simultaneously enacted, lapse amounts began to decline. Lapse amounts further declined after the Salary Management Schedule was fully implemented in December of 2009. For the benefit of the new members, Judge Laurent stated that the State Courts System (SCS) is never fully appropriated in the salary budget and therefore must manage lapse generated throughout the year. All state agencies are treated the same and the same lapse is applied for the salary appropriation, even though the SCS has lower turnover.

### **Operating Budget**

Ms. Wilson summarized the final status of the FY 2009-10 State Courts Revenue Trust Fund (SCRTF) operating budgets as of June 30, 2010. She noted that certified forward payments for goods and services acquired before June 30, 2010 but not invoiced until after June 30, 2010 will result in an increase in the expenditure data for the fiscal year. Certified forward payments may be processed through September 30, 2010. Ms. Wilson reported that of the \$9,949,581 total appropriation for Expense, \$6,585,295 had been expended and/or encumbered, leaving a remaining balance of \$3,364,286 in that category. In the Operating Capital Outlay (OCO) category, 96.54% of the \$838,188 appropriation had been expended and/or encumbered. The Contracted Services category had a remaining balance of \$543,435; \$803,599 of the \$1,347,034 appropriation had been expended and/or encumbered.

### **Due Process Budgets**

Ms. Wilson presented data on the status of the FY 2009-10 SCRTF Due Process budgets as of June 30, 2010. Similar to the operating budgets, an increase in the expenditure data is likely due to certified forward payments for goods and services. Spending rates for Expert Witness and Court Interpreting Due Process expenditures are slightly lower compared to this same time period last fiscal year and Court Reporting is slightly higher than last year. Of the \$20,057,164 appropriation for due process, 87.2 percent was expended and/or encumbered leaving a remaining balance of \$2,564,598. Judge Miller asked Ms. Wilson to provide an explanation of the term certified forwards for the new members.

### **Trust Fund Cash Statements**

Charlotte Jerrett presented information pertaining to the cash balances of three trust funds utilized by the trial courts: the Mediation and Arbitration Trust Fund (MATF), Operating Trust Fund (OTF) and the State Courts Revenue Trust Fund (SCRTF). Ms. Jerrett noted that expenditures include \$18.6 million to JAC for the payment of the General Revenue Service Charge for the Clerk of Court Trust Fund. In addition, \$4 million will be swept from the MATF at the beginning of the year resulting in a significant reduction to the cash balance. She further noted that at the beginning of the next fiscal year the State Court System will no longer utilize the OTF. Instead, the fund will be renamed the Administrative Trust Fund. Ms. Jerret reported that \$1.2 million remaining cash balance in the OTF will be transferred to the SCRTF.

As of June 30, 2010, the ending cash balances were as follows:

State Courts Revenue Trust Fund:	\$107,025,229
Mediation Arbitration Trust Fund:	\$16,826,558
Operating Trust Fund:	\$1,262,550

### **Projected Budget Reversions**

Charlotte Jerrett presented a chart that represented the preliminary FY 2009-10 SCRTF unobligated budget by category as of July 16, 2010. The General Revenue Fund had no reversions for FY 2009-10 in the Salary and Benefits category as it was maximized to pay for judicial salaries. Certified forward payments for goods and services acquired before the end of the fiscal year but not invoiced until after June 30, 2010 may be processed through September 30, 2010. The total estimated unobligated budget for the circuit courts was \$9,905,934 and \$1,189,704 for the county courts. The estimated trial court grand total for unobligated budget was \$11,095,638. Ms. Jerrett reported that all unobligated monies for FY 2009-10 will revert back to the associated trust funds in FY 2010-11 and staff will report to the Budget Management Committee after September 30, 2010 when the certified forward payment process is closed.

## **FY 2010-11 Trust Fund Revenue Projections**

### **Report from July 21, 2010 Article V Revenue Estimating Conference**

Ms. Slayden reported on the July 21, 2010 Revenue Estimating Conference meeting. Adjustments were made to the February 8, 2010 revenue projections based on more up-to-date information. She presented two charts. The first chart provided comparisons of the FY 2010-11 and 2011-12 revenue estimates from the February 2010 and July 2010 Conference. The second chart showed a breakdown of the SCRTF revenue projections by source. Proposed forecasts were provided to the conference principals by the Legislative Office of Economic and Demographic Research, the Executive Office of the Governor, OSCA and the Clerk of Court Operations Corporation. Official estimates were based on actual revenue receipts for FY 2009-10 and/or transaction data. Ms. Slayden directed the TCBC members to visit the Office of Economic and Demographic Research website for more detailed information on the estimates.

Ms. Slayden stated that the conference principals significantly decreased the revenue projection for the SCRTF in FY 2010-11 by \$43.9 million. She noted that the reduction was mostly due to mortgage foreclosure filings falling off fairly dramatically in recent months. Ms. Slayden presented a graph showing the amount of real property/mortgage foreclosure filings from July 2005 to July 2010. The graph noted that the FY 2010-11 filings are lower than FY 2009-10 due to lender backlog and 2011-12 filings are expected to increase as lenders work through the backlog. Research indicates that new foreclosure cases are not being filed as aggressively as last year because the mortgage companies are focusing on the backlog workload. Additionally, FY 2012-13 and 2013-14 filings are projected to decrease if the economy improves. The principals increased foreclosure revenue projections up for FY 2011-12 because they believe that there are still a significant number of delinquent mortgages that the banks/mortgage companies have not filed on yet.

The estimated revenues for the SCRTF include the new legislation that passed in 2010 on red light cameras and non-judicial foreclosure of timeshare properties. Ms. Slayden noted that the red light camera legislation is expected to add \$300,000 in revenue for FY 2010-11 and the non-judicial foreclosure of timeshare properties legislation may reduce revenue by \$100,000 in the same fiscal year.

For the Clerk of Court Trust Fund, the Conference reduced the revenue down again from \$505.9 million in FY 2010-11 to \$477.1 million (\$28.8 million decrease). Ms. Slayden reported that this is mostly due to foreclosure revenue that the Clerks receive and a reduction in the fine revenue, which represents a bigger portion of their revenue than it does in the courts' trust fund.

The forecasts for direct receipts to GR (from SB 1780 revenues in the 2008 Session, the \$80 redirect, counterclaims, 20.6% of fines and some other revenue sources) were also adjusted slightly downward from \$195.6 million in FY 2010-11 to \$189.0 million. Also, the amount projected as excess from the Clerks went down to \$0 from the original estimate of \$11.2 million. This is due to a revenue projection that is lower than the Clerk's budget of \$451 million plus the \$3.6 million Foreclosure initiative and the 8% service charge.

### **State Courts Revenue Trust Fund – Forecast Update**

Kris Slayden reported on this agenda item. She noted that the SCRTF continues to provide a stable funding structure for the State Courts System. In addition, foreclosure related revenue continues to be the dominate source of revenue for the trust fund. The Office of the State Courts Administrator (OSCA) monitors the trust fund closely and produces monthly assessments of projected revenue versus actual revenue.

Ms. Slayden presented a chart that identified FY 2009-10 revenue comparisons (projected vs. actual) for the SCRTF. The FY 2009-10 revenues came in \$35.7 million below the Conference's official February 2010 projections. This was due to a drop off in mortgage foreclosure filings in the last five months of the fiscal year. However, there was still an ending cash balance of \$107 million for FY 2009-10.

Ms. Slayden stated that OSCA will continue to monitor the revenue and will follow state and national statistics on the foreclosure crisis to make sure that the Revenue Estimating Conference is as informed as possible when they consider their official projections. There is discussion of a second and third wave of foreclosure activity that will result from properties outside the subprime mortgage defaults. As this foreclosure movement is unprecedented in recent history, there is little confidence in modeling of this trend.

The 2010 Legislative Session spent a portion of the State Courts System's FY 2009-10 excess cash on the Clerk of Courts service charge, the Foreclosure initiative, and fund shifted an additional \$88.5 million from GR to the SCRTF. Ms. Slayden then presented a chart that showed the estimated cash balances for FY 2009-10 through FY 2010-11. If revenues do not hold at the level projected for FY 2010-11, or they don't come in as high as projected for FY 2011-12, the SCRTF may not have adequate revenue to fund the State Court System in FY 2011-12. An estimated ending cash balance of \$13 million in FY 2011-12 does not provide a comfortable or adequate cushion for the SCRTF. As the foreclosure filings are projected to fall off in FY 2012-13 and FY 2013-14, there will be a definite deficit in the SCRTF. Judge Laurent noted that the \$13 million estimated ending cash balance for June 30, 2012 is dependent on the actual being equal to the projected increase in foreclosure cases.

## **FY 2011-12 Legislative Budget Request (LBR)**

### **LBR Schedule VIII B-1 Current Year (FY 2010-11) Reductions: 5%**

Dorothy Wilson read from the Office of Policy and Budget (OPB) instructions for the LBR: "The purpose of the Schedule VIII B-1 is to identify reductions from Fiscal Year 2010-2011 recurring and/or nonrecurring appropriations that could be used to address a potential revenue shortfall for Fiscal Year 2010-2011. Maintaining a balanced budget could require as much as a 15 percent reduction in recurring appropriations through Fiscal Year 2011-2012. Agencies are therefore being required to submit a Schedule VIII B-1 that contains reduction issues for Fiscal Year 2010-2011 recurring and/or nonrecurring appropriations, totaling at least 5 percent of their general revenue funds and at least 5 percent of their state trust funds, for consideration in addressing the expected shortfall." The instructions further note that the OPB will provide target reduction amounts in a separate memo and that the target reductions will be calculated from recurring and nonrecurring appropriations included in the FY 2010-2011 General Appropriations Act (GAA). Reduction targets will be adjusted for appropriate exclusions, such as federally restricted funds and certain pass-through items. (Pass-through items normally include such issues as Risk Management and the Human Resources Services Assessment.) Guidelines to be adhered to in preparing the Schedule VIII B-1 for the reduction issues include:

- The total for reduction issues must be available for reduction effective January 1, 2011 and must total to the 5 percent target reduction amount provided by OPB (i.e., the annualization amount may NOT be counted toward the 5 percent target). This means that the entire 5 percent reduction amount for FY 10-11 would have to be taken for the six-month period beginning January 1, 2011.
- The total reduction amount may be a combination of recurring and nonrecurring funds.

Ms. Wilson reported that at this time, OPB has not provided the target reduction amounts. Staff has estimated the 5% reduction amounts by utilizing the FY 10-11 GAA appropriations less Risk Management and the Human Resources Services Assessment appropriations.

Ms. Wilson presented a chart that reflects the impact on FTE in GR and trust funds within the Circuit and County Courts' budget entities, if reductions were taken utilizing Salaries and Benefits (excluding judges and TCAs). For the Trial Courts, the estimated annualized FY 2010-11 reductions would equate to approximately \$4.8 million in GR and \$30.3 million in the SCRTF. If the GR reduction was taken out of the SCRTF, the total reduction for FY 2010-11 in the SCRTF would be \$35 million or approximately 602 FTE. The impact to the trial courts as a whole is also reflected. The chart also reflects the impact if the GR reduction were to be taken in the SCRTF.

Ms. Wilson noted that a Salaries and Benefits reduction to reach the Fiscal Year 2010-11 reduction target would cause the FTE reduction to have to be doubled because ostensibly half of the salaries and benefits appropriation would have already been spent by January 1, 2011. However, this would also cause the FTE reduction in FY 2011-12 to be significantly lessened since the Salaries and Benefits reduction attributed to the FTE cut in FY 10-11 would be annualized.

### **LBR Schedule VIII-B-2 (FY 2011-12) Reductions: 10%**

Ms. Wilson read from the OPB instructions for the LBR: "The purpose of the Schedule VIII-B-2 is to identify recurring budget reductions that can be made in Fiscal 2011-12 in the event that budget reductions are necessary. Agencies are required to submit a Schedule VIII-B-2 that contains reduction issues for Fiscal Year 2011-12, totaling at least 15 percent of their 2010-11 recurring GR funds and at least 15 percent of their 2010-11 recurring state trust funds, for consideration in developing the 2011-12 budget."

As with the FY 2010-11 reduction exercises, the instructions further note that the OPB will provide target reduction amounts in a separate memo and will be calculated from recurring appropriations included in the FY 2010-2011 GAA. Again, reduction targets will be adjusted for appropriate exclusions, such as federally restricted funds and certain pass-through items. (Pass-through items normally include such issues as Risk Management and the Human Resources Services Assessment.) Guidelines to be adhered to in preparing the Schedule VIII-B-2 for the reduction issues include:

- All reductions must be recurring.
- The reductions taken for FY 2011-12 can include the same recurring cuts including annualizations proposed for FY 2010-11 on the Schedule VIII-B-1.

Ms. Wilson reported that at this time, OPB has not provided the target reduction amounts. Staff has estimated the 5% and the 15% reduction amounts by utilizing the FY 10-11 GAA amounts less Risk Management and the Human Resources Services Assessment appropriations.

Ms. Wilson presented a chart that summarized the reductions for the Schedule VIII-B-2. For the Trial Courts, the estimated 15% target reductions for FY 2011-12 less the FY 2010-11 estimated annualized reduction already taken would equate to an additional reduction of approximately \$2.2 million in GR and \$15 million in the SCRTF. In total, the estimated 15% target reduction for FYs 2010-11 and 2011-12 would equal \$7 million in GR and \$45.4 million in the SCRTF. Should the total reduction exclude GR funds, the reduction to the SCRTF would total \$52.4 million. The FTE reduction associated to that reduction would equate to a loss of 602 FTE in FY 2010-11 and 300 FTE in FY 2011-12 (excluding judges and TCAs).

Following Ms. Wilson's presentation of the Schedule VIII-B-1 and VIII-B-2, Judge Perry urged members to meet with their local legislative delegations and express to them the implications to the trial courts, if such reductions were enacted.

Judge Miller asked a question regarding how the potential reductions would affect the county courts. Judge Laurent reminded Judge Miller that the county budget entity provides funding for the salaries of judges and their judicial assistants. Should the potential reduction be enacted, there could be a significant impact on the county budget entity.

Tom Genung, member from the 19<sup>th</sup> Circuit, asked the commission whether it was plausible that the Legislature would enact the reductions proposed in the Schedule VIII-B-1 and VIII-B-2. Judge Laurent commented that in the previous fiscal years the Legislature had monies from the federal stimulus dollars to fill holes in the State's budget which helped alleviate potential reductions to state activities. In the

upcoming fiscal years, these federal funds are not likely. The Legislature will have to make up for revenue shortfalls within the State's budget. Lisa Goodner, the State Courts Administrator, further noted that while it is unlikely that the Legislature would enact all of the potential reductions as proposed in the Schedule VIII B-1 and VIII B-2, the exercise should be taken seriously because it is highly likely that the State Courts System will suffer reductions of some amount.

Judge McGrady asked what effect the legal case before the Florida Supreme Court, involving monies generated from court designated filing fees, would have on the trial courts' budget in the upcoming fiscal years. Judge Laurent noted that the case is still ongoing and thus the outcome is unknown.

Judge Perry, Judge Laurent and Lisa Goodner reiterated the importance of meeting with local legislators and legislative delegations to make them aware of the potential negative consequences of any further reductions to the trial courts' budgets.

Judge Bryan asked whether staff had considered across-the-board reductions to employee salaries compared to the elimination of positions. Judge Laurent responded that such reductions have been considered in the past however, it was determined that the negative consequences associated with across-the-board salary reductions were not acceptable at the current time. He stated that many employees are currently being paid the minimum amounts for their positions and that there has been no salary raises in the past several fiscal years. The potential loss of qualified and valued employees and decreased morale would not be acceptable for the trial courts.

Lisa Goodner reported on the recommendation from the Executive Committee (EC). The EC recommended that trial courts offer up the reduction proposed in the chart which excluded reductions to GR, less the \$3 million appropriated for the Mortgage Foreclosure and Economic Recovery Program which was allocated for use in the current fiscal year. In summary, the proposed reduction to the SCRTF would be approximately \$52.4 million, less \$3 million, for a total of \$49.4 million for FYs 2010-11 and 2011-12.

Judge Roundtree offered a motion to approve the EC's recommendation including a caveat to recalculate the associated FTE reduction based upon the inclusion of the \$3 million from the Mortgage Foreclosure and Economic Recovery Program. Carol Ortman seconded the motion and it passed with none opposed.

### **Fund Shift: SCRTF to General Revenue**

Charlotte Jerrett reported on this agenda item and stated that Chapter 216 and Legislative Budget Request instructions mandate that a 5% trust fund reserve be maintained. The current estimates for the SCRTF reflect a cash balance of \$12,963,637 at the end of FY 2011-12. In order to maintain a 5% reserve in the trust fund, an additional \$2,672,530 is needed for FY 2011-12. Therefore, a portion of the operating budget for the SCRTF would need to be fund-shifted by that amount to GR. Ms. Jerrett presented a chart which showed a breakout of the proposed fund shift. She further noted that any new issues requested in FY 2011-12 LBR will need to be requested from GR as the SCRTF does not have the available cash.

Walt Smith asked what affect the proposed fund shift would have given the fact that the current GR budget is for funding for judges. Ms. Goodner responded that there are several different scenarios that

may play out. Judge McGrady asked what affect the proposal would have on the need for new judges. Ms. Goodner stated that the issue of new judges would have to be requested from the Legislature from GR as well. She further noted that since the deficit is branch-wide, the reduction may be taken proportionately or it is possible that the Legislature could allow the reserve in the SCRTF to drop below 5%.

Judge Roundtree offered a motion to approve the fund shift of \$2.6 million in budget authority from the SCRTF to GR in order to maintain a 5% reserve in the trust fund and to prorate the reduction across the branch. Judge Francis seconded the motion and it passed with none opposed.

### **Needs Assessment for FY 2011-12**

Heather Thuotte-Pierson reported on the Needs Assessment agenda item. She presented a chart which summarized the Needs Assessment by element. The Needs Assessment totaled \$62,185,269 for the trial courts. Ms. Thuotte-Pierson also supplied a breakout of each element to the TCBC members. She stated that the Executive Committee recommendation was to not file the issue in the LBR. A motion was offered by Judge Roundtree to not file the Needs Assessment LBR. It was seconded by Carol Ortman and the motion passed with none opposed. Judge Steinbeck explained to the members that although the need exists, the Executive Committee decision was based on the current budget climate and the possibility of reductions. Lisa Goodner added that there was a lot of discussion about the need for additional due process cost funding and that the tolerance of the budget for possible increased costs is slim. Judge Emas asked how the trial courts can communicate the fact that the Needs Assessment is still valid but the trial courts decided not to file this issue due to the budget climate. Judge Perry asked the members to communicate this information when speaking with their local delegation.

### **Non-Recurring Requests for FY 2011-12: Due Process**

Patty Harris reported on this agenda item. The item is divided into three types of requests: Expert Witness Equipment, Court Interpreting Equipment, and Court Reporting Equipment.

#### **Expert Witness Equipment**

The request was withdrawn.

#### **Court Interpreting Equipment**

Ms. Harris presented background information on the issue. She reported that during the last few months, the Court Interpreting Technology Workgroup (formerly known as the Court Reporting Technology Workgroup) began meeting via teleconference to develop technical and budgetary standards on the future implementation of court interpreting technology. During these meetings, discussions were held regarding current market conditions for interpreting technology which led the Workgroup to make the following determinations:

- Moving forward with an ITN (Invitation to Negotiate) process may be premature at this time because the technology market for interpreting is in the introductory and growth stages.
- The development of technical standards may be premature at this time as technological service requirements have yet to be defined.

- The development of budgetary guidelines is preferable (as opposed to mandated standards) given that circuits will need some flexibility as they explore future opportunities to integrate interpreting technology.

In consideration of the above determinations and in using the existing standards for the management of court reporting technology as a framework, the members developed their recommendations to address cost guidelines for future purchases of remote interpreting including maintenance, refresh timeframes, asset inventory needs, and centralized calling centers. Ms. Harris presented the following recommendations for the TCBC's consideration:

1. Cost Guidelines for Future Purchases – Projection of future costs and the evaluation of circuit funding requests should be based on the estimated cost guidelines as outlined in the report for courtrooms, hearing rooms, standalone carts, and interpreter offices.
2. Maintenance – A simple 13% funding formula applied to initial hardware and software costs (excluding installation/training costs) should be used as a guideline to assess the required budgetary amount needed to support the maintenance of integrated audio/video remote interpreting technology hardware and software.
3. Refresh – A hardware replacement schedule for the projection of future costs and for the evaluation of circuit funding requests should be based on the timeframe guidelines as outlined in the report for hardware components.
4. Data Collection and Analysis – For purposes of managing court interpreting hardware and software resources, circuits shall maintain and annually submit an asset inventory to the OSCA following the guidance from the OSCA on appropriate format, content, and reporting frequency.

Future Considerations – As the need for due process technology grows the trial courts should explore the possibility of sharing interpreting resources across circuit boundaries through the implementation of an intra-state integrated remote interpreting technological model.

Ms. Harris noted that last year, as part of the FY 2010-11 LBR the TCBC approved to file a court interpreting equipment request based on circuit requests. A total amount of \$272,000 in OCO and \$32,000 in non-recurring Expense was requested. These amounts were not funded by the Legislature. However, \$17,000 non-recurring expense was allocated to the 11<sup>th</sup> circuit in May 2010 for interpreting refresh. For the FY 2011-12 LBR, the circuits are requesting \$395,646 for expansion and \$89,050 for refresh.

Ms. Harris presented the following options for consideration on the expansion:

- Option 1: File LBR based on circuit requests that are within the Court Interpreting Technology Workgroup's recommended cost model guidelines.
- Option 2: Do not file LBR

Ms. Harris presented the following options for consideration on the refresh:

- Option 1: File LBR based on circuit requests.
- Option 2: Do not file LBR

Ms. Harris reported that the FMC and Executive Committee had recommended approval of the Court Interpreting Technology Workgroup's recommendations and to file an LBR based on option one for both the expansion and the refresh. Judge Roundtree offered a motion to approve the recommendations and file an LBR in General Revenue based on option one for both the expansion and refresh. Mike Bridenback seconded the motion and it passed with none opposed.

### **Court Reporting Equipment**

Ms. Harris stated since the approval of the Court Reporting Technology Workgroup's recommendations in 2008, some clarification questions arose regarding the possible need to amend the approved policies. At their June 2010 meeting, the Workgroup developed supplemental recommendations to address these questions. Ms. Harris reviewed a summary listing of the supplemental recommendations for the TCBC's consideration as follows:

1. Should state funds be used for the purchase of videoconferencing/wireless networking devices for court reporting services? No.
2. Should there be a TCBC policy to guide the circuits on the future purchase of additional laptops and/or other recording devices for emergency needs? As part of the November 2008 report, the TCBC approved requesting funding for a statewide break-fix contingency fund of \$100,000 for emergency and/or unforeseen failures of court reporting technology but that has not been funded by the legislature. Until such time that this fund is appropriated, it is recommended that circuit's individual emergency requests continue to be evaluated on a case by case basis.
3. How often should portable encoders be refreshed? As laptops or standalone workstations may also be utilized as encoders, it is recommended that those refresh timeframes be applied. If there is not a hardware refresh timeframe that applies to the encoder device being used, industry standards should be referenced as part of the circuit's funding request for consideration by the TCBC.
4. May state funds be used to purchase audio mixers? Pursuant to Section 29.008 (1)(a)(2)(f), audio mixers are a county funded obligation as they are considered a necessary component of a courtroom's sound reinforcement system. However, if the mixer is also supporting digital court recording as an integral part of that system, then state funding may be used to purchase these items.

Ms. Harris reported that both the FMC and Executive Committee recommended approval of the Court Reporting Technology Workgroup's supplemental recommendation. A motion was made by Judge Roundtree to approve the Court Reporting Technology Workgroup's supplemental recommendations. Judge Thomas seconded and the motion was passed without objection.

Ms. Harris reported that for the FY 2010-11 LBR, the TCBC approved a court reporting equipment request of \$3,242,938 for expansion; \$158,280 for existing equipment maintenance needs; and \$1,907,111 for refresh. These requested amounts were not funded by the Legislature. However, \$1,907,111 was allocated to the circuits in April 2010 (from FY 2009-10 unobligated funds) for refresh. For the FY 2011-12 LBR, the circuits are requesting \$1,408,320 for expansion; \$283,193 for existing equipment maintenance needs; and \$3,579,430 for refresh.

Ms. Harris presented the following options for consideration on the expansion:

- Option 1: File LBR based on those circuit requests that are within the approved cost standards and include the 1<sup>st</sup> circuit's request of \$19,600 to expand archiving abilities; the 15<sup>th</sup> circuit's request of \$45,854 to expand current storage capacity and 17<sup>th</sup> circuit's request of \$2,750 for on-record indicator lights. Also, include funding for completion of the digital expansion phase-in plan.
- Option 2: Do not file LBR.

Ms. Harris reported that for expansion, the FMC recommendation was to file an LBR based on option one. The Executive Committee recommended approval to file an LBR in non-recurring GR funds in the amount of \$1,385,147 for only requests within the approved cost standards and do not file a request for completion of the DCR expansion phase-in plan.

Judge Laurent stated that the Executive Committee believed that only mission critical requests should be pursued. In addition, if the LBR includes an issue for DCR equipment expansion and the Legislature does not fund the issue, then a budget amendment would not be allowed at the end of the year for DCR equipment purchases.

A motion was offered by Judge Roundtree to approve the Executive Committee's recommendation. It was seconded by Carol Ortman and it passed with none opposed. Walt Smith asked if the approved recommendations from the Workgroup can be posted. Ms. Jerrett responded that the recommendations will be added to the State of Florida Expenditure Summary of Unallowable/Allowable Expenses chart that will be included as an attachment with the annual Budget and Pay Administration Memorandum.

Ms. Harris presented the following options for consideration for the maintenance on the existing technology base:

- Option 1: File LBR based on those circuit requests that are within the approved 13% maintenance formula and include the 10<sup>th</sup> circuit's request of \$60,000 to change from a time and materials maintenance contract to a standard maintenance contract with different vendor.
- Option 2: Do not file LBR.

The FMC and Executive Committee recommended approving option one. Judge Roundtree offered a motion to approve option one in General Revenue funds. The motion was seconded by Carol Ortman and it passed with none opposed.

Ms. Harris presented the following options for consideration on the refresh:

- Option 1: File LBR based on those circuit requests that are within the approved refresh standards for state purchased components (as reported in the Due Process Technology Inventory).

- Option 2: File LBR based on those circuit requests that are within the approved refresh standards for state purchased components (as reported in the Due Process Technology Inventory). Include the 4<sup>th</sup> circuit's request of \$143,208 to refresh county purchased state obligated due process equipment, the 10<sup>th</sup> circuit's request of \$170,000 to transition from a time and materials maintenance contract to a standard maintenance contract with different vendor, the 11<sup>th</sup> circuit's request of \$901,990 to refresh county purchased state obligated due process equipment and to upgrade from standalone to central/remote recording configuration, and the 19<sup>th</sup> circuit's request of \$341,741 to refresh county purchased state obligated due process equipment.
- Option 3: Do not file LBR.

The FMC and Executive Committee voted to file the LBR based on Option 2 and to conduct a preliminary assessment on future refresh costs associated with state obligated equipment purchased with county funds.

Patty Harris explained that Option 2 was based on approving circuit requests that were within the standards for state purchased components including approving special requests from the 4<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup> and 19<sup>th</sup> to refresh county purchased state obligated due process equipment. Tom Genung asked if Option 2 included consideration of county purchased equipment statewide. Ms. Harris responded that due to current limitations on how this data is reported within the inventory, a statewide analysis could not be completed at this time. Therefore, Option 2 allows for refresh of county purchased equipment only for those circuits requesting these resources and directs for as statewide refresh analysis to be conducted in the future in consideration of county purchased state obligated due process equipment. Judge Roundtree offered a motion to approve option two. It was seconded by Carol Ortman and passed with none opposed.

### **Non-Recurring Request for FY 2011-12: Other**

#### **Expense and Operating Capital Outlay – New/Renovated Courthouse Spaces**

Dorothy Wilson reported on this agenda item. She began by presenting the requests for expense and OCO category funding for the furnishing of non-public areas at new or renovated courthouses by circuit. Below each request is listed.

- 1<sup>st</sup> Circuit: Construction of the new Okaloosa Courthouse facility is expected to be completed in July 2011. The circuit requests \$170,840 in non-recurring funding within the Expense category to furnish seven judges' chambers (including judicial assistant furnishings), five court administration personnel offices, one court administration conference room, two staff attorney offices, five court reporter offices, two hearing officer offices/hearing rooms, and four case management personnel offices.
- 2<sup>nd</sup> Circuit: Renovations to the Wakulla County Courthouse have been approved by the Wakulla County Board of County Commissioners with a tentative completion date of April-May 2011. The circuit requests \$8,705 in non-recurring OCO and \$7,569 in non-recurring Expense funding for a total of \$16,274 to furnish the newly renovated areas during July-August 2011 for two judges' chambers and judicial assistant offices and for offices for a user support analyst,

integrated computer system interface developer, digital court reporter, and child support hearing officer.

Advanced planning for renovations to the Jefferson County Courthouse is also occurring with a tentative completion date in late 2011/early 2012. The circuit requests \$8,705 in non-recurring OCO and \$3,785 in non-recurring Expense funding for a total of \$12,490 to furnish two judges' chambers and judicial assistant offices and a general magistrate/child support hearing officer shared office.

The total non-recurring request for furnishings for the two renovations is \$28,764 (\$17,410 in the OCO category and \$11,354 in the Expense category).

- 4<sup>th</sup> Circuit: Construction of the new courthouse facility in Duval County has reached the midway point and is expected to be operational by May 2012. The circuit requests \$1,793,460 (\$777,127 Expense and \$1,016,333 OCO) in non-recurring funding to furnish various non-public spaces within the seven-story facility. It is anticipated that the majority of furnishings must be ordered during fiscal year 2011-12 in order to ensure that the new courthouse will have the necessary furnishings in place.
- 5<sup>th</sup> Circuit: The Lake County Board of Commissioners has approved construction of an expansion to the existing Lake County Judicial Center. The circuit requests \$271,210 (\$101,410 Expense and \$169,800 OCO) in non-recurring funding to furnish various non-public spaces with the facility including seven judicial suites (including judicial assistant furnishings), judicial library/conference room, nine court administration offices, and one law clerk office.
- 13<sup>th</sup> Circuit: Construction of the new Plant City Courthouse facility in Hillsborough County is expected to be completed in August 2011. The circuit requests \$67,016 (\$50,856 Expense and \$16,160 OCO) in non-recurring funding to furnish four judges' chambers (including judicial assistant furnishings), judicial library/conference room, and two general magistrate offices.
- 15<sup>th</sup> Circuit: Palm Beach County has begun renovations of both the courthouse and the associated jail. Upon completion, the new facility will be transformed into a full service satellite facility to support the western communities of Palm Beach County. The in-court services projected to be provided include criminal, civil, traffic, and unified family matters.

The circuit requests \$98,756 (\$51,380 Expense and \$47,376 OCO) in non-recurring funding to furnish two judges' chambers (including judicial assistant furnishings), three conference rooms, senior judge and magistrate offices, court staff areas, and other shared office spaces that are a state responsibility to fund. Court staff will include court interpreters, court reporters, court technology, mediators, civil traffic hearing officer, and volunteer receptionist.

- 20<sup>th</sup> Circuit: Collier County will add six new courtrooms and five judicial chambers by October 2010. In May 2010, surplus funds were used to purchase furnishings for two of the five judicial chambers.

The circuit requests \$69,724 (\$15,511 Expense and \$54,213 OCO) in non-recurring funding to provide furnishings for the remaining three judicial chambers (including judicial assistant areas) and other shared office spaces that are a state responsibility to fund.

Ms. Wilson noted that all furniture requests for new courthouses or expansions included similar justification for not using current furnishings whereas; no surplus furniture is available; current furnishings are not adequate or appropriate for continued use; and the existing furniture is old and unable to be moved without causing irreparable damage. It was decided to combine the approval of all requests into one commission action. Ms. Wilson reviewed the following options for the requests.

- Option 1: Do not approve the requests.
- Option 2: File issues as requested.

Walt Smith asked that OSCA explore changing existing laws to allow for the funding of furnishings for non-public areas using county funds. Lisa Goodner acknowledged Mr. Smith's request and noted that OSCA would review that possibility.

The Executive Committee recommended approval of the requests. Judge Roundtree offered a motion to file the issues as requested. It was seconded by Carol Ortman and passed with none opposed.

### **Other Non-recurring Equipment Requests**

Dorothy Wilson reported on this issue. She presented the 2<sup>nd</sup> Circuit requested five copier machines between 10 and 13 years old be replaced. It has been estimated that the circuit would save between \$1,185 and \$1,250 in maintenance costs annually if the copiers are replaced. The circuit requests \$22,500 (\$4,500 per copier x 5) in non-recurring funding within the OCO category for the replacement of copier machines. Ms. Wilson noted that this request is in addition to the \$21,400 for the 2<sup>nd</sup> Circuit identified in the OCO requested in the FY 2011-12 statewide needs assessment.

The Executive Committee had recommended that the issue be tabled. Judge Perry offered a motion to table the requests from the 2<sup>nd</sup> Circuit. It was seconded by Judge Roundtree and it passed with none opposed.

### **Cost Sharing Recommendations**

Kris Slayden presented the following background information for this item. As part of the implementation of Revision 7, an arrangement for sharing the costs of court reporters by the courts, the State Attorneys, Public Defenders, and the Justice Administration Commission on behalf of the court appointed attorneys, was developed to allocate funding to the courts for providing transcription services. Fourteen of the twenty circuits participate in the cost sharing arrangement. The amount of transfers from the three entities above to the court's budget was determined based on a standardized methodology using the number of transcript pages produced for each entity, as reported in the Uniform Data Reporting (UDR) system.

Ms. Slayden noted that since the development of the cost sharing arrangement, the Supreme Court issued administrative order AOSC10-1 on January 7, 2010, that provided standards of operation for transcript production and recommended best practices for cost sharing arrangements. These standards

and best practices potentially could impact the level of services the circuits provide to the entities. In addition, questions have been raised by the entities and legislative staff on the consistency of the services and appropriateness of the transfer levels.

For the past couple of years, the TCBC has voted to recommend modifying this cost sharing arrangement by eliminating the process by which the entities transfer funds to the circuits for the services provided. Instead, the TCBC has requested that the cost sharing funds be moved directly to court's budget (when the court was mostly GR funded) or that the courts be given the authority to spend cash in the SCRTF for these services. The circuits would continue to provide the level of services for transcription that they have agreed to provide to the entities.

The courts have been working towards cost containment in court reporting since FY 2004-05. The trial courts have received new judges in the criminal divisions over the last five years, which require additional court reporting coverage and increase costs. Transcription production has increased since the implementation year in FY 2004-05. Ms. Slayden presented a chart that lists the UDR data for court reporting transcripts pages provided from FY 2004-05 through FY 2009-10.

As the circuits move to a more extensive use of digital recordings and begin implementing the standards and best practices of the Supreme Court, the production of transcript pages for the entities could be reduced but the costs associated with compact disc production (redacting and tagging), which were not included in the original cost sharing methodology, will go up. Ms. Slayden presented a chart that lists the UDR data for court reporting media provided from FY 2004-05 through FY 2009-10.

This change in services requires the courts to revisit the cost sharing arrangement and provide some recommendations to the Legislature. A plan needs to be developed to determine the most appropriate mechanism for calculating the cost of providing the services and ensuring that the court is properly funded to provide those services.

Ms. Slayden presented two decisions for consideration by the Commission:

- Does the Commission want to request again this year that the cost sharing budget be moved to the court's budget and eliminate the transfer of funds from the other entities' budget?
- Does the Commission want to direct staff to work with the circuits to determine the impact of the AO on the services to the entities, and quantify how the court reporting budget is spent on courtroom proceedings, transcripts production, compact disc production and administrative expenses?

The Executive Committee recommended the approval of both considerations. Judge Roundtree made a motion to approve the Executive Committee recommendation. The motion was seconded by Carol Ortman and passed with none opposed.

## **FY 2010-11 Budget Update**

### **Salary Budget Projections**

Dorothy Wilson reported on the FY 2010-11 salary budget projections. She presented a chart that summarized the final adjusted liability amount of the salary appropriation at full employment by county, circuit and the trial courts as a whole. Adjustments were made to account for estimated leave payouts based on two year averages and other payroll factors. Ms. Wilson noted that there are other adjustments that will be accounted for after data is released from OPB in August. For the trial courts, the amount was approximately \$3.4 million over the adjusted salary appropriation; \$2.1 million for the circuits and \$1.3 million for the counties.

### **Salary Management, Schedules, and Circuit Level Salary Management**

Gary Phillips reported on the personnel and salary management for FY 2010-11. He began by listing some key questions, assumptions and observations.

- Trial courts will be able to have more flexibility, but only if some version of the salary budget management schedule is maintained.
- The level of tolerance for creating lapse will need to be established.
- Child Support Enforcement federal grant funded positions would not fall under this flexibility model as those funds are limited by the grant.

Mr. Phillips presented a chart based that calculated the amount of lapse generated by each element for one month based on vacancies as of July 12, 2010. In addition, he presented several charts that show how much lapse would be generated in three months using the current Budget and Pay policies for Salary Management and the proposed changes to the policy.

Under the current Budget and Pay policies, the total estimated lapse generated in three months is \$764,467. Three proposals were offered. One proposal calls for eliminating the current judicial assistant lapse period of 30 days. Mr. Phillips reported that this proposal would result in an estimated total lapse amount of \$705,819 for three months. By eliminating the current judicial assistant lapse period and reducing the magistrates and support staff lapse period from 90 to 60 days vacant, a total \$682,826 would be generated for three months. The last proposal called for eliminating the judicial assistant lapse period and reducing the magistrates and support staff lapse period from 90 to 30 days vacant. The estimated lapse generated would total \$659,834 for three months.

Mr. Phillips provided staff's recommendations to the commission:

- Should funding permit, the commission should consider providing a rate distribution, by fund type on October 1, 2010. Mr. Phillips noted that circuits would need to use the money by the end of the fiscal year or lose it.
- Continuation of the Salary Budget Management Plan but altering it to meet an agreed upon tolerance level so that lapse can continue to build at the minimum amount needed. Salary dollars generated by circuits during the year from lapse and from actions yielding salary dollars

would go into the pool to pay leave payouts, overtime, overlaps, law clerk incentive increases, and to make up the deficit.

- Depending on fiscal factors, the same assessment process could take place each year to determine the following year's distribution.
- More flexible budget and pay policies could be adopted for circuits to better manage human resources.

Mr. Phillips reported that the Executive Committee had approved a level of tolerance for lapse of one percent over the salary appropriation, approximately \$2.2 million.

### **Final Recommendations on Policies for FY 2010-11 Budget and Pay Administration Memorandum**

Mr. Phillips presented sample pay policies for FY 2010-11 Budget and Pay Memorandum. Under section 2, Trial Court Salary Budget Management, the amount of time positions are to be held vacant were listed. The lapse amount for Judicial Assistant, Federal Grant, Mediation and Administrative trust fund positions is 0 days. For General Magistrate positions, a 30 day lapse is required.

Under section 3, subsection c, Mr. Philips paused to note that the 2010 GAA allows for merit increases as long as performance evaluations document above average performance. In addition, Florida Chapter 216.251(3), F.S. prohibits giving a cohort of employees across the board increases.

Under section 3, subsection e, Judge Farina suggested that the word "temporary" be defined.

Under section 3, subsection f, Walt Smith asked if salaries of Trial Court Administrator that fall outside the amounts as described in the subsection could be requested for consideration by the TCBC. Staff acknowledged that these requests may be made to the TCBC.

Tom Genung inquired about the procedure for making exception requests to the TCBC and why the request would not be submitted to the Personnel Committee. Lisa Goodner responded that the requests are reviewed from a budgetary standpoint and therefore the requests should be submitted to the TCBC chair and a copy to the State Courts Administrator.

The members discussed the possibility of a rate distribution for the purpose of circuit level salary management flexibility. Judge Laurent stated that the distribution would be very modest. He cautioned that inequities may be created with existing employees if funds are used to give new employees a percentage above minimum. Lisa Goodner added that this proposed policy is not a big change and that approval of this issue would give authority back to the circuits instead of the requests coming to the TCBC. In addition, Judge Perry stated that the rate distribution is not new money and is from lapse generated during the hiring restrictions. Judge Bryan asked if funds can be used for a one-time merit increase. Judge Laurent replied that we do not have the authority. Tom Genung expressed concern about releasing rate when the courts are facing reductions. Lisa Goodner stated that any reductions imposed may happen in December.

Judge Roundtree offered a motion to approve the revised Salary Management Schedule, trial court salary management policies for the FY 2010-11 Budget and Pay Administration Memorandum and a rate

distribution, the amount of which was tabled until the final payroll projections are available. The motion was seconded by Judge Miller and it was passed with none opposed.

### **20<sup>th</sup> Circuit Request – Due Process Cost Recovery**

The Executive Committee voted to table the item at the current time. A motion was offered by Judge Steinbeck to table the item. Judge Roundtree seconded the motion and it passed with none opposed.

### **Adjournment**

With no other business before the commission, Judge Bryan offered a motion to adjourn. It was seconded by Judge Roundtree and passed with none opposed. Adjournment occurred at 11:45 am.