

**Trial Court Budget Commission
Meeting Minutes
Tampa, Florida
August 5, 2003**



Members Present

Susan Schaeffer, Chair
Stan Morris, Vice Chair
Jeffery Arnold
Mike Bridenback
Don Briggs
Paul Bryan
Ruben Carrerou

Joseph Farina
Charles Francis
Kim Hammond
Nelly Khouzam
John Laurent
Donald Moran, Jr.
Carol Ortman

Wayne Peacock
Nancy Perez
Judy Pittman
Thomas Reese
William Roby
Walt Smith
Mark Van Bever

Members Absent

Belvin Perry - excused

Theresa Westerfield - excused

Others Present

Ms. Michelle Bourrie-6th, Chief Judge David Demers-6th, Mr. Richard Hallam-20th, Chief Judge Hugh Hayes-20th, Ms. Gay Inskeep-6th, Ms. Caron Jeffreys-20th, Chief Judge Manuel Menedez-13th, Judge Sandra Taylor-16th, Ms. Mary Vandenbrook-16th, and OSCA staff.

WELCOME & INTRODUCTION OF GUESTS

Judge Schaeffer called the meeting to order Saturday, June 14, 2003, at 9:00 a.m. Introductions were made and guests were recognized.

Judge Schaeffer stated that to ensure sufficient time was available to discuss and approve the FY 2004/05 Legislative Budget Request, this agenda item would be taken up after the approval of minutes. She explained further the structure of this agenda. Each element will be reviewed and testimony will be heard from TCBC members speaking for their circuits and from guests. After all elements are reviewed and testimony heard, a final vote, by element, will be called.

NEW COMMISSION APPOINTMENTS

Judge Schaeffer reviewed Administrative Order #AOSC03-33, issued by the Florida Supreme Court, appointing the chairpersons of the Florida Conference of Circuit Court Judges and the Conference of County Court Judges of Florida as ex officio, non-voting members of the TCBC. Judge Arnold and Judge Khouzam were welcomed as new members.

APPROVAL OF MINUTES

Judge Schaeffer asked for any corrections to the minutes from the June 14, 2003 meeting. On page 1, under the heading *Approval of New Committee Structure*, Judge Schaeffer asked that each committee be listed. She also requested that on page 9, under the heading *Contingency Fund Budget Strategy*, the sentence be modified to read "The Revision 7 funding proposal will provide for a contingency fund consistent with HB 113-A for due process costs." Mr. Van Bever moved to approve the amended minutes, Judge Francis seconded, and the motion was approved without objection.

FISCAL YEAR 2004/05 LEGISLATIVE BUDGET REQUEST

Ms. Ortman reported that based on the TCBC's direction on June 14, 2003, the Funding Methodology Committee has developed trial court funding proposals for the FY 2004/05 Legislative Budget Request (LBR). The funding proposals were reviewed by element.

Court Administration Element

Ms. Peggy Horvath, OSCA, reviewed the executive, judicial operations, and general administrative support functions that make up this element. At the direction of the TCBC, the Funding Methodology Committee had determined the adequate level of support staff necessary to accommodate the minimum (threshold) level of support. The formula was developed in consideration of the duties and responsibilities to be performed and the relative size of the circuit, with input from court administrators as to their needs. The recommended threshold was as follows: small circuits - 9, medium - 14, large - 27, and Miami-Dade - 42.

Some circuits will achieve this threshold by bringing over existing county or Family Court Trust Fund (FCTF) positions to state funding. Other circuits will need entirely new positions to accommodate the functions previously provided by their county(ies). The TCBC previously determined that it will consider circuit requests to exceed the threshold formula on a circuit-by-circuit basis, based on specific justification of special need.

A revised *Court Administration Budget Proposal* was distributed and reviewed. The table shows the estimated budget request necessary to fund the element in each circuit according to the threshold formula. The revised table lists the same number of total FTE for each circuit, in each size category. The salary dollars include the current salaries of county-funded or FCTF personnel, new positions at 10% above the minimum salary of the class identified, and estimated employer payroll taxes and state benefits. The proposed total LBR for Court Administration is \$16,746,932 (246.5 FTE).

Judge Schaeffer asked for testimony. With no testimony to be heard, Judge Francis moved to tentatively approve the 9, 14, 27 and 42 formula and the FY 2004/05 Court Administration Budget Proposal. Mr. Bridenback seconded and motion was approved without objection.

Court Reporting Element

Ms. Horvath reviewed the positions and costs of providing court reporting services to the courts. The funding methodology used was the FY 2003/04 projected county expenditures for each circuit carried forward for the FY 2004/05 state budget request. Some potential costs related to reimbursing the various clerks of court for performing functions related to the operation of digital recording systems equipment in criminal and juvenile cases were not included, pending the response of the clerks to our inquiry on this issue. Mr. Bridenback added that the intent of the proposal was to use the current expenditures as a foundation and reconsider it after the Article V Indigent Services Advisory Board's recommendations.

During review of the budget proposal for court reporting ordered by the court, attention was called to the total salary and benefits for the 19th circuit, in comparison to the other circuits in the size grouping. Ms. Horvath explained that the low amount of \$79,609 was due to the performance of some court reporting functions handled by the clerk's staff. Judge Schaeffer sent a letter to the clerks' association asking if they will charge the court for their services. If yes, the costs will need to be added to the budget request. Attention was also called to the 10th circuit's figure in comparison to the other circuits in the group. The lower amount is a result of savings due to the use of electronic court reporting. The table will be recalculated and amended to reflect a more accurate figure.

Judge Schaeffer asked for testimony. Speaking for the 6th circuit, Chief Judge David Demers brought two issues before the commission. He asked that the TCBC take into consideration the number of circuits that have contracts with private vendors and no contingency. Second, the proposal does not provide funding for emergencies, i.e., vendors pulling out. Ms. Ortman stated this situation is occurring around the state and alternative options need to be researched. Mr. Carrerou added that another issue to consider is the salary differential of counties, resulting in the loss of service providers. Judge Demers stated if the proposal does not include positions or costs associated with transition to digital court reporting technology or transition from contract court reporting services to an employee model, it limits the options to move toward alternatives. Judge Schaeffer suggested adding a 3% increase to the circuits with contracted services.

Judge Laurent made a motion to tentatively approve the proposal and to make any necessary adjustments after the Article V Indigent Services Advisory Board's recommendations and Mr. Peacock seconded. Mr. Van Bever expressed disapproval asking the commission to consider including a contingency for contract costs, with Judge Reese in agreement. Mr. Smith reported that counties are increasing to 5%. Judge Schaeffer called for a vote for the proposal without any adjustment. Nine members voted in favor and ten opposed. Mr. Van Bever made a motion to add 5% to the proposal to cover all contractual expenditures and Judge Perez seconded. Further discussion followed. Mr. Van Bever withdrew his earlier motion. He then made a motion to add 3% to the contract amounts in the proposal. Judge Roby seconded and the motion was approved without objection.

Court Interpreting Element

Ms. Horvath reviewed the positions and costs of providing interpreting services for court events. The funding methodology used was the FY 2003/04 projected county expenditures for each circuit carried forward for the FY 2004/05 (LBR) to possibly be adjusted following the Article V Indigent Services Advisory Board's recommendations. Due to the unpredictability of these costs, funds for smaller circuits will be budgeted in a pool. In reviewing the budget proposal, it was suggested to add the 18th circuit to the pool.

Judge Demers asked if a decision had been made to clarify the chief judge's discretion to approve the use of interpreters. Judge Menendez reported that the Supreme Court Interpreters Committee forwarded to the Supreme Court a proposed Rule of Judicial Administration regarding the use of court interpreters. "Fundamental interest" is currently determined by the presiding judge in a case, but it is not clearly defined and an official clarification is needed.

Mr. Peacock moved to tentatively approve the proposed court interpreter budget amended to move the 18th circuit to the pool. The motion was approved without objection.

Expert Witness Element

Ms. Horvath reviewed the costs making up the court-ordered expert witness element. The funding methodology used was the FY 2003/04 projected county expenditures for psychological and other expert evaluations, as adjusted based on threshold formulas developed for small, medium, and large circuits, and Miami-Dade. Due to the unpredictability of these costs in smaller circuits, these funds will be allocated in a pool.

The court-ordered psychological evaluation and other experts budget proposal was reviewed. The Executive Committee asked to make a change to the 18th circuit to show 0 FTE , 0 Salary and Benefits, and \$100,000 in Contractual Expenditures.

The custody evaluations and home studies budget proposal was reviewed. The Executive Committee recommended changing the total salary/benefits and contractual amounts to \$40,000 for small circuits, \$100,000 for medium, \$250,000 for large, and \$300,000 for Miami-Dade. Judge Roby asked if a circuit exhausts their due process allotment, would funds be available through other circuits? Judge Schaeffer affirmed, but Judge Hammond added that chief judges should monitor their allotments.

With no testimony to be heard for this element, Mr. Van Bever moved to tentatively approve the proposed budget as amended with the Executive Committee's recommendations. Mr. Peacock seconded and the motion was approved without objection.

Case Management Element

Ms. Horvath reviewed the case management element, including the positions that fall within the definition provided by the 2003 Legislature in HB 113-A. The funding methodology used was the determination of the adequate level of support staff necessary to accommodate the minimum (threshold) level of case management support consistent with the duties and responsibilities performed and the relative number of case filings.

The funding methodology table was reviewed and Judge Schaeffer reported that the Executive Committee recommended using a case manager ratio of 1:6,760 filings, which represents the median, not average, number of existing case management positions to eligible case filings (circuit and county filings, less traffic). Proposal A was reviewed, which does not include positions in excess of the threshold. Proposal B represented the hold harmless version including the positions in excess of the threshold.

Judge Schaeffer called for testimony. Judge Demers asked if the circuits are limited to using two felony drug court case managers. Judge Schaeffer stated that the chief judge may use the case manager positions at their discretion. Ms. Lisa Goodner, OSCA, added that the positions are flexible within the confines of HB 113-A.

Circuit Judge Sandra Taylor testified on behalf of Chief Judge Richard Payne and the 16th Circuit, stating the case filing methodology is not adequate for their circuit. Due to the logistics of their courthouses, their family case manager travels up to 100 miles one way from the main courthouse. Because the small circuits face the same situation, Judge Schaeffer suggested raising the floor to five positions. This gives the small circuits a base of seven, which includes the two drug court case managers.

Judge Farina moved to tentatively approve Proposal A, as amended, raising the floor to seven positions. Judge Hammond seconded and the motion was approved without objection.

Masters and Hearing Officers

Masters - Ms. Horvath reported that two options were prepared. Proposal A brings over existing county-funded master and support positions. It adds support positions where necessary to achieve a one master to one support position ratio but excludes any existing support positions that exceed the 1:1 ratio. Proposal B identified a threshold level of masters based on the total number of eligible cases per circuit, considering the duties and responsibilities to be performed and the relative number of eligible circuit court case filings. A ratio of 1:6,000 cases was used for the small circuit grouping, 1:5,000 for medium, and 1:3,000 for large and Miami-Dade.

The Executive Committee recommended using a ratio of 1:3,000 eligible cases per general master for all circuits. Proposal C was distributed, representing the Executive Committee's recommendation. Judge Taylor testified, asking the commission to consider Proposal C for

approval. Judge Farina moved for discussion and upon completion, Proposal C with a 1:1 administrative support ratio and a threshold of 3,000 filings (rounding up) per general master was approved without objection.

Child Support Hearing Officers - Ms. Horvath explained that the child support hearing officers and their support positions operate under an OSCA/DOR contract or county/DOR contract. For the positions operating under a county/DOR contract, in which the county pays 1/3 and DOR pays 2/3, the counties' 1/3 match needs to be moved into the state judicial budget. The proposal reflects information reported by trial court administrators, but not reconciled with DOR. Ms. Jerrett reported that OSCA's communications with DOR suggest that the actual total for this issue may be as high as 2.9 million (43.5 FTE). The members tentatively approved the proposal to request the reconciled positions and dollars.

Traffic Hearing Officers - The funding methodology used was to accommodate what is currently a county match for the existing state-supported traffic hearing officers, and an additional lump sum request to address reported additional need for traffic hearing officers. The members tentatively approved the proposal.

Mediation/Arbitration Element

Ms. Horvath reported that because of the significant variations in the existing FTE, contract, and other expenditures for county court and family mediation, the Funding Methodology Committee recommends that a placeholder LBR of \$10 million be filed as a preliminary budget request until a supplemental request can be filed after a more uniform framework can be identified. Mr. Peacock moved to tentatively approve the recommendation made by the Funding Methodology Committee. Judge Perez seconded and the motion was approved without objection.

Law Clerks/Legal Element

Ms. Horvath reviewed the two proposals. Proposal A represented what is necessary to provide one court counsel and staff person to each circuit and bring the law clerk ratio up to one law clerk for every circuit judge. Current county-funded general counsel staff positions over the threshold are not considered for state funding. Florida Bar dues are included.

Proposal B represented what is necessary to provide one court counsel and staff person to the large circuits, designate one law clerk in each of the small and medium circuits to a senior attorney, and bring the law clerk ratio up to one law clerk for every circuit judge. Current county-funded general staff counsel positions over the threshold are not considered for state funding. Additional general counsel support would be contemplated for the OSCA budget to assist small and medium circuits. Florida Bar dues for attorneys are included.

The Executive Committee recommended Proposal B, as court counsel cannot be justified for the small circuits. Judge Taylor fervently testified that the smaller circuits need court counsel and

asked the committee to consider Proposal A. Judge Roby moved to tentatively approve Proposal B, Judge Pittman seconded and the motion was approved without objection.

Judge and Judicial Assistant Element

Ms. Horvath reported that a placeholder representing the new judges certified in 2003 session will be filed pending the Supreme Court's certification order in 2004. The FY 2004/05 request will include funds to restore the senior judge funds cut in the 2003 session or \$500,000 and \$500,000 additional for temporary judicial assistant support. Mr. Peacock moved to tentatively accept the proposal as presented. Judge Perez seconded and the motion was approved without objection.

Judge Schaeffer recommended adding a placeholder for a certification bill, in anticipation of a Supreme Court opinion. Mr. Van Bever motioned to tentatively approve the recommendation, Judge Francis seconded, and the motion was approved without objection.

Other Trial Court Issues

Technology - Judge Francis testified as the Chair of the Florida Courts Technology Commission stating the clerk's technology infrastructure and support is not sufficient for case management. The system cannot communicate with courts within the circuit and counties. The goal is to connect every county in the state courts system. The TCBC members approved without objection to include a technology budget issue designed to meet the trial court technology needs not addressed at the county level, contingent upon the TCBC Executive Committee's receipt and acceptance of a proposed technology budget from the chair of the Florida Courts Technology Commission. It is anticipated that the technology issue, if accepted, would total \$19 million to be phased in over three years, with \$7 million placed in this year's budget proposal.

Resource Management System - Mr. Smith asked Ms. Horvath to explain the \$1.5 million allocation. She explained that funding is necessary to accommodate the development of a resource management reporting mechanism to provide the performance and accountability data needed to accommodate best business practices and evaluate the programs and resources regularly. The members approved the request without objection.

Legal Materials Available to the Public - Mr. Bridenback reported that included in HB 113-A's enumeration of state court system elements is an element, "basic legal materials available to the public other than a public law library." The most efficient way to provide this information is via the internet. The commission tentatively approved this approach without objection.

Expense Added to Base - A budget request of \$12.2 million in expense dollars will be necessary to cover the projected proportion of expense funding currently provided by the counties to accommodate state court system activities and services.

Office Equipment Leases - The state is responsible for all equipment not located in courtrooms, jury facilities and other public areas of the courthouse. \$3,075,000 was identified for equipment leases that the county currently pays.

Contingency Funds - A 5% contingency fund is proposed to accommodate unanticipated due process costs and 10% for all other elements to ensure that the transition to state funding will not result in any unfortunate lapses in services to the people of Florida.

The commission tentatively approved all recommendations under *Other Trial Court Issues* without objection.

Final Discussion and Vote

Court Counsel - Discussion ensued about placing the general counsel positions in the court administration element. All members approved without objection to amend the court administration element to include the general counsel position.

Final Vote - Judge Schaeffer called for a final vote on each element as tentatively approved and amended for the Fiscal Year 2004/05 Legislative Budget Request. Ms. Ortman motioned to approve the recommended budget request. Judge Farina seconded and each member of the commission affirmatively signaled his or her approval.

UPDATE ON PERSONNEL COMMITTEE ACTIVITIES

Ms. Ortman motioned to table this item before the commission until the proposal is reviewed by the chief judges and trial court administrators. Mr. Peacock seconded and the motion was approved without objection.

CURRENT YEAR BUDGET

Update on Hiring Freeze - Ms. Charlotte Jerrett, OSCA, reviewed the status of the hiring freeze and the options for the commission to consider. Option 1 would lift the freeze for those positions funded by the Grants & Donations Trust Fund (Child Support Enforcement). This fund is a dedicated funding stream from the Department of Revenue and projected expenditures do not exceed the budget. Option 2 would lift the freeze for the positions funded by the Family Court Trust Fund. At the June meeting, the TCBC reduced the current year budget by \$633,640 to bring expenditures in line with projected revenues. In addition, the trust fund is due a \$201,193 refund from the State Technology Office for the SAFER project.

The Executive Committee recommended choosing Option 1. Mr. Peacock made a motion to approve Option 1, lifting the hiring freeze for positions funded by the Grants & Donations Trust Fund, and continue with the hiring freeze for positions funded by the Family Courts Trust Fund. Mr. Bridenback seconded and all members approved the motion.

Final Operating Allotments - Ms. Jerrett reviewed changes to the proposed allotments for FY 2003/04 as directed by the TCBC at the June 15, 2003 meeting. Mr. Van Bever motioned to approve the final operating allotments. Ms. Ortman seconded and the motion was approved without objection.

REVISION 7 ISSUES

Update from Revision 7 Communications Advisory Group

Ms. Brenda Johnson, OSCA, reviewed the status report. The goal of the group is to lead a community-based effort statewide that will educate policy makers, community leaders, our justice system partners, and the general public about the importance of Revision 7 and its impact on Florida's trial courts. The members are in the process of revising the original strategic plan and updating materials to include budget request numbers, information on other states who have experienced similar funding shifts, and a new video, script, and fact sheet.

Judge Roby stressed the importance of educating the legislature. Ms. Johnson reported that the committee would like to involve big businesses, chambers of commerce, county commissions and bar leadership in the education process. Education will be delivered in three phases, with the local level being priority.

Update from Legislative Committee

Ms. Johnson distributed the legislative schedule. The goal of the Legislative Committee is to draft Revision 7 "glitch" legislation for the 2004 Session and to coordinate TCBC contacts with legislators and legislative staff regarding Revision 7 implementation and other trial court budget issues.

Update on Clerk of Court Operations Conference

Ms. Jerrett reviewed the summary of the organizational meeting. The conference acknowledged their gratitude for the appointment of Judge Perry and the depth he will bring to the work product. The next meeting will be held at FACC building in Tallahassee Friday, August 15, 2003. The committees will meet at 11:00, with the full conference meeting convening at 1:00.

Update on Reporting Requirements from HB 113-A

Ms. Goodner reported that a statewide survey was being sent to all clerks of court. HB 113-A requires the clerks or county chief financial officers to submit court-related expenditure data for each county to the Department of Financial Services. This information will be considered in the establishment of funding levels by the State for Article V costs. OSCA staff is reviewing the data collection forms and will contact trial court administrators to discuss.

Also reviewed was Judge Demers July 24, 2003 memorandum regarding his concerns with the clerks reporting of assessments and collections. Under their current business rules, it will appear that the judiciary is waiving costs when in fact it is not. The report will be misleading to the legislature and will not reflect the judges' true actions. Ms. Goodner distributed a revised copy of the clerks business rules for assessments and collections and the data collection form. She asked judges to review the documents and give their input. Judge Schaeffer asked for volunteers for the workgroup. She also asked for county judges to participate. The information is reported quarterly. There is an opportunity to revise the form before the next reporting date.

Update on MGT Reports

Ms. Horvath stated that OSCA staff has reviewed the lengthy report. The report is flawed due to the oversimplification of the methodology. Judges are used as a predictor for public defenders and state attorneys. Funding is based on the number of judges. Judge Schaeffer asked if OSCA would email the TCBC members the link for access to the report.

ADJOURNMENT

With no other business before the Trial Court Budget Commission, Judge Schaeffer adjourned the meeting at 3:00 p.m.