

**FINAL**

**Trial Court Budget Commission  
Meeting Minutes  
August 26, 2014**



**Attendance – Members Present**

The Honorable Mark Mahon, Chair	The Honorable Belvin Perry, Jr.
The Honorable Robert Roundtree, Vice Chair	Ms. Kathy Pugh
The Honorable Catherine Brunson	Mr. Grant Slayden
The Honorable Jeffrey Colbath	The Honorable Elijah Smiley
The Honorable Ronald Ficarrotta	Mr. Walt Smith
Mr. Tom Genung	The Honorable John Stargel
The Honorable Robert Hilliard	The Honorable Margaret Steinbeck
Ms. Sandra Lonergan	The Honorable Patricia Thomas
The Honorable Debra Nelson	Mr. Mark Weinberg
The Honorable Diana Moreland	Ms. Robin Wright
The Honorable Gregory Parker	

**Attendance – Members Absent**

The Honorable Thomas McGrady	The Honorable Bertila Soto
The Honorable Wayne Miller	

**Special Note:** It is recommended that these minutes be used in conjunction with the meeting materials.

Judge Mahon called the Trial Court Budget Commission (TCBC) meeting to order at 8:30 a.m. The roll was taken with a quorum present.

**Agenda Item I: Welcome and Approval of June 20 and July 25, 2014, Meeting Minutes**

Judge Mahon presented the draft meeting minutes from the June 20, 2014, and July 25, 2014, TCBC meetings and asked if there were any changes necessary before approval.

Judge Steinbeck noted in the June 20, 2014, minutes under Agenda Item III (Special Pay Issue): (1) Judicial Assistants – add language to include a 4% minimum increase for all current judicial assistants; (2) Court Operations Analysts/Managers/ Consultants – The senior court operations consultants' new minimum should be \$64,457.12; and (3) Child Support Hearing Officer group – This group was tabled for discussion at the July 25, 2014, meeting and should be removed from these minutes.

Judge Mahon asked that the July 25, 2014, minutes be revised to remove Judge Terrell as attending the meeting. He is no longer a member of the commission.

Judge Steinbeck moved to approve the minutes as amended. Walt Smith seconded and the motion passed without objection.

## **Agenda Item II: FY 2013-14 Year End Wrap Up**

### **A. Salary Budgets**

Dorothy Wilson provided an overview of the trial court salary budgets for year ending FY 2013-14.

### **B. Personnel Actions**

Theresa Westerfield provided a report on reclassifications and other personnel actions.

### **C. Positions Vacant More than 180 Days**

Theresa Westerfield provided a report on the status of vacancies over 180 days as of June 21, 2014.

### **D. Operating Budgets**

Dorothy Wilson provided an overview of the fiscal year end operating budgets for FY 2013-14. Ms. Wilson stated the data will change when certified forwards payments are final. She also noted the remaining balance in the Contracted Services category and due to changes in Department of Financial Services' policies on allowable expenditure, the budget may need realignment to utilize resources effectively.

### **E. Trust Fund Cash Balances**

Dorothy Wilson provided an overview of the State Courts Revenue Trust Fund (SCRTF) cash balance for year ending FY 2013-14.

### **F. Projected Reversions**

Dorothy Wilson provided a report on the tentative reversions. The tentative reversion amount of \$11.5 million includes \$5 million in mortgage foreclosure funds which will be reallocated in FY 2014-15. The reversion number will decrease after September 30, 2014, when all certified forward expenditures are finalized.

### **G. Conflict Counsel Cases over the Flat Fee**

Jessie McMillan provided an overview of the of the fiscal year end expenditures for conflict counsel payments over the flat fee.

#### **H. Foreclosure Backlog Reduction Initiative**

Alex Krivosheyev provided an overview of the fiscal year end expenditures for the foreclosure backlog reduction initiative. Nearly all of the FY 12-13 carry forward funds were expended and very little reverted.

### **Agenda Item III: FY 2014-15 Budget Update**

#### **A. General Revenue and Trust Fund Projections**

Kris Slayden reported on the outcome August 7, 2014, General Revenue Estimating Conference. The FY 2014-15 forecast estimates an ending balance of \$1.6 billion.

Ms. Slayden provided an overview of the July 18, 2014, Article V Revenue Estimating Conference. The February 2014, revenue estimate of \$95.0 million was revised down to \$83.2 million primarily due to foreclosure filings continuing to come in below estimate.

#### **B. Trust Fund Cash Balances**

Kris Slayden provided a review of the projected deficits for FY 2014-15 and FY 2015-16 in the State Courts Revenue Trust Fund. Staff estimated deficits of \$15.9 million and \$16.9, respectively, which would need a permanent fix.

Dorothy Wilson provided an overview of the State Courts Revenue Trust Fund (SCRTF) cash balance as of July 31, 2014, for FY 2014-15. The cash balance is estimated to be in a deficit in August. The chief justice requested that General Revenue salary appropriations be released at 100% and will be used to balance against the SCRTF until a loan can be secured.

#### **C. Salary Budget and Payroll Projections**

Dorothy Wilson provided an overview of the start-up trial court salary budgets for FY 2014-15. The payroll liability is estimated to be \$2.3 million over appropriations. Historically, the trial courts start each year in a deficit and throughout the year, lapse and other personnel actions have covered the deficit. However, the new pay equity plan may have an effect on turnover and lapse, and begin to establish a new norm in the trial courts.

#### **D. Foreclosure Backlog Reduction Initiative**

Alex Krivosheyev provided an update on the FY 2014-15 proposed foreclosure backlog reduction plan allocations as presented at the June 4, 2014, meeting. The chart presented a second distribution based on an estimate of what was projected to be unspent from FY 2013-14. The actual funds available for the second distribution was approximately \$300,000 less than estimated and as a result, the senior judge category was reduced during the posting of allocations. Circuits may supplement through the use of regular senior judge days or request a budget amendment to realign their budget if necessary.

**E. Recommendations for FY 2014-15 Budget and Pay Administration Memorandum**

Theresa Westerfield provided an overview of the changes in the memorandum pertaining to personnel actions. She noted in section 4.e., the trial court administrator salaries will be updated to the new minimum of the pending special pay plan issue. Additionally, Ms. Westerfield provided a review of the trial court law clerk incentive plan, noting updates would be necessary pending the special pay plan.

Walt Smith asked how the circuit specific funds from the special pay plan would be implemented and if use would require TCBC approval. Ms. Westerfield informed the members the funds would require a form certifying the use of funds for recruitment and retention issues and signed by the chief justice.

Eric Maclure provided an overview of the technical changes in the memorandum pertaining to budget administration. The authorized travel section was revised to include approved out of state travel events, attendance limitations, and technical changes. Technical revisions were also made to the Senior Judge and Payment of Florida Bar Membership Fees sections.

Judge Roundtree made the motion to approve recommendation of the memorandum, amended with the new trial court administrator salaries and submission to the chief justice. Judge Stargel seconded and the motion passed without objection.

**F. Sixth Judicial Circuit Request to Fund Positions from Cost Recovery Allocation**

Dorothy Wilson reviewed the Sixth Judicial Circuit's request to fund two full-time FTE utilizing their due process cost recovery revenue collected. Ms. Wilson noted the sixth circuit's cost recovery collections are sufficient to support the request and the unfunded FTE reserve would need to be accessed. Judge Perry made a motion to approve the request. Judge Ficarrota seconded and the motion passed without objection. Mark Weinberg asked if this action would decrease the sixth circuit's contractual services funds. Ms. Wilson stated that the sixth circuit is enhancing their current service model and not switching models. Future collections must support the positions.

**Agenda Item IV: Special Pay Issue for Court Employees: Status Update**

PK Jameson provided a status of the special pay issue. The court approved the full plan on August 14, 2014. A budget amendment was submitted and was pending approval. Implementation details will be distributed after approval of the budget amendment. The Department of Management Services (DMS) requires a minimum of 20 days prior to scheduling a mass load. Due to the time requirements to upload various pay and class tables, documents, and the mass load of pay changes, it is not known whether data sent to DMS will be uploaded by the September or October payroll cutoff date. The plan is retroactive to July 1, 2014.

Judge Stargel recommended communicating that the warrants will have the retroactive payment included. Judge Mahon asked Ms. Westerfield to notify the chief judges and trial court administrators after the budget amendment is approved. Judge Steinbeck asked that TCBC members be included in the notification.

### **Agenda Item V: Technology Funding Strategies Workgroup: Status Update**

Kris Slayden provided a status of the workgroup activities. A two-day workshop with trial court administrators and trial court technology officers was held to help determine the scope of funding needed. The National Center for State Courts (NCSC) will develop the draft strategic plan based on the discussion and recommendations from the workshop participants. Once the draft plan is provided by the NCSC, it will be circulated to the workshop members and the chief judges for input prior to being presented back to the TCBC.

### **Agenda Item VI: FY 2015-16 Legislative Budget Request (LBR)**

#### **A. Employee Pay Issue**

Theresa Westerfield provided an overview of the salary equity and retention issue request from prior year, which proposed a two-year implementation period and of the position classifications in the trial courts and the status of each class in relation to its analysis for adjustment, and presented LBR filing options.

Judge Nelson made a motion to approve recommendation of Options 2 and 5; to file an LBR issue for the original second-year funding request for the salary equity and flexibility issue in the amount of \$8,961,891, with the understanding that the amount may be adjusted based on continued analysis, and do not file an LBR issue for a 3.5% competitive pay adjustment but work throughout 2015 legislative session to ensure judicial branch employees are included in any general competitive salary increase as may be provided to other state employees. Judge Thomas seconded and the motion passed without objection.

#### **B. Technology**

Kris Slayden reported the Trial Court Technology Funding Strategies Workgroup determined that an information technology strategic plan was needed to determine the scope of what specific trial court systems/resources need to be funded and sustained. This plan is currently in the drafting stage and the estimated cost estimates for FY 2015-16 is \$20,732,138. Ms. Slayden presented LBR filing options.

Tom Genung made a motion to approve recommendation of Option 1; to file a comprehensive trial court technology LBR during the normal schedule. Direct OSCA staff to work with the trial courts, allowing updates to the cost estimates and adding issues or moving issues to out years that support the comprehensive technology

strategic plan being drafted by the National Center for State Courts. Approval of the final LBR would be made by the Executive Committee before the deadline for submitting the recommendation to the Supreme Court. The Trial Court Technology Funding Strategies Workgroup will meet and develop the comprehensive proposed recommendations, including the Trial Court Technology Strategic Plan, Tactical/Operational Plan, proposed funding strategies, and any statutory proposals, and will present it to the full commission before the beginning of 2015 legislative session. Judge Steinbeck seconded and the motion passed without objection.

**C. Court Interpreting Resources**

Jessie McMillan provided an overview of the issue in response to the need for additional funding to comply with the Supreme Court order SC13-304 amending the rules for certification of court interpreters and presented the LBR filing options. Judge Mahon noted the request represents branch imposed additional costs as a result of the Supreme Court order SC13-304.

Contractual Funding

Tom Genung made a motion to approve recommendation of Option 1; to file an LBR issue for \$1,002,648 in contractual funds. The methodology applies a 36.2% increase to each circuit's FY 2014-15 approved allocation amounts plus an additional 3.3% statewide growth rate to account for the projected growth in the non-English speaking population for FY 2015-16. The motion also included that the additional allocation provided in FY 2014-15 to the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 13<sup>th</sup>, and 14<sup>th</sup> circuits from the due process reserve be added to the LBR. Judge Nelson seconded and the motion passed without objection.

Compensation for FTE's

Tom Genung made a motion to approve recommendation of the request to comply with the Supreme Court order SC13-304 and file an LBR issue for \$133,834 to increase the salaries of 31.5 FTE positions from the non-certified court interpreter salary to the new base salary for certified court interpreters. Judge Brunson seconded and the motion passed without objection.

**D. Case Management Resources**

Jessie McMillan provided an overview of the issue in response to the need for additional case management resources to assist in the processing and management of cases and presented LBR filing options.

Kathy Pugh made a motion to approve recommendation of Option 1; file an LBR issue for \$5,633,712 for an additional 92.0 FTE case managers based on the current needs assessment methodology and a ratio of 1.0 FTE case manager for every 5,500 projected

FY 2015-16 filings, with a floor of 8.0 FTE. Judge McGrady seconded and the motion passed with objection. The Executive Committee acknowledged the need is supported by data and recognized the value of case managers as cases today are more complex.

**E. Foreclosure Backlog Reduction Initiative**

Alex Krivosheyev presented LBR filing options based on the foreclosure filings estimates adopted by the Article V Revenue Estimating Conference July 18, 2014, and the estimated level of foreclosure dispositions for FY 2014-15.

Judge Stargel expressed concern with the estimated FY 2014-15 disposition data indicating that it may have been based on less complex cases being disposed first and the more complex cases remaining. Judge Steinbeck noted it was the consensus of the Executive Committee that the estimated level of dispositions for FY 2014-15 was an ambitious and unachievable number and recommending adjusting down by one third. Judge Perry recommended monitoring how cases are processed and how long it takes to dispose.

Judge Steinbeck motioned to approve recommendation of Option 1; to not file an LBR, reexamine the pending caseload based on actual foreclosure filings and dispositions in December of 2014 to determine if a supplemental LBR may be warranted at that time, and to remove the Estimated Pending Foreclosure Cases chart from the official record due to the data not reflecting the complexity of the remaining cases. Judge Ficarrota seconded and the motion passed without objection.

**F. Law Clerks to Support Death Penalty Legislation**

Alex Krivosheyev provided an overview of the law clerk issue, which was submitted and subsequently not funded by the legislature for FY 2014-15, and presented LBR filing options.

Tom Genung made a motion to approve recommendation of Option 2; file an LBR issue based on 10 years of cumulative capital murder conviction data, the official judicial Delphi case weight for capital murder cases, and a 1:2 ratio of law clerk workload to judicial workload, for a total request of 27.0 FTE law clerk positions and \$1,984,797. The motion also included the addition of a floor of a 0.5 FTE, as recommended by the Funding Methodology Committee. Judge Brunson seconded and the motion passed without objection.

**G. Trial Court General Counsel Support**

Theresa Westerfield provided an overview of the general counsel issue which was submitted and subsequently not approved by the legislature for funding in FY 2014-15.

Judge Thomas made a motion to approve recommendation of the request to provide general counsel positions in the circuits that do not currently have a general counsel position and to use unfunded FTE. Judge Ficarrotta seconded and the motion passed without objection. Judge Perry suggested looking at the circuits who have in the past converted law clerk positions to establish general counsel positions for possible issue.

#### **H. Courthouse Furnishings**

Dorothy Wilson provided an overview of the courthouse furnishings requests. She reported that it has been the past practice of the TCBC to approve issues related to new courthouse construction or expansion of existing facilities only. Judge Mahon added that sufficient funds were available for replacement based on the anticipated reversion for FY 2013-14.

Judge Thomas made a motion to approve recommendation of the non-recurring funding requests related to new courthouse construction or building expansion only for: (1) Fourteenth Circuit - \$54,307 to furnish non-public areas of a new courthouse addition in Bay County; and (2) Seventeenth Circuit - \$837,392 to furnish private areas of the new Broward County Courthouse Complex. Grant Slayden seconded and the motion passed, with Judge Nelson opposed.

#### **I. Other Issues**

##### **1. Senior Judge Pay Request from Conference of Circuit Court Judges**

Alex Krivosheyev provided an overview of the senior judge pay issue, which was submitted by the Conference of Circuit Court Judges, and presented LBR filing options. The conference cited the current rate in effect for the last seven years, increase in health insurance premiums, mandatory one year wait period after retirement, and recent rule changes restricting mediation practices of senior judges, making senior judge service much less attractive to some retired judges. Judge Mahon clarified to the members that the TCBC sets rates of pay and the legislature appropriates the funding.

Tom Genung made a motion to approve recommendation of Option 2; to file an LBR for \$950,910 in recurring funds to adjust the senior judge rate of pay from \$350 to \$500, based on civil traffic infraction hearing officer average hourly rate of pay. Judge Parker seconded and the motion passed without objection.

##### **2. Conference of Circuit Court Judges' Letter on Legislative Priorities**

For informational purposes, Judge Colbath provided an overview of the conference's legislative priorities.

### **3. Fifteenth Judicial Circuit Request for Additional Court Reporters**

Dorothy Wilson provided an overview of the Fifteenth Circuit's request for additional court reporters, and presented LBR filing options. Judge Roundtree stated that historically, determination of LBR issues for this element are reviewed on a statewide basis and not individually.

Judge Ficarrota made a motion to defer the issue to the Funding Methodology Committee to study and determine if a FY 2015-16 supplemental legislative budget request for the court reporting element needs to be filed statewide. Judge Thomas seconded and the motion passed without objection.

### **J. Priority Ranking of LBR Issues**

Dorothy Wilson reported that all state entities are statutorily required to rank the LBR requests by order of priority and submit through the LBR process.

The Executive Committee recommended authorizing staff to utilize unfunded FTE in the development of the approved LBR issues and recommended the following order of priority for the approved issues:

1. Employee Pay Issues
2. Technology
3. Case Management Resources
4. Court Interpreting Resources
5. Trial Court General Counsel Support
6. Law Clerks to Support Death Penalty Legislation
7. Senior Judge Pay Increase
8. Courthouse Furnishings
9. Certification of Additional Judgeships

Tom Genung made a motion to approve recommendation of the Executive Committee proposal. Kathy Pugh seconded and the motion passed without objection.

## **Agenda Item VII: Update on FY 2014-15 Special Appropriations**

### **A. Post Adjudicatory Expansion Drug Courts**

Eric Maclure provided an overview of the current status of the funding for post adjudicatory expansion drug courts. The FY 2014-15 General Appropriations Act converted two OPS positions to FTE within the Office of State Courts Administrator but did not convert the 14 OPS positions within the circuit courts as planned.

Judge Steinbeck made a motion to approve recommendation to submit a technical LBR issue to adjust the FTE. Kathy Pugh seconded and the motion passed without objection.

**B. Veterans' Courts**

Eric Maclure provided an overview of the current status of the funding for veterans' courts.

**C. Vivitrol/Naltrexone to Treat Alcohol- or Opioid-Addicted Offenders**

Eric Maclure provided an overview of the current status of the funding for Vivitrol/Naltrexone to Treat Alcohol- or Opioid-Addicted Offenders. Judge Stargel commented that a TCBC workgroup or OSCA staff may want to compare service provider fees charged to different counties.

**D. 24x7 Sobriety Monitoring Program**

Eric Maclure provided an overview of the current status of the status of funding for the 24x7 Sobriety Monitoring Program.

**Agenda Item VIII: Report from Chief Justice Designee to Clerks of Court Operations Corporation**

Judge Ficarrota provided an overview of Clerks of Court Operations Corporation proposed budget and revenue issues.

**Agenda Item IX: Other Business**

On behalf of the TCBC, Judge Mahon presented Judge Perry, a founding member of the TCBC, with a recognition award and thanked him for his many years of service to the commission. PK Jameson also presented Judge Perry with an award from the OSCA staff.

**Adjournment**

With no other business before the commission, the meeting adjourned at 12:15 p.m.