

**Trial Court Budget Commission
Meeting Minutes
Amelia Island, Florida
December 6, 2003**



Members Present

Susan Schaeffer, Chair	Charles Francis	Nancy Perez
Stan Morris, Vice Chair	Kim Hammond	Belvin Perry
Jeffery Arnold	Nelly Khouzam	Judy Pittman
Mike Bridenback	John Laurent	Thomas Reese
Don Briggs	Donald Moran, Jr.	William Roby
Paul Bryan	Carol Ortman	Walt Smith
Joseph Farina	Wayne Peacock	Mark Van Bever
		Theresa Westerfield

Members Absent

Ruben Carrerou - excused

Others Present

Justice Barbara Pariente, Judge Alice Blackwell-9th, Judge Richard Burke-18th, Chief Judge David Demers-6th, Ms. Gay Inskeep-6th, Ms. Caron Jeffreys-20th, Chief Judge Manuel Menendez-13th, Ms. Elaine New-6th, Mr. Doug Smith-2nd, Judge Fred Tygart-4th, and OSCA staff.

WELCOME & INTRODUCTION OF GUESTS

Judge Schaeffer called the meeting to order Saturday, December 6, 2003, at 8:30 a.m. Introductions were made and guests were recognized. Blan Teagle was introduced as OSCA's new Deputy State Courts Administrator. Justice Barbara Pariente was introduced.

APPROVAL OF MEETING MINUTES

Judge Schaeffer asked for any corrections to the minutes from the August 5, 2003 meeting. The meeting minutes were approved without objection.

UPDATE FROM PERSONNEL COMMITTEE

At the request of the TCBC, the Personnel Committee submitted a proposal to re-title existing deputy and senior deputy court administrator positions to more accurately reflect the primary responsibility of each position. The request grew out of a concern that the Administrator title was misleading and created an easy and non-specific target for possible legislative reductions to the trial courts. The Personnel Committee recommended the new classes be assigned as:

Administrative Services Manager, Budget Manager, Court Operations Manager, Human Resource Manager, Family Court Manager, Purchasing Manager, Drug Court Manager, and Training Manager.

Several members were concerned with the timing of this task and the legislative impact. Judge Schaeffer directed OSCA staff to get input from legislative staff and to bring the matter back for the Executive Committee to decide.

A handout summarizing the Personnel Committee's work activities since the last meeting was reviewed. On behalf of the TCBC, Judge Schaeffer thanked Theresa Westerfield and the committee members for their work preparing for the transition.

CURRENT YEAR BUDGET

Salary Shortfall

The 2003 legislature cut 79.5 positions and associated salary dollars from the circuit court budget. The base salary budget was lapsed an additional \$709,339, with no new judges funded. These actions, plus other factors such as no funding for annualized costs of reclassifications, leave payouts, DROP payouts, rate distributions, and hiring staff at 10% above the minimum, have led to the depletion of the once healthy salary budget. The total projected circuit court shortfall is \$3,264,835. The total projected county court shortfall is \$1,105,444.

The base salary budget for county courts has historically been short. Factors contributing to this shortfall are little to no turnover, almost all judicial assistants are hired at 10% above the minimum, and the authorization of judicial assistants to retain current salaries when transferring from a circuit judicial assistant to a county judicial assistant.

The FY 2004/05 Legislative Budget Request includes an issue to combine the circuit and county court budgets, and a \$500,000 funding issue to cover estimated leave payouts.

Judge Schaeffer reported that the TCBC Executive Committee met on November 18, 2003, and members agreed to take emergency action. Chief Justice Anstead was asked to impose immediate emergency measures to cover the current year salary shortfall. The emergency measures were communicated by memorandum to chief judges and trial court administrators. The measures include: continue the hiring freeze through the remainder of the fiscal year for general revenue funded positions; a 30% across-the-board expense budget reduction; and limitations on personnel actions including no overlap of positions, no special pay increases, no reclassification of positions, and no overtime allowed for "included" employees. These actions saved \$2,335,557 to date but a \$2,034,722 shortfall remains. The 30% expense reduction is based on the original budget allocation as of July 1, 2003.

The commission members reviewed three options to address the remaining shortfall. Option A allows for chief judges to allocate the remaining reductions, based on their proportionate share. Option B allows the TCBC to make reductions from reserve accounts and the chief judges to allocate the remainder of the shortfall. Option C allows the TCBC to decide the reduction to be taken.

Judge Farina made a motion to approve Option B, allowing the TCBC to make the reduction to reserve accounts and allow the chief judges to allocate the remaining \$1,984,562 shortfall, according to their proportionate share. The motion was seconded and approved without objection.

Judge Perry made a motion to recommend a change to the current personnel policy and require chief judges to hire employees at the minimum of the pay grade. Judge Roby made a motion to table this issue until the next meeting. Judge Moran seconded and the motion was approved without objection.

Jimmy Ryce Conflict Costs

Charlotte Jerrett reported that a \$131,271 current year budget shortfall is projected for expenditures associated with civil commitment proceedings under the Jimmy Ryce Act. The 2003 legislature appropriated \$350,000 in FY 2003/04. Total expenditures through November 12, 2003, are \$125,606, with additional orders pending in the amount of \$38,947. Projected expenditures for the current fiscal year are \$481,271. In Fiscal Year 2002/03, the legislature appropriated \$350,000, and the expenditures totaled \$450,135. The TCBC re-directed other circuit base appropriations to cover the shortfall. In accordance with provisions outlined in HB 113-A, an issue has been filed in the Fiscal Year 2004/05 LBR to transfer this appropriation to the Justice Administrative Commission (JAC).

The TCBC Executive Committee directed staff to gather additional information on the various fees for expert witnesses to determine the maximum amount for expenditure cap, and to distribute revised guidelines requiring approval by the chief judge, for expenditures that exceed the cap. The Commission approved, without objection, that the Chief Justice issue an administrative order outlining these guidelines.

Juror and Witness Expenditures

Charlotte Jerrett reported that the 2003 legislature cut funding in the juror/witness appropriation by \$600,000. All 67 counties were notified of the projected \$150,000 budget shortfall, with assurances that we will work towards a resolution by fiscal year end. Chief Justice Anstead directed a memorandum to chief judges and trial court administrators regarding containment of petit juror per diem expenses. In accordance with provisions outlined in HB 113, funds for juror and witness expenditures are to be transferred to the JAC, effective July 1, 2004.

Lisa Goodner recommended enhancing jury management activity at the local level before asking the legislature for additional funds. The Performance and Accountability Committee is looking at yields and analyzing that information. Standards may need to be re-addressed at that time.

REVISION 7 BUDGET ISSUES

Overview of Final Legislative Budget Request

Judge Schaeffer reviewed the Legislative Budget Request and how the funding methodologies were developed. The formulas were discussed in great detail during the last meeting.

The issue files for judicial certification was a placeholder based on last year's request. The exact figure will not be known until the certification opinion is published.

The OSCA Revision 7 Implementation issue is comprised of additional administrative staff in procurement, finance & accounting, budget, and personnel, as identified by TCAs and OSCA staff, to provide the level of support needed after the transition.

Court reporting paid to clerks remains an issue. Preliminary inquiries show the clerks would charge \$75 per day, per court. This service is not budgeted now and could be as much as a \$5 million item. Many members expressed concern and discussion ensued about this hidden cost.

Sixth Circuit Request for Amendment to Court Reporting Budget Request

Chief Judge Demers reported on the crisis in the 6th circuit. Contract court reporters are unable to carry out their contract agreement. There are not enough reporters for transcripts and to cover courts in criminal proceedings.

A contingency plan was immediately put in place and consists of having limited/continued jury trials, use of audio recorders in all county criminal proceedings except for some jury trials, and arrangements for a small contingency of traditional court reporters, available on a stand-by basis for county court trials. The short term solution is to install digital equipment, hire staff to monitor, and utilize staff to produce transcripts. The long term solution is to amend the LBR, move to electronic recording for use in all criminal felony and misdemeanor, juvenile and UFC proceedings using court reporting software, a central monitoring room, and electronic court reporting staff. The plan would increase the current LBR amount from \$1,122,939 to \$2,349,528. The first year start up cost would be \$688,320 to be paid by the county. A centralized control room would operate the equipment so staff is not needed to push a button in each court room. Judge Schaeffer stated the TCBC puts the LBR together, but that does not mean it will be approved as requested. Judge Farina made a motion to add an additional \$1,122,939 to the LBR. Judge Hammond seconded and the motion was approved without objection.

Proposal for Mediation Element

Ms. Horvath reported that the mediation programs in Florida have historically been funded by local fees supplemented by county funds. There is substantial variation in the delivery model of programs between circuits and among counties within circuits. With the transition to state funding, the challenge has been to develop a mediation delivery system that continues to meet the individual needs of the circuits and to retain some flexibility, yet ensure that there is an appropriate level of uniformity and accountability to support state-wide funding.

The consensus-building process to develop the funding proposal and the new operating policies and procedures for the mediation programs included several workshops of court mediation staff and multiple outreach efforts with chief judges and trial court administrators.

Based on the findings from the consensus building process, two alternative budget proposals were advanced for consideration by the TCBC Executive Committee.

Proposal A was calculated based on an estimate of the general revenue and cost recovery requirements for circuits to maintain current services and to provide equitable services for counties that have previously had insufficient fee-based revenues. The general revenue request was based on applying \$5.04 per filing for family (except domestic violence) and county civil filings, excluding small claims. The cost recovery was based on applying a figure of \$6.72 per filing.

Proposal B was based on input from the 13th circuit and was calculated using a figure of \$7.00 per filing and a figure of \$7.50 per filing for cost recovery. The proposal advanced by the 13th circuit will address their funding concerns as well as those of the 18th circuit. It will also provide greater funding to the 11th circuit.

Mike Bridenback recommended Proposal B. Judge Morris reported that the TCBC Executive Committee recommended Proposal B. Judge Laurent asked why the numbers were different between the circuits in each grouping. Peggy Horvath explained that the numbers are based on filings. Walt Smith asked if the clerks will take their fee from the courts recovery. Mike Bridenback stated that the \$7.00, less the clerks' transaction fee, will be allocated back to the circuit generating the revenue. Mark Van Bever moved to approve Proposal B. Judge Pittman seconded and the motion was approved without objection.

Benefits for volunteer mediators were reviewed. Mark Van Bever moved to not include benefits as a separate line item. Judge Francis seconded and the motion was approved without objection.

Update on Pay Issues

The TCBC already voted that no special issues would be proposed. The legislature is bringing back the Judicial Assistant pay issue vetoed by the Governor last year. The TCBC Executive Committee agreed that if an adequate appropriation for Revision 7 is not received, the TCBC would not support JA increases and judges' insurance costs. If adequate appropriation is not received, the JA salary increases would come out of the elements of court reporting, masters & hearing officers, case management, etc. Judge Farina asked what is more important - people or pay raises. Judge Perry moved to support the "people over pay raises" approach. Walt Smith seconded and the motion was approved without objection.

Trust Fund for Operations

The members discussed the need within the judicial branch to cover the cost of resources such as court reporting and other due process services provided to state attorneys' and public defenders' offices. State attorneys and public defenders will need to take financial responsibility for covering their own due process costs. Local circuit courts could agree, however, to provide the services through court employed court reporters. This arrangement would ensure provision of uniform service and the cost could be then apportioned accordingly to state attorneys and public defenders. To provide this service and receive reimbursement, circuits would need a vehicle for receipt of monies from state attorneys and public defenders and would need a method for record keeping. Judge Francis moved to establish a new operating trust fund as the best means of tracking the dollars received and accounting for them separately. Judge Pittman seconded and the motion was approved without objection.

PROPOSAL FOR GLITCH BILL LANGUAGE

Greg Smith reviewed the Legislative Committee's working document. Twenty issues are listed on the table and were incorporated into draft #3 of the glitch bill. Issues still under discussion are fees for enforcement of court-ordered assessments, and recovery of due process costs from solvent litigants.

Judge Perry acknowledged the Legislative Committee's diligent work on the bill and to Greg Smith's effort as many re-drafts were made.

UPDATE ON LEGISLATIVE COMMITTEE AND COMMUNICATIONS ADVISORY GROUP ACTIVITIES

Judge Perry reported that the committee accomplished their goals thus far. Pending is the local impact of Revision 7 on the circuit level. Judges Farina and Morris authored articles that were published locally. Judge Schaeffer thanked Judge Khouzam and the Conference of Circuit Court Judges for pursuing and actively speaking about Revision 7 funding.

Lisa Goodner reported that educating the business community is paying off. The Florida Retail Federation, Florida Realtors, and the Florida Bankers Association agreed to make court funding an issue. Justice Pariente added that all justices are taking every opportunity to educate House, Senate, and Executive staff.

Judge Hammond asked if the Legislative Committee has any formal strategies for informing the media and the public about shortages. Judge Schaeffer stated the business community is concerned that shortages would delay civil proceedings. Judge Roby added attorneys in his area were shocked about the possible delay in civil proceedings.

UPDATE ON ARTICLE V INDIGENT SERVICES ADVISORY BOARD

Judge Farina reported that the next meeting of the advisory board will be held Monday in Tallahassee. The advisory board has met twice and Judges Bennett, Bateman, and Farina are the court representatives. There are four subcommittees with at least one judge on three of the subcommittees. OSCA has been helpful in providing material for the meetings. Peggy Horvath stated the JAC is determining the feasibility of a statewide court reporting contract. Discussion ensued and the TCBC members agreed the JAC is a bill paying agency and that the State Courts System should be responsible for both its funds and policy regarding their usage.

Update on Assessment Reporting

Lisa Goodner reported on the proposed business rules and forms for reporting court-ordered assessments. TCBC representatives met with the CFO, Tom Gallagher, and expressed concern that the current rules and form will lead to misreported potential revenues and misreported current collections and that a more detailed reporting is needed to more accurately reflect assessments. Mr. Gallagher was sympathetic and the form was revised. The assessment report will be supplemented for one month, with information on reasons for not assessing the maximum fines.

Update on Results of CFO Survey on County Expenditures

Lisa Goodner explained that the survey required the clerks to report on Uniform Chart of Accounts expenditures, as required by HB 113A. The CFO survey tried to estimate "hidden" county costs and some elements of the report will be useful to the courts.

OTHER BUSINESS

Judge Schaeffer stated that the commission has been busy with Revision 7 tasks, but budget management is equally important. She suggested the formation of a Budget Management Committee with Judge Morris, Carol Ortman, and Mike Bridenback as members, Judge Laurent as Chair, and Charlotte Jerrett as lead OSCA staff. Judge Perry made the motion to approve, Judge Francis seconded, and the motion to form a Budget Management Committee was approved without objection.

Judge Perry thanked Judge Arnold and the Conference of County Court Judges for their work and support on the Revision 7 funding efforts.

Judge Roby was asked by the 19th Circuit judicial assistants to express their concern to the Commission of the \$600 allocation per JA for temporary JA coverage. They recommended \$2,080-\$2,600 per JA. Judge Morris motioned to decline the request. Judge Pittman seconded and Judge Roby abstained. The motion was approved without objection.

Judge Schaeffer thanked OSCA staff for their continued assistance to the TCBC.

ADJOURNMENT

With no other business before the Trial Court Budget Commission, Judge Schaeffer adjourned the meeting at 1:55 p.m.