AGENDA

I. Welcome and Opening Remarks
   A. Roll Call
   B. Approval of August 3, 2017 Meeting Minutes

II. FY 2017-18 Salary Budget
   A. Update on Previous DCABC Actions
      i. First DCA Central Staff Director Pay Request – Supreme Court Conference August 30, 2017
      ii. Judicial Assistant CAD Issue – Being Analyzed by OSCA Staff
   B. Update on Supplemental Appropriations
   C. Review and Confirm Budget and Pay Memo Recommendations
   D. Senior Judge Pay Increase Proposal
   E. Fourth DCA Floating Law Clerk Continuation Request

III. Update on Second DCA FY 2018-19 Legislative Budget Request

IV. Other Business and Adjournment
Members Present
Judge Jonathan Gerber, Chair
Judge Wendy Berger
Judge Stevan Northcutt
Judge Clayton Roberts
Judge Bradford Thomas
Judge Edward LaRose
Judge Barbara Lagoa
Judge Jay Cohen
 Marshal Veronica Antonoff
 Marshal Charles Crawford
 Marshal Jo Haynes
 Judge Spencer Levine
 Judge Leslie Rothenberg
 Judge Darryl Casanueva
 Marshal Daniel DiGiacomo

Members Absent
Judge Vance Salter

Others Present
P.K. Jameson, Eric Maclure, Blan Teagle, Dorothy Willard, Beatriz Caballero and other OSCA staff

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

Agenda Item I. Welcome and Opening Remarks
Judge Jonathan Gerber welcomed members and called the District Court of Appeal Budget Commission (DCABC) meeting to order at 1:32 p.m.

Agenda Item II. Approval of June 20, 2017 Meeting Minutes
Judge Gerber requested the draft minutes be revised to reflect Judge Thomas expressed the 1st DCA would like to pursue an agenda item to address current fiscal year, to make the JA salary uniform, and added that a system wide approach would be the prudent path. Judge Cohen concurred. There being no other edits, Judge Gerber moved to approve the minutes as amended. Judge Cohen seconded, and the motion was unanimously approved.
Agenda Item II. Fiscal Year 2017-18 Salary Budget

A. Amended Start-Up Salary Budget
Dorothy Willard presented the Amended Start-Up Salary Budget, and presented four scenarios for the estimated spending flexibility for FY 2017-18. Ms. Willard reported that supplemental appropriations should be received soon, and projections will be finalized at that time. Judge Gerber confirmed this issue is for information purposes only, and no actions are required until final adjustments can be made.

B. Recommendations from the Salary Budget Committee

I. Purpose and Role
Judge Northcutt provided an overview of the purpose and role of the Salary Budget Committee (SBC), and provided information regarding a SharePoint website for commission members to view salary and rate trends for the appellate courts.

II. FY 2017-18 Salary Budget Management
Judge Northcutt provided an overview of the SBC’s approach to FY 2017-18 spending flexibility utilizing FY 2016-17 actual lapse. He noted the SBC initially recommended Scenario 2, noting the 2-year average lapse methodology is the historical method and the conservative approach. However, since the final appropriations are unknown at this time, Judge Northcutt recommended Option 2, to defer any actions until the appropriation is final.

Judge Gerber asked if there were any objections to Option 2. There being none, the motion was unanimously approved.

Judge Gerber added that if final appropriations are known in the next few weeks, this issue should be concluded via email vote prior to the Florida Conference of District Court of Appeal Judges Annual Education Program, which is scheduled to begin September 5, 2017. If this issue is still pending at that time, the commission will address it at the conference.

III. Security
Judge Northcutt reported the DCABC, the Commission on District Court of Appeal Performance & Accountability (DCAP&A), and the Task Force on Appellate Court Safety and Security recommend a minimum of 3.0 security officers per court and 1.50 security officers for additional facilities.
On behalf of the SBC, Judge Northcutt recommended Option 3, to not file an LBR for this issue. Judge Gerber added that he did not receive any responses from the individual courts to his request regarding this issue.

Judge Gerber moved to approve Option 3, and asked if there were any objections. There being none, the motion was unanimously approved.

IV. JA CAD (Circuit Equity Issue)
Judge Northcutt reported the Supreme Court created a pay structure for Judicial Assistant (JA) Competitive Area Differential (CAD), and referred members to a revised report that includes projections for Option 3. Judge Northcutt noted the revised chart was received by the SBC this morning, and stated this option requests the CAD be established as suggested in Option 2 (add the appropriate CAD across the board), but offset the total cost by permitting the chief judge to reduce the base salary of JA’s whose base salary currently reflects an amount originally part of a CAD or in lieu of a CAD. This alternate implementation will net out to cost less than $20,000 in rate for the 2nd DCA, rather than $56,000.

On behalf of the SBC, Judge Northcutt recommended Option 3 and also proposed immediate implementation prior to other pending salary management decisions being finalized. Dorothy Willard indicated she has not had an opportunity to review the impact of Option 3. Judge Berger noted she had no concerns with the impact of Option 3 on the 5th, and recommended an implementation date of October 1, 2017.

Judge Gerber moved to approve Option 3 with the condition that OSCA staff analyze the option to identify any issues, and make the effective date October 1, 2017, if the Court approves. Judge Gerber asked if there were any objections to Option 3 as proposed. There being none, the motion was unanimously approved.

V. Budget and Pay Memo
Judge Northcutt reported that the SBC has reviewed the OSCA Proposed FY 2017-18 DCA Budget and Pay Memorandum. He identified sections of the proposed memo that do not include DCABC recommendations, and identified other sections that alter DCABC recommendations. Judge Northcutt noted that these exclusions and/or alterations were made without notification to the DCABC, and this action contradicts his understanding of Rule 2.235, the charge of the DCABC, and the role of OSCA staff.

Judge Northcutt then recommended working from Appendix C, OSCA Proposed FY 2017-18 DCA Budget and Pay Memo, to make DCABC revisions.
Judge Berger stated she understood proposed changes can be denied by the chief justice, but cannot be rewritten. Judge Northcutt then referenced Rule 2.235 (b)(1) and (2). Judge Gerber asked if there were any comments; there being none, he requested Judge Northcutt provide an overview of the SBC’s recommended changes.

A. DCABC FY 2016-17 B&P Memo Recommendation
Judge Northcutt reminded members about the DCABC recommended change to the FY 2106-17 B&P Memo that did not reflect as strike-through in the final FY2016-17 B&P Memo. He noted that change is being reflected in Appendix A of the meeting packet.

B. Final FY 2016-17 DCA Memo Issued by the Chief Justice
Judge Northcutt reported the final FY 2016-17 B&P Memo issued by the chief justice differed markedly from the DCABC’s final recommendation, and noted this memorandum was used as the reference document for the Proposed FY 2017-18 B&P Memo. This document is included as Appendix B of the meeting packet.

C. OSCA’s Proposed FY 2017-18 B&P Memo
Judge Northcutt reported the Proposed FY 2018-19 B&P Memo presented by OSCA staff at the June 20, 2017, DCABC meeting is included as Appendix C of the meeting packet. Judge Northcutt then began the review of sections the SBC recommends the DCABC address.

1. Section A.1.
Judge Northcutt reported the SBC recommended this language be revised to FY 2015-2016 language, as follows:

The salaries of the clerks of the district courts shall be equalized among themselves, and the salaries of the marshals of the district courts shall be equalized among themselves. No clerk or marshal of a district court will be eligible to receive a special pay increase, or salary rate allocation, unless the District Court of Appeal Budget Commission approves an equal increase for all clerks and/or marshals of the district courts.

Judge Northcutt recognized that it is not clear who sets the pay under the law, but in practice and historically, it has been the appellate courts that determine appellate salaries within the allocation received. He then proposed an alternate recommendation that the SBC did not review, to revise the language to reflect the appellate clerks and marshals salaries be equalized, as follows:
The salaries of the clerks and marshals of the district courts shall be equalized among themselves. No clerk or marshal of a district court will be eligible to receive a special pay increase, or salary rate allocation, unless the District Court of Appeal Budget Commission recommends an equal increase for all clerks and/or marshals of the district courts to the Supreme Court for final approval.

Judge Roberts agreed that the Rules of Judicial Administration dictate this process, but was concerned about this particular issue. He feels a challenge to the Supreme Court’s language will set the stage for future requests to be denied, and he does not recommend any changes to this section. Judge Thomas recommended clarification be requested of the Supreme Court in regards to the proposed salaries. Judge Northcutt stated he will not approve any narrative that includes the current proposed amounts and recommends if specific salary amounts are included, they be the same as the Supreme Court.

Judge Lagoa requested clarification of Judge Northcutt’s two options for Section A.1., which Judge Gerber provided, as follows:
Option 1: To remove specific salary amounts, reverting back to FY 2015-16 Budget and Pay Memo language.
Option 2: To equalize the salary amounts of the DCA clerks and marshals.

Additional discussion suggested an in-person meeting with Chief Justice Labarga to discuss the specifics of this issue. PK Jameson communicated that Justice Polston is the DCABC liaison for the court and therefore, any requests to meet with the chief justice should be directed through him.

Judge Northcutt indicated he prefers Option 1, then Option 2, and offered the following alternative option: Should Option 1 be approved, Option 2 be revised, as follows:
Option 2(a): To revise salary amounts after the meeting with the chief justice has occurred.

Judge Rothenberg then proposed Option 3, table a decision until Judge Gerber can meet with the chief justice to discuss this issue.

Judge Gerber called for a roll call vote. Option 1 received 5 yay’s, and Option 3 received 5 yay’s; therefore, both options failed and were withdrawn.

Judge Lagoa then moved Option 2, with amended language that the DCABC’s position be discussed with the chief justice in person, not via an OSCA memorandum. Judge
Cohen requested a supplemental amendment to Judge Lagoa’s motion to appoint Judge Gerber, as DCABC chair, be the representative to meet with the chief justice.

Judge Gerber asked if there were any objections to Option 2, with the proposed amendments. There being none, the motion was unanimously approved.

Judge Northcutt noted other issues may be requested for consideration of inclusion in the chief justice meeting, and motioned to amend Section A.1.b. to include the clerks and marshals by name. Judge Gerber asked if there were any objections to this motion. There being none, the motion was unanimously approved.

2. Section A.3.a.

Judge Northcutt reported the SBC recommended removal of language that prohibits overtime without advance approval from supervisor being received. This edit will revise this section to FY 2015-16 language, as follows:

A.3.a. It does not appear to be necessary to hold positions vacant in the district courts at this time. However, the District Court of Appeal Budget Commission will monitor the salary budget and impose such restrictions as necessary in order to cover payroll costs through the end of the fiscal year.

PK Jameson noted this language was added to be consistent with the Personnel Regulations, the Fair Labor Standards Act, and Family Medical Leave Act. Ms. Jameson also noted this language is included in the Trial Courts Budget and Pay Memorandum.

Judger Gerber asked if there were any objections to the motion made by the SBC, as presented by Judge Northcutt. There being none, the motion was unanimously approved.

3. Sections A.3.b.i. and A.3.b.iii.

Judge Northcutt reported the SBC recommended removal of the entire section (A.3.b.) as written, and revise to FY 2015-16 language, as follows:

Subject to available salary appropriation, as confirmed by the Chief Justice, a rate distribution may be made during FY 2017/18.

i. Distribution to the district courts will be based on the total number of eligible FTE in each district (less judges) unless otherwise directed by the DCABC.

ii. Individual salary increases may not exceed 10 percent.
iii. No retroactive salary increases are permitted unless approved by the DCABC due to special circumstances. However, retroactivity may not extend back further than two months.

iv. When it is anticipated that allocations for a district court will not be used by June 30, 2018, the DCABC will determine whether to re-purpose the funds or let the funds revert for statewide budget management.

v. Outside of any rate distribution, no special pay increases are permitted. The chief judge may request an exception from the DCABC. These requests should be sent to the Chair of the DCABC with copies to the State Courts Administrator.

Judge Northcutt indicated this recommendation is being made, in part, due to a rate distribution that was approved in August 2016, but not realized until December 2016, then moved to strike A.3.b.as written, and revert to FY 2015-16 language.

Judge Gerber asked if there were any objections to the motion. There being none, the motion was unanimously approved.

Judge Berger inquired how so many changes to DCABC recommendations occur without DCABC notification. PK Jameson stated the Budget and Pay Memorandums are at the Chief Justice’s discretion. Judge Northcutt noted he believes that contradicts the Rules of Judicial Administration that dictate the DCABC’s purpose. Judge Thomas noted the Supreme Court interprets the Rules of Judicial Administration.


Judge Northcutt reported the SBC recommended removal of this section, or at least specify parameters. Judge Levine stated justification should be required if requesting to pay staff over the minimum hourly rate, and Judge Roberts agreed.

Blan Teagle referenced F.S. 110.131(2)(b), which requires the judicial branch determine the OPS employment appropriate rate of pay and ensure all payments are in compliance with the federal Fair Labor Standards Act and state law. Mr. Teagle added adhering to the salary schedule protects the branch against lawsuits.

Judge Roberts offered a substitute motion to amend Section 9.b. to read, as follows:
Districts requesting to pay hourly rates above the minimum must provide written justification to the OSCA Chief of Human Resources.
Judge Gerber asked if there were any objections to the substitute motion. Judge Rothenberg and Judge Lagoa dissented. Judge Gerber noted the substitute motion as approved by a vote of 8-2.

5. **Section A.3.a.**

Eric Maclure provided an overview of proposed narrative that addresses the timely submission of Personnel Action Requests (PAR), and reported the Trial Court Budget Commission (TCBC) approved guidelines for this issue be included in the FY 2017-18 Trial Court Budget and Pay Memorandum.

Judge Northcutt reported the SBC recommended this language not be incorporated into the DCA Budget and Pay Memo for the following reasons: 1) the trial courts have many more PARS than the appellate courts; 2) two DCA’s electronically submit their PARs and this directive would create a negative impact for these courts; and 3) Personnel Regulations indicate PARs be post-audited, not pre-audited.

Judge Gerber asked if there was a motion to approve consideration of the proposed language. Hearing no motion, Judge Gerber noted there will no consideration of the proposed language for inclusion.

Judge Northcutt concluded the SBC recommendations, and requested any action taken today be included in the presentation to the chief justice. Judge Gerber agreed. Judge Roberts offered to create a strategy proposal for the DCABC’s consideration.

**Agenda Item III. Fiscal Year 2018-19 Legislative Budget Request**

A. **Fixed Capital Outlay Issues**

Judge Gerber provided an update to the 2nd DCA issue for a new courthouse building, noting the narrative should request the Legislature, not the Department of Management Services (DMS), determine the building site. In addition, the request should also include a request for consideration of a satellite location to remain in the Lakeland area.

Judge Larose moved Option 1, to file the issue as requested. Judge Gerber asked if there were any objections to the motion. Hearing none, the motion was unanimously approved.
B. Employee Pay Issue
Beatriz Caballero provided an overview of the Equity, Recruitment, and Retention Pay Issue, noting that the 2014 Legislature only funded a portion of the FY 2014-15 request. Each year thereafter, an LBR has been filed to obtain funding for classes that were not addressed with the FY 2014-15 issue.

Judger Gerber moved to approve Option 1, to file a FY 2018-19 LBR for second-year funding for court staff salary equity, recruitment, and retention issues. There were no objections and the motion was unanimously approved.

C. Certification of New Judgeships
Dorothy Willard reported that pursuant to Rules of Judicial Administration 2.035, each DCA is required to submit requests for new judgeships to the DCABC for review and approval. The requests for new judgeships and the DCABC’s approval are then submitted to the Supreme Court for consideration. Ms. Willard stated the OSCA Office of Court Services will send notification for requests of new judgeships the week of August 21st, and responses are due the week of September 4th. If there are any issues received, an email vote will be necessary.

Judge Gerber reported that to date, there are no district courts expected to file a request for this issue.

D. Discussion and Priority Determination of LBR Issues
Dorothy Willard reported Chapter 216, Florida Statutes, requires all state entities to list their LBR issues by order of priority; therefore, for the issues approved at this meeting, determination of priority was needed from the DCABC.

Judge Gerber asked if the Supreme Court will be the final authority on the priority determined by the DCABC. PK Jameson stated the only issue the Supreme Court prioritizes is the Employee Equity, Recruitment, and Retention Pay Issue.

Judge LaRose asked if nonrecurring funds would help when ranking, and Dorothy Willard responded it would not. Judge Gerber asked if both issues could be filed as number one, and Ms. Willard stated that approach is not recommended, as the Legislature will decide a priority ranking on the courts behalf.

After discussion, the members ranked the issues in the following order of priority:
1. 2nd DCA New Courthouse Building
2. Employee Pay Issue

Judge Gerber asked if there were any objections to this ranking. There being none, the priority order presented was unanimously approved.

Agenda Item VI. Other Business and Adjournment
Judge Gerber asked if there were any other business issues to discuss. There were none.

Judge Gerber started the next meeting will be Tuesday, September 5, 2017, from 1:00 p.m. to 5:00 p.m., at the education program.

With no other business before the commission, the meeting was adjourned at 4:15 p.m.
Agenda Item II.A.i.: First DCA Central Staff Pay Request – Supreme Court Conference August 30, 2017

There are no materials for this agenda item, for informational purposes only.
Agenda Item II.A.ii.: Judicial Assistant CAD Issue – Being Analyzed by OSCA Staff

There are no materials for this agenda item, for informational purposes only.
Agenda Item II.B.: Update on Supplemental Appropriations

There are no materials for this agenda item, for informational purposes only.
TO: Chief Judges of the District Courts of Appeal
Marshals

FROM: Chief Justice Jorge Labarga

DATE: September xx, 2017
November 22, 2016

SUBJECT: Budget and Pay Administration for Fiscal Year 2017-18

I have established the following budget and pay administration policies for the current fiscal year, consistent with the recommendations of the District Court of Appeal Budget Commission (DCABC) and also addressing other issues. Substantive changes from the prior year’s policy are underlined.

A. Personnel Actions - Other than regulations limited by these “Personnel Actions” policies and procedures and the sharing of sick leave donations across the district courts, all regulations provided in the State Courts System Personnel Manual (https://intranet.flcourts.org/osca/personnel/bin/personnel_regulationsmanual.pdf) remain in effect.

1. Court Staff Salaries

   a. The salaries of the clerks of the district courts shall be equalized among themselves, and the salaries of the marshals of the district courts shall be equalized among themselves. The starting salary for the clerk and the marshal is
$117,483 and for the marshal $114,878.64. No clerk or marshal of a district court will be eligible to receive a special pay increase, or salary rate allocation, unless the District Court of Appeal Budget Commission recommends an equal increase for all clerks and/or marshals of the district courts to the Supreme Court for final approval.

b. Effective October 1, 2017, eligible\(^1\) employees with a base rate of pay is $40,000 or less on September 30, 2017, will receive an annual increase of $1,400.

Effective October 1, 2017, eligible employees with a base rate of pay greater than $40,000 on September 30, 2017, will receive an annual increase of $1,000; provided however, in no instance may an employee’s rate of pay be increased to annual amount less than $41,400.

2. Judicial Salaries

Effective July 1, 2017, 2016, a district court judge’s salary is $154,140.

Effective October 1, 2017, a district court judge’s salary is $169,554.

3. Salary Budget Management

a. It does not appear to be necessary to hold positions vacant in the district courts at this time. However, to stay within the salary management plan established by the DCABC for Fiscal Year (FY) 2016-17, an included employee under the Fair Labor Standards Act should not work overtime without advance approval from his or her supervisor. The District Court of Appeal Budget Commission will monitor the salary budget and impose such restrictions as necessary in order to cover payroll costs through the end of the fiscal year.

b. Subject to available rate and salary appropriation, as confirmed by the Chief Justice, a rate distribution may be made during FY 2017-18 FY 2016-17.

---

\(^1\) “Eligible” employees refer to employees who are, at a minimum, meeting their required performance standards, if applicable. Employees classified as being other personnel services (OPS) employees are not eligible for an increase. For the State Courts System, employees who are not working under a Performance Improvement Plan are assumed to be meeting their required performance standards.
i. A rate distribution plan shall be submitted by the DCABC to the Chief Justice for approval prior to implementation of a rate distribution to ensure equity between the Districts and Supreme Court positions.

ii. Distribution to the district courts will be based on the total number of eligible FTE in each district (less judges) unless otherwise directed by the DCABC.

iii. Individual salary increases may not exceed 10 percent.

iv. The effective date of actions may begin the first day of the month following the Chief Justice’s confirmation of available rate and salary appropriation and approval of a rate distribution plan. A Personnel Action Request (PAR) for all rate distribution actions must be submitted to the OSCA Personnel Office for processing on the next available monthly payroll. No retroactive salary increases are permitted unless approved by the DCABC due to special circumstances. However, retroactivity may not extend back further than two months.

v. When it is anticipated that allocations for a district court will not be used by June 30, 2017, the DCABC will assess the health of the salary budget and determine whether to re-purpose the funds or let the funds revert for statewide budget management.

vi. Outside of any rate distribution, no special pay increases are permitted. The chief judge may request an exception from the DCABC. These requests should be sent to the Chair of the DCABC with copies to the State Courts Administrator.

4. Other Personnel Actions

a. Initial appointment rates must be at the minimum of the class pay range. The chief judge may request an exception from the DCABC. These requests should be sent to the Chair of the DCABC with copies to the State Courts Administrator. If the chief judge provides documentation to the State Courts Administrator that the affected position has been advertised no fewer than two times and that either no applicant met the qualifications or that no qualified applicant would accept the position at the minimum salary, appointment up to 10% above the minimum salary is summarily approved.

b. Upon promotion, an employee’s salary shall be increased to the minimum of the class to which the employee is being promoted. However, if that increase is less
than five percent (5%), the chief judge or his/her designee may approve a promotional increase for an employee of up to five percent (5%) of the employee’s salary prior to promotion, provided such an increase will not place the employee’s salary above the maximum for the new range. The chief judge may request an exception by the DCABC. These requests should be sent to the Chair of the DCABC with copies to the State Courts Administrator.

c. Regarding Donation of Sick Leave, State Courts Personnel Regulations section 4.09(3)(B): In the case of the district courts of appeal, the chief judge of the employee’s court may notify the chief judges of the other district courts of appeal of the request for donations. Any chief judge of a district court of appeal may notify the employees of his/her respective court of the request for donations.

5. Law clerk appointment rates are to be made in accordance with the policies outlined in the Appellate Law Clerk Pay Plan. Any incentive adjustments and promotional increases made at the discretion of the employing judge and chief judge, shall be consistent with the Appellate Court Law Clerk Pay Plan, a current copy of which is found in Attachment I. No special pay increases are permitted. The chief judge may request an exception from the DCABC. These requests should be sent to the Chair of the DCABC with copies to the State Courts Administrator.

6. Overlap of positions in accordance with the State Courts System Personnel Regulations may be approved by the DCABC upon determination that sufficient salary dollars are available and the overlap is necessary to avoid disruption in efficient operation of the district. These requests should be sent to the Chair of the DCABC with copies to the State Courts Administrator.

7. Positions approved for upward reclassifications are limited to those reclassifications which result in a salary increase of ten percent (10%) or less over the original classification. If a position is reclassified within these limitations, the chief judge may approve a promotional increase for the incumbent not to exceed five percent (5%) of the employee’s current salary or to the minimum of the new class, whichever is greater, provided such an increase will not place the employee’s salary above the maximum for the new range. The chief may request an exception by the DCABC. These requests should be sent to the Chair of the DCABC with copies to the State Courts Administrator.
8. An employee who is selected for an acting appointment in a managerial position, i.e., Marshal, Clerk, or Director of Central Staff, is eligible for a five percent (5%) pay increase or the amount necessary to bring the employee’s pay to the minimum of the higher class, whichever amount is lower, for the period of time the employee is in an acting managerial capacity, provided the employee has completed two months of service in the acting capacity.

9. Other Personal Services (OPS) funds are authorized this fiscal year to meet temporary employment needs of the districts.
   
a. If it is determined that adjustments are needed to your OPS category funding via a transfer from another operating category, please complete the budget amendment form outlined in Section B.1. below.

b. Districts requesting hourly rates above the minimum must provide justification to the OSCA Chief of Personnel Services, who may authorize the adjusted hourly rate.

B. Budget Administration

1. Budget Category Adjustments

   Section 216.181, Florida Statutes, requires that all budget amendments from the judicial branch must be requested only through the Chief Justice and must be approved by the Chief Justice and the Legislative Budget Commission. If it is determined, after reviewing your operating budgets that you need adjustments from one operating budget category to another, please complete the transfer form (in hard-copy or by e-mail) and send it to Dorothy Willard, Chief of Budget Services, so that appropriate budget amendments can be processed. **Attachment II** provides instructions and the form for this purpose.

C. Fixed Capital Outlay (FCO) Projects and Administration

   District Court Fixed Capital Outlay Projects and Administration of In re: District Court Fixed Capital Projects, No. AOSC11-3 (Fla. Jan 14, 2011), provides for the oversight and monitoring of district court courthouse construction projects. See **Attachment III** for policy guidelines.
D. Authorized Travel

1. Mission Critical Determination; Approval Authority and Requirements

   a. Section 57 §6, SB 2502, 119 of Chapter 2017-71 2016-62, Laws of Florida, provides that “the funds appropriated to each state agency which may be used for travel by state employees are shall be limited during the 2017-2018 2016-2017 fiscal year to travel for activities that are critical to each state agency’s mission.” Consistent with guidance memorandum No. 3, 2017-2018 No. 43, 2015-2016 from the Department of Financial Services, this budget and pay administration memorandum sets forth my initial determination of the types of activities that I deem mission critical for the State Courts System and that may, consistent with this memorandum, necessitate travel by state employees:

   i. Activities related to the adjudication of cases.
   ii. Business meetings and other activities related to the administrative operations and responsibilities of the Supreme Court, the district courts of appeal, the circuit courts, the county courts, and the Office of the State Courts Administrator.
   iii. Meetings and operational activities of commissions, committees, workgroups, and similar bodies created by the Supreme Court.
   iv. Meetings and operational activities of the judicial conferences.
   v. Meetings and operational activities of The Florida Bar and of commissions, committees, workgroups, and similar bodies created by The Florida Bar.
   vi. Meetings of local, state, national, or international organizations the agenda of which includes subjects related or beneficial to the operation of courts.
   vii. Educational, training, or similar conference, conventions, meetings, or events that benefit justices, judges, and court system staff through the provision or exchange of information on court-related matters or matters affecting the courts, including but not limited to education programs organized or sponsored under the oversight of the Florida Courts Education Council.

   b. In approving travel as authorized and prescribed in this memorandum, the chief judge or designee must approve the travel in advance and in writing, state how the specific travel activity is critical to the court’s mission
consistent with the initial determination in paragraph a., and state that consideration was given to the use of teleconferencing or other forms of electronic communication as an alternative to the travel. The chief judge of the Second District Court of Appeal may prescribe in writing “blanket” approval for ordinary travel between court facilities within the district. If the chief judge delegates travel approval to a designee, the chief judge should prescribe the delegation in writing and retain a copy in the court’s file. In addition, the district should retain the documentation approving the travel required by this paragraph.

c. Each voucher seeking reimbursement for travel expenses must include a statement describing how the travel was critical to the mission of the court system. The statement can reference that the travel was for one or more of the types of activities determined to be mission critical in paragraph a. Examples of mission-critical statements include:

- “Travel to attend a meeting of a Supreme Court committee, as determined to be mission critical pursuant to the Chief Justice’s budget and pay administration memorandum.”
- “Attendance at the Florida Court Personnel Institute was for a training activity benefiting court system staff, which is recognized as mission critical pursuant to the Chief Justice’s budget and pay administration memorandum.”
- “Travel to attend a meeting of the Civil Procedures Rules Committee of The Florida Bar, as determined to be mission critical pursuant to the Chief Justice’s budget and pay administration memorandum.”
- “Traveler was asked to testify before a legislative committee on issues affecting dependency cases, which is mission-critical travel related to the adjudication of cases and the administrative operation of the district under the Chief Justice’s budget and pay administration memorandum.

In addition to a mission-critical statement, when a traveler is seeking reimbursement for attendance at a conference or convention, he or she must include on the reimbursement voucher a statement of the benefits accruing to the State of Florida by virtue of attendance and must attach an approved Travel Authorization Request form.
2. Travel Out of the United States

   The Chief Justice must approve in advance and in writing travel out of the United States, regardless of the source of funds for payment of the travel.

3. Out-of-State Travel

   a. The Chief Justice must approve in advance and in writing all out-of-state travel paid in whole or in part with state funds.

   b. In order to implement funds appropriated in the 2017-18 2016-17 General Appropriations Act for state employee travel, with prior approval of the chief judge and submission of a Travel Authorization Form (TAR), expenses to attend conferences, educational or other informative sessions of the Council of Chief Judges of the State Courts of Appeal may be reimbursed since this travel is mission critical to the operations of the District Courts of Appeal. The chief judge of each court may also authorize mission critical travel to attend meetings, conferences, seminars, training classes, and travel for events in addition to the Council of Chief Judges of the State Courts of Appeal and other than those covered in Sections 6, 7, and 9 below, provided that all expenses are paid with a source of funding other than state funds.

   c. Notwithstanding subsections a. and b. above, travel to attend the National Association for Court Management Annual Conference and National Conference of Appellate Court Clerks Annual Meeting when held out of state is determined herein to be mission critical, and travel expenses may be paid with state funds.

4. Intra-District Travel

   Intra-district travel necessary as a result of case-related activities or administrative matters may be approved by the chief judge or designee, provided such travel is in support of the administration of justice consistent with the Rules of Judicial Administration.
5. Intra-State Travel

Intra-state travel necessary as a result of case-related activities or administrative matters may be approved by the chief judge or designee, provided such travel is in support of the administration of justice consistent with the Rules of Judicial Administration.

6. Travel Expenses – Florida Bar Meetings

The annual and midyear meetings of The Florida Bar and meetings of committees and sections of The Florida Bar are not organized or sponsored in whole or in part by the judicial branch. You are encouraged to continue to support judicial participation in meetings of the following sections and committees, which are provided as a guideline for the chief judges of the district courts:

a. Annual and Midyear Meetings

Chief judges and the chair and chair-elect of the Florida Conference of District Court of Appeal Judges will be reimbursed for reasonable travel expenses for their attendance at the mid-year and annual meetings of The Florida Bar. These expenses will be charged against your district court budget.

b. Supreme Court-Appointed Committees

Members of Supreme Court-appointed committees staffed by The Florida Bar may be reimbursed for reasonable travel expenses associated with the meetings of those groups with prior approval from the chief judge or designee. These expenses will be charged against your district court budget. The committees and section to which this policy applies are:

- Standard Jury Instructions Committee – Civil
- Standard Jury Instructions Committee – Contract & Business Cases
- Commission on Professionalism
c. Selected Committees

District court judges and other court staff who are serving as members of selected committees and sections of The Florida Bar may be reimbursed for reasonable travel expenses associated with the meetings of those groups with prior approval from the chief judge or designee. These expenses will be charged against your district court budget. The committees and sections to which this policy applies are:

- Alternative Dispute Resolution Section Executive Council
- Appellate Court Rules Committee
- Appellate Practice Section Executive Council
- Civil Procedure Rules Committee
- Code and Rules of Evidence Committee
- Constitutional Judiciary Committee
- Continuing Legal Education Committee
- Criminal Law Section Executive Council
- Criminal Procedure Rules Committee
- Family Law Rules Committee
- Family Law Section Executive Council
- Judicial Administration & Evaluation Committee
- Judicial Nominating Procedures Committee
- Juvenile Court Rules Committee
- Law Related Education Committee
- Legal Needs of Children Committee
- Probate Rules Committee
- Pro Bono Legal Services Committee
- Professional Ethics Committee
- Professionalism Committee
- Real Property, Probate and Trust Law Section Executive Council
- Rules of Judicial Administration Committee
- Small Claims Rules Committee
- Traffic Court Rules Committee
- Trial Lawyers Section Executive Council
- Vision 2016 Commission and Workgroups
The following specific guidelines apply to all Florida Bar committee- and section-related travel:

d. Room charges that exceed the established conference rate will be reimbursed only up to that rate. Judges are encouraged to make alternative arrangements, at lower rates, when at all possible. Room charges in excess of $150.00 per night (room rate only) should be avoided, but when that is not possible, excess charges must be justified on travel vouchers submitted for reimbursement.

e. For approved committee and section meetings, same day travel must be utilized whenever possible. Necessary overnight travel will be reimbursed for the night immediately before or after the date of the committee meeting only if same day travel cannot be accomplished or presents an undue hardship.

f. No reimbursement for attendance at Supreme Court oral argument representing a section or committee will be paid.

g. No reimbursement for attendance at seminars, or symposiums, representing a section or committee will be paid.

I am asking that you take the necessary steps to communicate this policy to judges in your district, particularly those who are new to the bench, in order to eliminate confusion about the requirements for reimbursement. We want to minimize problems with judges submitting travel vouchers for participation in committees not on the approved list, for which advance approval was not obtained, or where the length of stay was beyond that necessary for committee meeting attendance. Please also communicate this information to appropriate staff.

7. Travel Expenses for Participation in State Courts System Committees or Commissions

Reasonable travel expenses necessary for participation in State Courts System committees or commissions (e.g., District Courts of Appeal Budget Commission, Standard Jury Instructions Committee - Criminal) will be paid without separate prior authorization, from the budgets of and in accordance with the travel guidelines established for each committee.
Reimbursement for attendance at Supreme Court oral argument to represent a court committee or commission must be approved in advance by the Chief Justice.

8. Travel Expenses for Legislative Hearings

Generally, the OSCA will coordinate travel by judges for participating in legislative hearings. Expenses associated with such travel will be paid from your district budget with prior approval of the chief judge or designee, or if such participation is associated with membership on a Supreme Court-appointed committee, expenses will be reimbursed from that committee’s budget. When judges receive personal invitations to appear and testify before a legislative committee, expenses for associated travel will be paid from the district budget with prior approval from the chief judge or designee.

9. Out-of-State Education Travel

Out-of-state educational travel funded through the Court Education Trust Fund will continue to be approved by the Florida Court Education Council in accordance with its established guidelines.

E. General Travel Guidelines

1. Rules Governing Per Diem and Lodging for Overnight Travel

According to State Chief Financial Officer policy, a traveler may not claim per diem or lodging reimbursement for overnight travel within fifty (50) miles (one-way) of his or her headquarters or residence (city to city, calculated in accordance with the Department of Transportation Official Map Miles), whichever is less, unless the circumstances necessitating the overnight stay are fully explained by the traveler and approved by the Agency Head in advance of the travel. I am delegating this approval authority to chief judges; however, this delegation does not apply to, travel funded through the Court Education Trust Fund, travel associated with the circuit and county conferences’ business programs, and travel funded by state budgetary sources other than the district courts (e.g., travel funded through a court committee’s budget). Official written approval from the chief justice or designee or chief judge must be attached to the reimbursement voucher when submitted for payment. Vouchers without this approval will be returned. A reduction in this requirement to less than 35 miles
may only be approved by the chief justice or designee under extraordinary circumstances.

2. Lodging Room Rate Limits

Pursuant to Section 58, SB 2502, s.420 of Chapter 2017-71 2016-62, Laws of Florida, “costs for lodging associated with a meeting, conference, or convention organized or sponsored in whole or in part by a state agency or ..., the judicial branch may not exceed $150 per day. An employee may expend his or her own funds for any lodging expenses in excess of $150 per day.”

When this limitation does not apply, hotel room charges that exceed $150.00 per night (room rate only), still should be avoided, and less costly alternatives secured when possible. Charges in excess of $150.00 (room rate only), must be justified on travel vouchers submitted for reimbursement.

Lodging rates for travel sponsored by the Court Education Trust Fund, or travel funded by state budgetary sources other than individual district budgets, are subject to further limitations set by the paying entity.

3. Prohibition of Class C Meal Reimbursement

Reimbursement for Class C travel for per diem and subsistence is prohibited in section 112.061(15), Florida Statutes.

4. Convention and Conference Travel

Travel reimbursements for convention or conference travel (with the exception of judges’ participation in district court conference), must be submitted for payment with a Travel Authorization Request (TAR) form, according to State of Florida travel guidelines. TAR forms will be prepared by the OSCA on the judges’ behalf for district court conference education and business programs. The TAR form must include a statement of the benefits accruing to the State of Florida by virtue of attendance. Although an event may be identified by a different title (e.g., “Symposium” or Summit”), it may by its nature meet the definition of a conference or convention under Florida Administrative Code 69I-42.002 and therefore require a TAR.

In addition to a mission-critical statement, as provided under section D.1.c., the travel voucher seeking reimbursement for attendance at a conference or
convention must include the statement of the benefits accruing to the State of Florida by virtue of attendance.

5. Education and Training Activities

Travel for education and training activities must be directly related to the employee’s current job duties and have primary benefit to the State.

F. Senior Judge Compensation

Senior judge compensation is $350 for each day of service for FY 2017-18 2016-17. Attachment IV reflects the allocation of senior judge days for each district court. Any necessary travel expenses for senior judges to serve must be paid from each court’s allocation.

G. Payment of Florida Bar Membership Fees/Legal Education Courses

The 2017-18 2016-17 General Appropriations Act allows for the payment of Florida Bar membership fees for employees that require membership as a condition of their employment by the state. (For a list of eligible position titles, please refer to the memorandum of July 3, 2017 June 22, 2016 from Eric Maclure.)

Payment for legal education courses will be left to the discretion of each chief judge based on the availability of expense money within each district court.

I am requesting that you disseminate the information contained in this memorandum to all judges in your courts. The policies outlined herein will remain in effect until such time as they are succeeded with an updated memorandum.

If you have any questions about budget matters, please contact Dorothy Willard, Chief of Budget Services, at (850) 488-3735. Questions relating to personnel matters should be directed to Beatriz Caballero, Chief of Human Resources Personnel Services, at (850) 617-4028. Other finance questions should be directed to Jackie Knight, Chief of Finance and Accounting Services, at (850) 488-3737.

JL/rn

Attachments
cc: Patricia (PK) Jameson
  Eric Maclure
  Blan Teagle
  Dorothy Willard
  Beatriz Caballero
  Jackie Knight
  Steven Hall
Agenda Item II.D.: Senior Judge Pay Increase Proposal

Current Issue:
Since FY 2005-06, the senior judge day rate per day has been $350 ($350 per day plus $5.08 FICA). At the June 27, 2017, Trial Court Budget Commission (TCBC) meeting, the TCBC approved to increase the senior judge compensation rate from $350 per day to $375 ($375 per day plus $5.44 FICA), beginning with FY 2017-18. This rate is reflected in the FY 2017-18 Budget and Pay Memorandum for the trial courts. The DCABC may want to consider increasing the senior judge compensation rate to $375 per day.

The following chart reflects the number of days per DCA at the current compensation rate of $350 and the adjusted days at the compensation rate of $375, should the DCABC vote to change the rate.

<table>
<thead>
<tr>
<th>District</th>
<th>Senior Judge Appropriation</th>
<th>Sr. Judge Days @ $350 ($350 per day plus $5.08 FICA)</th>
<th>Sr. Judge Days @ $375 ($375 per day plus $5.44 FICA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>7,700</td>
<td>21</td>
<td>20</td>
</tr>
<tr>
<td>2</td>
<td>8,261</td>
<td>23</td>
<td>21</td>
</tr>
<tr>
<td>3</td>
<td>14,818</td>
<td>41</td>
<td>38</td>
</tr>
<tr>
<td>4</td>
<td>18,995</td>
<td>53</td>
<td>49</td>
</tr>
<tr>
<td>5</td>
<td>2,016</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>51,790</td>
<td>143</td>
<td>133</td>
</tr>
</tbody>
</table>

Options:
1. Approve an increase to the senior judge compensation rate, consistent with the trial court compensation rate of $375 ($375 per day plus $5.44 FICA), effective July 1, 2017.

2. Do not approve.
Agenda Item II.E.: Fourth DCA Floating Law Clerk Continuation Request

Current Issue:
The District Court of Appeal Budget Commission (DCABC) approved, via email vote, the DCABC Salary Committee recommendations for FY 2016-17. As part of the approved FY 2016-17 salary committee recommendations, the Fourth District Court of Appeal (DCA) reclassified a custodial position to a minimum law clerk position until they moved into the new courthouse building, at which point the position would convert into the court’s third deputy marshal. The Fourth DCA requests to retain the “Floating Law Clerk” FTE indefinitely due to the need to maintain workflow levels in the face of impending extended absences by career attorneys. The Fourth would evaluate the need of the floating law clerk position annually to determine whether to maintain or convert the position.

Options:
1. Approve the Fourth DCA request to maintain the floating law clerk FTE and evaluate the workflow levels annually to determine whether to maintain or convert the position.
2. Do not approve.
August 21, 2017

The Honorable Jorge Labarga
Chief Justice
Florida Supreme Court
500 South Duval Street
Tallahassee, FL 32399

Dear Chief Justice Labarga:

On August 3, 2017, the DCABC approved filing a legislative budget request totaling $4,196,359 in non-recurring funds specifically for the Second District Court of Appeal. The funds would provide for the Legislature to select a new consolidated courthouse site; the Department of Management Services to retain an architect to design the new courthouse; and the Department of Management Services to retain a contractor to estimate the cost of the new courthouse based on the design.

On August 21, 2017, the DCABC approved revising the legislative budget request to include an additional $4,000,000 in non-recurring funds to acquire land if the Legislature selects a site which is not state-owned land or land owned by another governmental jurisdiction which may be available at a lower than market rate.

Thus, the revised legislative budget request now totals $8,196,359 in non-recurring funds.

The DCABC appreciates the full Court’s consideration of this revised legislative budget request for Fiscal Year 2018-19.

Sincerely,

Jonathan D. Gerber
JDG:sb

Attachment

cc: District Court of Appeal Budget Commission
Patricia (PK) Jameson
Second District Court of Appeal – New Courthouse Building

The Second District Court of Appeal (DCA) requests $8,196,359 for: 1) the Legislature to select a new consolidated courthouse site; 2) the cost to acquire a site if not already state-owned; 3) the Department of Management Services (DMS) to retain an architect to design a new courthouse on the selected site; and 4) DMS to retain a contractor to estimate the costs of the new courthouse design.

The Florida Legislature, in Specific Appropriation 3142A of the 2016 General Appropriations Act, directed DMS to “contract for a study of the courthouse space and location needs of the Second District Court of Appeal.” On December 22, 2016, DMS submitted to the Legislature the “Second District Court of Appeal Space and Location Needs Study.”

The Study’s Executive Summary includes the following facts and recommendations:

- Currently the Second DCA is the only appellate court in the state that has operations in two locations, Lakeland and Tampa (p. 4).
- The Second DCA has vacated the Lakeland courthouse due to health concerns presented by the 55-year old courthouse’s degradation (p. 8).
- It is estimated that the Lakeland courthouse needs at least $6.5 million in repairs, well above the facility’s estimated value (p. 7). Even with such investment, a repaired facility does not meet the Second DCA’s operations requirements (p. 7).
- The Second DCA now operates in Lakeland in separate leased space (p. 8). However, space exists for only three judges in the Lakeland leased space (p. 8). The Lakeland leased space also includes space for only two central staff attorneys, various support staff, and the Clerk’s and Marshal’s offices, but does not include a courtroom (p. 8).
- The Second DCA continues to operate in Tampa in leased space controlled by Stetson University’s College of Law (p. 8). However, the Second DCA currently does not have a courtroom under its control (p. 5). All oral arguments take place in classroom space controlled by Stetson University or in other locations (p. 5).
- All Second DCA judges are provided with limited space in the Tampa leased space (p. 8). However, some of the offices are less than ideal (p. 8). By necessity, several of the judges’ staff attorneys and the Second DCA’s central staff attorneys work in cubicles and shared offices (p. 8).
- Consolidation into one location would significantly improve the efficiency of the court by streamlining operations, reducing duplicative costs, and improving productivity (pp. 4-5).
- The best long-term option is to build a new state-owned courthouse (p. 6).
- The DMS Study recommends that the parcel selection process for the new courthouse should first explore state-owned land located in the Tampa Bay region (p. 6). Consideration should also be given to land owned by other governmental jurisdictions (p. 6).
Based on the foregoing, the Second DCA respectfully requests $8,196,359 (non-recurring) in Fiscal Year 2018-19 for:

1. the Legislature to select a new consolidated courthouse site;
2. the cost to acquire a site if not already state-owned;
3. DMS to retain an architect to design a new courthouse on the selected site; and
4. DMS to retain a contractor to estimate the costs to construct that design on the selected site, so the Second DCA can request those costs in future years.

Of the requested $8,196,359, $4,196,359 is estimated for pre-construction services. That amount was derived by applying a 1.44 multiplier upon the actual costs of $2,914,138 incurred for pre-construction services for the new courthouse currently under construction for the Fourth District Court of Appeal in West Palm Beach. A 1.44 multiplier is being applied because the costs of pre-construction services typically are based on the estimated square footage of the facility to be constructed. The Study estimates the Second DCA’s ideal departmental space to be approximately 59,000 square feet (Study at p. 40), which would be 1.44 times larger than the Fourth DCA’s departmental space of approximately 41,000 square feet. Thus, applying a 1.44 multiplier upon the actual costs of $2,914,138 incurred for pre-construction services for the new courthouse currently under construction for the Fourth DCA in West Palm Beach, would amount to $4,196,359 estimated to be necessary for pre-construction services for a new courthouse for the Second DCA. It should be noted that only limited pre-construction services can be completed until the courthouse site has been selected. The building cannot be designed without full and complete site information.

The remaining $4,000,000 requested is estimated for the cost to acquire land if the Legislature selects a site which is not state-owned land (i.e., not free land) or land owned by another governmental jurisdiction which may be available at a lower than market rate. In that event, additional funds may be needed to complete the land acquisition. Also, if the Legislature determines that, in addition to building a new consolidated courthouse, the Second DCA should maintain a satellite location, then additional funds would be needed to construct offices or lease space at that satellite location.

In the event that the above estimates for pre-construction services or land acquisition are higher or lower than expected, any remaining appropriated funds would be used to compensate for the other, or would be used towards building construction.

Budget Request Total: $8,196,359 (non-recurring)