

**District Court of Appeal Budget Commission
Tallahassee, Florida
September 29, 2015**



Members Present

Judge Alan Lawson, Chair
Judge Cory Ciklin
Judge Bradford Thomas
Judge Craig Villanti
Judge Wendy Berger
Judge Stevan Northcutt
Judge Jonathan Gerber
Judge Richard Suarez

Judge Clayton Roberts
Marshal Veronica Antonoff
Marshal Charles Crawford
Marshal Daniel DiGiacomo
Marshal Jo Haynes
Marshal Daniel McCarthy
Justice Ricky Polston

Members Absent

Judge Vance Salter
Judge Leslie Rothenberg

Others Present

PK Jameson, Eric Maclure, Dorothy Willard, Elizabeth Garber 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 Approval of July 24, 2015, Minutes

Judge Alan Lawson welcomed members and called the District Court of Appeal Budget Commission (DCABC) meeting to order at 8:35 a.m.

Judge Suarez noted a correction to the July 24, 2015, minutes under Agenda Item I.B. The minutes reflected that Judge Shepherd requested the minutes be distributed prior to the meeting materials to allow time to properly review. The correction notates that the minutes be distributed within 30 days of each meeting. A motion was made by Judge Roberts to adopt the minutes as amended. Judge Villanti seconded and the motion was passed without objection.

Agenda Item II.: DCABC Orientation

Judge Lawson provided a brief overview of the DCABC, specifically the history prior to FY 2013-14 when all resources were managed by each individual court. Since FY 2013-14 the DCABC transitioned to statewide salary management. This allowed for those courts that previously held positions open for extended periods of time in order to manage their salary

budgets the ability to hire and no longer have to hold positions vacant. Judge Lawson stated the DCABC holds in-person meetings twice a year, typically meeting when determining the Legislative Budget Request (LBR) strategies and after the Legislative Session.

A. Florida Rule of Judicial Administration 2.235

Dorothy Willard presented Florida Rule of Judicial Administration 2.235.

B. DCABC Operational Procedures

Dorothy Willard presented the DCABC Operational Procedures. Ms. Willard stated the procedures were last updated in 2006 and welcomed any input, stating that any recommended changes would be reviewed at a future meeting.

C. Presentation – Overview of the Legislative Process, Navigating the Operating Budget, and Components of Salary Budget Management

Eric Maclure and Dorothy Willard presented an Overview of the Legislative Process presentation. Ms. Willard noted that the LBR was due on September 15, 2015, this year instead of the normal October 15th statutory deadline. Mr. Maclure remarked that the Governor's recommendations on the budget are expected in early December. Mr. Maclure further noted that the 2016 legislative session will convene in early January as a result of an enactment, as authorized by the State Constitution, which changed the start date for this one even-numbered-year session.

Dorothy Willard presented on Navigating the Operating Budget and on Salary Budget Management. Judge Northcutt spoke on the history of budget management prior to statewide salary management. Judge Northcutt stated when budgets were managed by each DCA it created imbalances among the DCA's. During the budget cuts in FY 07-08 and FY 08-09, there was no fair way to distribute cuts; therefore, each DCA had to offer up any available budget. The budget cuts required the DCA's to work together and has fostered a culture of cooperation and openness. Dorothy Willard remarked that prior to statewide salary management there were courts that held positions open for years, posing the risk of those positions being cut during the legislative session and courts that were unable to implement their law clerk pay plan. Since the transition to statewide salary management has been implemented, this is no longer necessary and all courts are now able to fully implement the law clerk pay plan.

Agenda Item III.: FY 2014-15 Budget Wrap-Up

A. Salary Budget

Dorothy Willard presented the Salary Budgets as of June 30, 2015, stating the final lapse percentage adjusted by removing the lapse generated by the new certification vacant positions was 1.76% or \$722,581.

B. Operating Budget

Dorothy Willard presented the Operating Budget as of September 20, 2015, stating the certified forward amounts would be finalized after September 30, 2015.

C. Trust Fund Cash Statement Overview

Dorothy Willard presented the Trust Fund Cash Statement as of June 30, 2015. Ms. Willard remarked in FY 2014-15 the branch received a \$15.4 million loan, and looking forward to FY 2015-16, there is a current year deficit of \$2.3 million; however, it is anticipated this amount would be covered through lapse generated branchwide if revenues come in as projected. Justice Polston remarked that the trust fund also includes a service charge. Ms. Willard responded stating the trust fund is charged a mandatory 8% service charge by Department of Financial Services (DFS) quarterly as well as required to maintain a 5% reserve, both of which are not accounted for in the revenue estimates by EDR.

Agenda Item IV.: Status of FY 2015-16 Budget

A. Salary Budgets

Dorothy Willard presented the FY 2015-16 Start-up Salary Budgets stating the budget office recently changed the procedure concerning how the eligibility for the law clerk pay plan is calculated. The OSCA Budget Office will reach out to the marshals when there is a new law clerk hire to confirm the date of hire and whether there is previous experience that would impact the incentive calculation. Ms. Willard then reviewed the Salary Budgets as of August 31, 2015. She indicated the deficit the DCAs began the year with had been covered at this time by additional lapse that had been generated through turnover and the final adjusted liability for all district courts was under the salary appropriation by \$278,374.

B. Operating Budgets

Dorothy Willard reported on the status of the Operating Budgets as of August 31, 2015. Judge Northcutt remarked that the DCABC does not manage the operating budget, that each marshal manages the budget for their individual court. Ms. Willard stated typically the DCABC does not

interject unless there are unusual circumstances such as a reduction exercise. Ms. Willard used the x-ray machine request as an example for the current fiscal year when the marshals were directed by the DCABC to work together to address the unmet need. She indicated the marshals could begin to look at pooling unobligated funds together in May to try and address this need, likely through the submission of a budget amendment.

C. Positions Vacant over 180 Days

Dorothy Willard reviewed the positions vacant over 180 days, stating there are currently no positions vacant over 180 days within the District Courts of Appeal.

D. Trust Fund Cash Statement Overview

Dorothy Willard presented the Trust Fund Cash Statement Overview as of August 31, 2015.

Agenda Item V.: Budget and Pay Policy Recommendations for Chief Justice's Budget and Pay Memorandum

Dorothy Willard reviewed the Budget and Pay Memo stating the travel section was updated to include travel to the National Center for State Courts annual conference. Ms. Willard remarked all other changes were technical in nature. Judge Ciklin indicated a need for clarification on the language related to special pay increases for law clerks, between the Budget and Pay Memo and the Law Clerk Pay Plan, directing members to page 32 and 42, respectively. A motion was made by Judge Northcutt to approve the Budget and Pay Memo. Judge Ciklin seconded and the motion was unanimously approved.

Agenda Item VI.: Recommendations from the Salary Budget Committee

Judge Northcutt presented the recommendations from the Salary Budget Committee, which consists of Judge Northcutt, Judge Roberts and the five marshals. Judge Northcutt stated that he and Dorothy Willard met on September 28, 2015, and discussed the current year salary budget and the calculation of a conservative amount to propose a rate distribution. The recommendation is similar to the methodology as used by the trial courts. The proposed method uses the average 2 year lapse and deducting 0.5% leaves a 0.89 % lapse, which applied to the current year appropriation equals \$367,961 in dollars and equate to 320,217 in rate available for use. He indicated that this amount, if distributed, is estimated to be covered by lapse generated by vacant positions; however, the salary budget committee would continue to monitor the salary budgets monthly for any necessary impacts. Judge Northcutt presented the following recommendations from the committee:

1. The 4th and 5th DCA are each short one employee in the Marshal Office based on the funding formulas. It is recommended to use 2.0 unfunded FTE and 69,962 in rate to establish these positions with an Administrative Assistant II position for each court.
2. Distribute rate to each court to be used at the Chief Judges discretion to address specific issues within their court.
3. Salary Budget Committee to come back to the DCABC with recommendations on how to distribute remaining rate in a future meeting.

Justice Polston requested from a court perspective to be mindful of other courts when increasing staff attorneys, specifically systematic increases within the whole court. Judge Roberts recommended increasing the chief discretionary portion to 12,000. Judge Ciklin offered an increase to 15,000 followed by a recommendation by Judge Thomas to increase it to 20,000. Judge Lawson noted that because there are large systematic issues to be addressed, that a lesser amount may need to be recommended at this time in order to potentially have funds to address those other issues in the future. Judge Ciklin motioned to approve a rate distribution to give 69,962 to establish Administrative Assistant II positions in the 4th and 5th DCA's, distribute 15,000 in discretionary funds to each chief judge, and for the Salary Budget Committee to come back in January to the DCABC with recommendations on any additional uses for available rate. Judge Northcutt seconded and the motion passed unanimously. Judge Lawson asked Justice Polston if the letter to the Chief Justice could indicate his approval. Justice Polston agreed the letter may reflect his agreement with the rate distribution, with the understanding that the rate distribution will not be used to effectuate the special pay increase for the marshals previously discussed by the DCABC.

Agenda Item VII.: Staff Attorney Recommendations

Judge Northcutt presented the staff attorney recommendations, stating Judge Lawson tasked Judge Roberts and himself to measure caseloads and analyze if any inequities existed among the DCAs. As a result of the analysis, the 4th DCA averages a net need of one position with the 2nd DCA averaging a negative net need of one position. It is recommended the 4th DCA receive a central staff attorney position from the 2nd DCA through attrition. Once a position in the 2nd DCA becomes vacant, they will reach out to the 4th DCA and work with OSCA Personnel Office to transfer the position at that time. It is further recommended that this type of analysis be completed at the beginning of every fiscal year to determine if a reallocation of positions is necessary. A motion was made by Judge Ciklin to approve the recommendation. Judge Berger seconded, and the motion was unanimously passed.

Adjournment

With no other business before the Commission, Judge Lawson adjourned at 11:31 a.m.