

**District Court of Appeal Budget Commission
Conference Call
December 9, 2015**



Members Present

Judge Alan Lawson, Chair
Judge Cory Ciklin
Judge Leslie Rothenberg
Judge Craig Villanti
Judge Stevan Northcutt
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 Bradford Thomas

Judge Wendy Berger
Judge Jonathan Gerber

Others Present

Eric Maclure, Dorothy Willard 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 September 29, 2015, Minutes

Judge Alan Lawson welcomed members and called the District Court of Appeal Budget Commission (DCABC) meeting to order at 2:30 p.m.

A motion was made by Judge Villanti to adopt the minutes as drafted. Judge Roberts seconded and the motion was passed without objection.

Agenda Item II.: Status of FY 2015-16 Salary Budget

A. Salary Budget

Dorothy Willard presented the Salary Budgets as of November 30, 2015, stating the final adjusted liability under salary appropriation at full employment was \$441,458. Ms. Willard noted the only amount subject to change is the remaining Chief Judge discretionary funds as these amounts were being verified and finalized through Personnel.

B. Exception Requests

1. Fifth District Court of Appeal – Reclassification Request

Judge Lawson presented the Fifth DCA exception request to reclassify position #04457, Deputy Clerk II to Deputy Clerk III, stating the duties performed by the incumbent in the position are more in line with the class specifications of a Deputy Clerk III than that of a Deputy Clerk II. Judge Lawson noted the reclassification if approved would bring the Fifth DCA up to three Deputy Clerk III positions, which is still two less than other DCA's. The request to reclassify the Deputy Clerk II position to a Deputy Clerk II position was unanimously approved by the commission.

2. Second District Court of Appeal – Overlap Request

Judge Lawson presented the Second DCA exception request to overlap its facility director's position due to the current incumbent's extended personal illness. The request to provide recommendation of approval by the DCABC to the Chief Justice supporting the overlap in excess of seven (7) calendar days was unanimously approved by the commission.

3. First District Court of Appeal – Promotional Increase Request

Judge Lawson presented the First DCA exception request to promote their selected candidate for their vacant Director of Central Staff at the salary rate amount of \$86,130.84, asking Judge Roberts to further explain the issue. Judge Roberts noted that at the January 28, 2015, DCABC meeting, a motion to raise the Director of Central Staff salary across the board was approved. In September, the First DCA Director of Central Staff position was vacated and subsequently was advertised, interviewed and filled based on the \$86,130.84 salary that was previously approved by the commission. Once hired, paperwork was submitted to OSCA and the First DCA was informed that the selected employee would be required to start at \$73,820.16, the minimum of the class. Judge Roberts requested, if approved, the increase be retro to the date of hire. Judge Lawson remarked that it was his understanding the action the commission took in January was to raise the minimum of the class and what avenue of action would allow for the minimum to be raised. Dorothy Willard explained the decision in January was to raise salaries to the median of the existing employees and did not affect the minimum of the class. Ms. Willard remarked that the options provided are the only options within the existing Personnel Rules and Regulations, and to increase the salary to the requested \$86,130.84 would require using rate distribution funds. Ms. Willard noted there are two options to achieve this; (1) for the First DCA to use any remaining discretionary funds, or (2) to request a rate distribution from the Chief Justice. Judge Lawson inquired if it would be possible to raise the minimum of the class. Dorothy Willard responded that in order to raise the minimum, a request will need to be submitted to the Supreme Court and noted that this class is benchmarked with the Supreme Court position. Judge Rothenberg inquired as to how the increases in January were determined; and if they were based

on number of lawyers supervised. Dorothy Willard responded stating the positions were increased to the level of the 2nd highest paid, noting that currently the positions are no longer equalized, as two received discretionary funds since the pay increased in January. Judge Lawson asked Justice Polston if Option Two was approved and a special rate distribution is authorized, would that be a concern for the Chief Justice. Justice Polston stated if it was taken out of the rate distribution already approved or if the rate came from the DCA statewide pot, he felt it would be fine. Judge Lawson stated the salary should be what was offered and inquired if Judge Roberts had any discretionary funds remaining. Judge Roberts stated there were discretionary funds remaining but was already planned for. Judge Lawson requested Judge Roberts use remaining discretionary funds from the first rate distribution to make up the difference from the minimum to the requested salary and use new rate distribution funds to achieve planned actions. A motion was made by Judge Roberts to approve Option Two: Approve, as allowed by the Personnel Regulations Section 7.03.5.C., a ten percent increase above the new minimum of the pay range for the higher class due to the training and/or experience the employee possesses, making Mr. Sanders' new annualized salary \$81,175.38, and the First DCA would use \$4,955.46 of remaining discretionary funds to increase Mr. Sanders' annualized salary to \$86,130.84 with an effective date as the date of hire. Judge Ciklin seconded and the motion was unanimously approved.

C. Recommendations From the Salary Budget Committee

Judge Northcutt stated the committee consists of Judge Northcutt, Judge Roberts and the marshals. Judge Northcutt noted his only concern was that the recommendation is based on the last two year's lapse percentage, taking the average lapse and deducting another half percent to determine the lapse rate. Judge Northcutt stated in the previous rate distribution approval letter, the Chief Justice made reference to the trust fund deficit. Judge Northcutt noted that the DCA portion of the projected deficit was a little over \$164,000, remarking that based on the projected liability under the appropriation, there should be no issue with covering the proposed deficit and recommendations offered by the committee. Judge Northcutt presented the following recommendations from the committee:

1. Use three unfunded FTE to create two law clerk positions at \$45,817 each and one new security position for the Third DCA at \$36,000.
2. Make a rate distribution of \$9,524 to each of the DCA's in January.

Total Rate Cost: \$175,254

The committee reports based on the most recent caseload numbers, it appears that the staff attorney positions should be distributed one each to the Fourth and Fifth DCAs.

Judge Lawson noted that during the last meeting it was approved to transfer a law clerk position from the Second to the Fourth when one became available. He wanted to ensure this recommendation, if approved, supersedes the previous approval, thereby allowing the Fourth to receive only one law clerk position. Judge Villanti expressed his gratitude for ensuring that the Second retains this position, as they have a need for an additional security position and will use this position to fulfill that need. Dorothy Willard requested clarification that the two law clerk positions were for central staff and not suite staff. Judge Northcutt clarified that yes, the law clerk positions recommended were intended for central staff. Justice Polston inquired of the security positions and how they related to the Legislative Budget Request (LBR) issues that were to be delayed. Dorothy Willard referenced the Supreme Court memo regarding the LBR, stating the court declined to approve recommendations. The court believes it would benefit from a comprehensive analysis, creating a standard, and advised to look at using existing resources and unfunded FTE to fulfill security needs. Judge Suarez stated the Third DCA has a unique need due to the building layout and construction within the building. Justice Polston remarked that he is in support of the request and recommended including all the unique justifications when submitting to the Chief Justice for approval. Justice Polston cautioned to be mindful when implementing the rate distribution, of creating equity issues within the district courts and the court as a whole, such as encroaching on benchmarking structures. He suggested the committee review how funds are distributed. Dorothy Willard, in light of Justice Polston's concerns, shared that the TCBC put constraints that increases were only to address retention/recruitment issues and the chief judge is required to sign certifying of that purpose when submitting to Personnel. Judge Lawson inquired if a more formal procedure was needed. Justice Polston responded stating the discretion is up to the commission but the committee review should be sufficient. Judge Northcutt stated the committee would look at any criteria the commission requests. A motion by Judge Ciklin was made to approve the recommended rate distribution with a caveat that the committee review actions for any concerns and bring any issues to the DCABC. Judge Villanti seconded and the motion passed without objection. Judge Lawson inquired for the record if Justice Polston was on board with the decisions. Justice Polston responded yes. Judge Lawson indicated that Dorothy Willard should receive information from each DCA, which will then be forwarded to the committee, and a letter to the Chief Justice would be drafted at a later date.

Agenda Item III.: FY 2016-17 Legislative Update

Dorothy Willard reviewed the Governor's budget recommendations. Ms. Willard stated the Judicial Branch budget has been presented to both House and Senate committees. There will be no committee meetings until the first week of session. Judge Lawson noted the Senate President

publicly proposed an alternative to the bonus recommendation, stating state employees need a salary increase and will be a Senate priority.

Adjournment

With no other business before the Commission, Judge Lawson adjourned at 3:33 p.m.