Trial Court Budget Commission
Meeting Minutes
February 14, 2017
Conference Call

**Attendance – Members Present**
The Honorable Robert Roundtree, Chair
The Honorable Mark Mahon, Vice Chair
The Honorable Catherine Brunson
Ms. Holly Elomina
The Honorable Ronald Ficarrotta
Mr. Tom Genung
The Honorable Robert Hilliard
Ms. Sandra Lonergan
The Honorable Debra Nelson

The Honorable Gregory Parker
Ms. Kathy Pugh
Mr. Grant Slayden
The Honorable Elijah Smiley
The Honorable Bertila Soto
The Honorable Margaret Steinbeck
The Honorable Patricia Thomas
Mr. Mark Weinberg

**Attendance – Members Absent**
The Honorable Frederick Lauten
The Honorable Anthony Rondolino
Mr. Walt Smith
The Honorable John Stargel

The Honorable Scott Bernstein
The Honorable Joseph Williams
The Honorable Diana Moreland

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

Chair Roundtree called the Trial Court Budget Commission (TCBC) meeting to order at 12:02 p.m. The roll was taken with a quorum present.

**Agenda Item I: FY 2016-17 Projected Due Process Deficit**
Dorothy Willard provided an update to the due process deficit analysis that was presented and approved at the January 20, 2017, TCBC meeting (Estimate #3), which as of December 31, 2016, projected a due process deficit of $2,123,616. Ms. Willard reported an updated projected deficit amount as of January 31, 2017, of $2,287,001, an increase of $163,385.

Ms. Willard noted that Estimate #3 is a moving target, as high estimates can be a result of a change in practice, and/or a high-profile case. Ms. Willard then provided an overview of the options for the commission's consideration:

**Option 1:** Approve using the due process operating reserve and the due process cost recovery reserve to cover the deficit. In addition, cover the remaining deficit from the Salaries and Benefits category, using lapse generated from due process positions vacant over 180 days. Authorize staff to prepare budget amendments for chief justice approval and submission.
Option 2: Approve using the due process operating reserve and the due process cost recovery reserve to cover the deficit. In addition, cover the remaining deficit from the funds available for the FY 2016-17 year-end spending plan. Authorize staff to prepare budget amendments for chief justice approval and submission.

Chair Roundtree asked Ms. Willard to explain to the commission why it is best to move salaries. Ms. Willard stated moving salaries is not recommended unless it is for a justifiable reason. In this situation, the cost increase in due process contractual services due to hard-to-fill court interpreting positions is justification. Judge Steinbeck asked for verification that the salary shift only uses lapse that has already been generated and does not affect the circuits’ ability to hire. Ms. Willard confirmed that as correct.

Chair Roundtree noted the Executive Committee recommended Option 1. Judge Steinbeck moved to approve Option 1. Judge Nelson seconded, and the motion passed without objection.

**Agenda Item II: FY 2016-17 Year-End Spending Plan**

Dorothy Willard reported that an error in 2nd quarter takeback calculations reduced the amount of 1st and 2nd quarter allocation returns reported to the TCBC on January 20, 2017, and noted the revised available amount has been included in the year-end spending plan computations.

Ms. Willard reviewed the results of staff’s outreach to the circuits to determine: 1) if there were unobligated funds that could be returned to assist with statewide level needs, and 2) identification of funding priorities that could not be supported by each court within their existing budget. The total funds available for the FY 2016-17 year-end spending plan are $1,843,535, and circuits identified $2,028,437 in priority needs, which is $184,902 more than the available funding.

The options for the commission’s consideration, as detailed in Attachment E, included:

- **Option 1:** First, allocate available spending plan funds to circuits that returned funds as part of the first and second quarter allocation return exercise and the year-end unobligated funds exercise. Second, prorate remaining funds to circuits that did not contribute to both exercises based on their percent of the total circuit requests.

- **Option 2:** First allocate available spending plan funds to circuits that returned funds as part of the first and second quarter allocation return exercise and the year-end unobligated funds exercise. Second, prorate remaining funds to circuits that contributed to at least one of the exercises using a percent of the total funds returned by these circuits.
Chair Roundtree noted the Executive Committee recommended Option 1 to ensure no circuit is penalized. Chair Roundtree also emphasized that any circuit’s request to have takeback funds returned to their court will not be considered once the year-end plan is approved.

Judge Mahon moved to approve Option 1. Judge Smiley seconded, and the motion passed without objection.

**Agenda Item III: Other Business**
Chair Roundtree asked the commission members if there was any other business to discuss. There being no response from any member, Chair Roundtree asked Eric Maclure to provide information about an Internal Revenue Service (IRS) issue that may impact the trial courts.

Mr. Maclure reported that the IRS began a desk audit of the state in 2016, to identify individuals who received a W-2 and a 1099 during calendar year 2016. In some cases, the person may have started out as a contractor and then moved into an FTE position. The Department of Financial Services (DFS) has provided all explanations received to the IRS for determination of the potential penalty amount. Mr. Maclure noted that there could be an impact to the trial courts of $102,000, and this pending liability has been taken into account in the year-end spending plan. Once the IRS makes a final determination of the penalty amount and issues a settlement letter, the payment will be due within 30 days. DFS will be establishing guidelines for future guidance for state entities that encounter this scenario.

Chair Roundtree noted that Judge Hilliard has been appointed to the Executive Committee and the Personnel Committee, and Holly Elomina has been appointed to the Budget Management Committee (BMC) and the Personnel Committee.

**Adjournment**
With no other business before the commission, the meeting adjourned at 12:39 p.m.