Trial Court Budget Commission
Meeting Minutes
January 7, 2013

Attendance – Members Present
The Honorable Margaret Steinbeck, Chair
The Honorable Kim Bonner
The Honorable Catherine Brunson
The Honorable Ronald Ficarrotta
Mr. Tom Genung
The Honorable John Laurent
Ms. Sandra Lonergan
The Honorable Thomas McGrady
The Honorable Wayne Miller
The Honorable Debra Nelson
The Honorable Gregory Parker
The Honorable Mark Mahon, Vice Chair

The Honorable Belvin Perry, Jr.
Ms. Kathy Pugh
The Honorable Robert Roundtree
The Honorable Olin Shinholser
Mr. Grant Slayden
The Honorable Elijah Smiley
Mr. Walt Smith
The Honorable Bertila Soto
The Honorable Terry Terrell
The Honorable Patricia Thomas
Mr. Mark Weinberg
Ms. Robin Wright

Attendance – Members Absent
All members were present.

Welcome and Approval of Meeting Minutes
Judge Steinbeck called the Trial Court Budget Commission (TCBC) meeting to order at 10:00 a.m.

Judge Steinbeck presented Mike Bridenback with the Kenneth R. Palmer Award of Distinguished Excellence in Judicial Administration. The award is jointly conferred by the Florida Conference of Circuit Court Judges and the TCBC. Mr. Bridenback received this award as a result of extraordinary leadership and commitment to the Florida trial courts.

Additionally, Judge Steinbeck presented an award to Judge Francis for his many years of service with the TCBC. He has served as vice-chair, served on the Legislative Team, Executive Committee, Budget Management Committee, various ad-hoc committees and workgroups.

Judge Steinbeck welcomed new member Grant Slayden, Second Circuit Trial Court Administrator. She also welcomed Judge Ficarrotta as a new member. The roll was taken and a quorum was present.
A motion was made by Judge Mahon to adopt the August 11, 2012 minutes as drafted. Judge Roundtree seconded and the motion was passed without objection.

**Status of FY 2012-13 Budget**

**Salary Budgets**
Dorothy Wilson provided a status of the salary budgets for the trial courts. Ms. Wilson stated that the projected liability for General Revenue and State Courts Revenue Trust Fund increased as expected from past months due to the implementation of approved salary actions. After the adjustments for lapse, overtime, and leave payouts, the ending projected liability was $673,782 under the salary appropriation. The lapse generated has decreased compared to the same time last year due to less turnover and will be monitored closely.

The Federal Grants Trust Fund liability was under appropriation by $13,230. The Administrative Trust Fund liability was under appropriation by $18,451.

**Status Rate Distribution Actions and Other Salary Adjustments**
Theresa Westerfield provided a status as of November 30, 2012, of rate distribution actions and other salary adjustments approved by the TCBC for FY 2012-13.

Of the $750,000 rate approved to address inequities with hiring or promoting at the minimum and allow hiring or promoting above the minimum, $51,832 was expended and affected 51 FTE.

The estimated cost for the approved longevity increases for judicial assistants was $731,000 and the cost to date was $600,390 and affected 538 FTE. Judge Steinbeck noted that the Salary Budget report reviewed by Dorothy Wilson illustrated how these actions approved in August have impacted the salary budget.

The estimated cost was $226,814 for the approved realignment of Pay Grade 200 for county-funded manager positions transferred to the state during Revision 7 implementation. Actual costs to date were $231,300 and affected 48 FTE.

The estimated cost to increase the pay grade and starting salaries of court interpreters, assistant and supervising court interpreters, and certified court interpreters was $420,953. Actual costs to date were $371,074.

Twenty-eight requests for position reclassification have been approved or are pending approval. The cost of the requests total $169,899.
Operating Budgets
Dorothy Wilson reported on the status of the trial court General Revenue operating budgets as of December 31, 2012. She noted that expenditures in the Expense and Contracted Services categories were up, 3% and 2% respectively, from last year. Ms. Wilson indicated that the increase is mostly attributed to the easing of spending restrictions in place last year due to cash flow problems. The expenditures in the Civil Traffic Infraction Hearing Officers category were up 2% from last year. Ms. Wilson stated that the budget amendment approved by the TCBC during the allocation meeting to transfer funds from Operating Reserve to this category was pending approval by the Legislative Budget Commission.

Ms. Wilson reviewed the status of the Senior Judge Days and noted that 3,946 days were remaining. Judge Steinbeck added that the report only captures days served and submitted for compensation. The members discussed tracking days served by volunteer judges (retirement date less than one year and therefore ineligible to receive compensation). Staff believes this data is collected by the trial court administrators and will follow up.

Trust Fund Cash Balances
Dorothy Wilson reviewed trust fund cash balances as of December 31, 2012.

State Courts Revenue Trust Fund –Ms. Wilson reviewed the cash analysis for the State Courts Revenue Trust Fund and reported that the ending cash balance was $2.9 million. The analysis was updated with the Article V Revenue Estimating Conference projections revised November 8, 2012.

Administrative Trust Fund – Dorothy Wilson reviewed the cash statement for the Administrative Trust Fund. The cash balance was $1 million. This trust fund is comprised of cost recovery collections.

Criminal Conflict Counsel Payments Over the Flat Fee
Kris Slayden provided a status of payments over the flat fee for conflict counsel criminal cases. The projection for FY 2012-13 using annualized July through November 2012 data, without outlier adjustments, was $6.1 million. This estimate is down about $1 million from last year and may be attributable to TCBC measures or a decrease in large cases. Ms. Slayden reported that as of November 30, 2012, the Justice Administrative Commission (JAC) has paid out over $2.5 million of their $3 million appropriation.

Ms. Slayden reviewed JAC’s payment detail and noted that the majority of the payments over the flat fee were attributable to capital cases. She also reviewed expenditure data for “Other” case types and noted that the 11th and 18th Circuits have exceeded their expenditure allowance and are in the process of transferring funds back into the statewide pool.
Foreclosure Backlog Reduction Initiative

Kris Slayden provided a status of Foreclosure Backlog Reduction Initiative and reported that the number of estimated pending cases as of June 30, 2012 was 377,707. The number of filings from July through November 2012 was 83,980 and 88,312 cases were disposed during the same time period. As of November 30, 2012, the number of estimated pending cases was 373,375.

Ms. Slayden reviewed the dispositions by circuit and disposition type. Dismissals accounted for 44% of the dispositions; 55% was disposed by default, judge, and non-jury trial; and 1% was disposed by other means. The number of cases disposed by judges is trending upward. Ms. Slayden added that overall dispositions have increased over the average of FY 2011-12. Feedback from judges indicates the numbers will further improve in the second half of the fiscal year. However, the courts have no control of the cases coming into the system, only what is going out.

Ms. Slayden reviewed the number of filings by month and noted the inconsistency of filings. She stated that of the $4,000,000 initiative allocation, $1,496,016 or 37.4% has been expended. In addition, she reviewed the distribution of pending foreclosure cases by circuit and case age category and the data reflected a wide variation in the distribution of cases. Lisa Goodner stated that Chief Justice Polston would like the TCBC to review and provide assistance to those circuits that have a higher proportion of older cases.

Judge Steinbeck noted that the top priority for the trial courts should be moving these cases efficiently, sharing information among circuits and learning from those that are accomplishing this goal, gathering data, and being ready to respond to information requests during legislative session. She asked that circuits analyze their use of resources. Judge Steinbeck announced she was creating a mortgage foreclosure workgroup and asked members interested in serving to contact her.

Foreclosure Settlement Fund Allocation

Kris Slayden reported that an additional $5 million for the trial courts is available from the National Mortgage Foreclosure Settlement Fund to move mortgage foreclosure cases forward. The funds will be used to provide supplemental resources in the trial courts to reduce the backlog of pending foreclosure cases and provide technology solutions that improve the flow of foreclosure cases through the judicial process and expedite the outcomes. Dorothy Wilson added that as soon as the budget amendment to allocate the funds is approved by the legislature, she will notify the trial court administrators.
Personnel Committee Report

Merit Distribution
Walt Smith reported on this agenda item stating that on December 11, 2012, the Personnel Committee recommended that in the event a merit distribution is implemented prior to the end of the FY 2012-13, that circuits be allowed to supplement the distribution with available rate remaining from the October, 2012 rate distribution. The Executive Committee also approved the recommendation. Judge Roundtree made a motion to approve as recommended. Tom Genung seconded and the motion was passed without objection.

Trial Court Law Clerk Incentive Plan
Walt Smith stated that on November 2, 2012 the Executive Committee asked that the Personnel Committee review the Personnel Regulations Manual to determine if service as a county-funded trial court law clerk should be included in calculating the date for incentive pay. The Personnel Committee recommended adding a subsection to the regulations specifying that trial court law clerk service in a county-funded position counts toward eligibility. Judge Roundtree made a motion to approve the recommendation. Judge Mahon seconded and the motion passed without objection.

Funding Methodology Committee Report on Allocation Methodologies
Mark Weinberg briefed the members and stated that at their December 4, 2012 meeting, the Funding Methodology Committee reviewed and discussed the current allocation methodology and whether the purpose for standard methodologies has changed from 2004 and needed to be redefined. The committee recommended continuing to allocate resources to the circuits based on statewide methodologies and to include the following enhancements:

- Base allocations on a three year average of expenditures and consider outliers.
- Contact circuits prior to committee meeting if methodology calculation results in an allocation decrease of 10% or more.
- Set a target of maintaining 10% of contractual funds in Operating Reserve for each element.
- Recommend the Budget Management Committee revise the procedures for accessing the Operating Reserve, which would not preclude a circuit from using their operating budget to fill a due process shortage but would not require it before accessing the Operating Reserve.

Judge Mahon made a motion to approve the Funding Methodology recommendations. Judge McGrady seconded and the motion passed without objection.
Executive Committee Action on General Magistrate/Child Support Hearing Officer Reallocation

Second Circuit Issue
Jessie McMillan reported that the Second Circuit asked for a review of the funding formula for the child support enforcement hearing officer element. Specifically, the weights in relation to travel time, the ratio of hearings per case, unreliable SRS data, the proportion of cases reopened, and the workload. The Funding Methodology Committee considered the issues and recommended no changes to the methodology. The Executive Committee decided not to change the methodology at this time.

Sixth Circuit Issue
Ms. McMillan stated that the Sixth Circuit has 0.25 FTE excess resources in the general magistrate element and anticipate a 1.0 FTE vacancy. The circuit indicates that recruiting for a 0.75 FTE position is different than recruiting for a 1.0 FTE position and losing 0.25 FTE of resources in this element will be a considerable hardship on the family court operations. The Executive Committee approved using a minimum threshold of 0.50 FTE need before considering reallocations in the future.


State Courts Revenue Trust Fund
Alex Krivosheev reviewed the FY 2012-13 State Courts Revenue Trust Fund (SCRTF) projections by source and the data reflected that the July 2012 revenue estimate of $109.8 million was revised down to $107.7 million. For FY 2013-14 and FY 2014-15, the revenue estimates were $112.9 million and $96.8 million respectively. The FY 2015-16 estimate is $85.9 million. The changes in estimates are primarily due to changes in forecasted foreclosure filings.

General Revenue
The FY 2012-13 estimates were revised on December 14, 2012, and were estimated to be $24.9 billion in recurring and non-recurring funds. The total available funds including carry forward amounts were estimated to be $27.1 billion. The Financial Outlook Statement indicates that in FY 2012-13, the General Revenue Fund will be $2.1 billion dollars in surplus. For FY 2013-14 and FY 2014-15, the estimates were $26.0 and $27.2 billion, respectively.
FY 13-14 Supplemental Legislative Budget Request

Recommendations of Due Process Technology Workgroup on Remote Interpreting Technology
Patty Harris reported on this agenda item stating that in August 2012, the TCBC approved filing a Legislative Budget Request (LBR) placeholder for both Tier Two policies to address the expansion of court interpreting services to all civil related case types and remote interpreting technology. After submission to the Supreme Court, the court referred back the proposal to file a placeholder for Tier Two policies. The court also asked the TCBC to complete an analysis regarding expansion of remote interpreting technology to increase efficiency and effectiveness and then submit a budget issue during the supplemental process.

After the Due Process Technology Workgroup (DPTW) review and feedback from the Commission on Trial Court Performance and Accountability (TCP&A), the workgroup reviewed the funding requests submitted in August 2012 from ten circuits as part of the FY 2013-14 LBR to support the local expansion of remote interpreting technology.

The DPTW recommended submitting a FY 2013-14 supplemental LBR issue for $100,000 ($90,000 OCO and $10,000 non-recurring Expense) based on the 7th and 9th Circuits’ requests to support continued piloting efforts of the “regional model.” The DPTW also recommended initiating a Request for Information to learn more about remote interpreting vendors and develop technical and functional standards. The DPTW included a recommendation to complete a more in-depth analysis that contemplates feedback from circuits and the TCP&A on service delivery models.

Judge Mahon made a motion to approve the DPTW recommendation. Judge Roundtree seconded and the motion passed without objection.

Conflict Counsel Cases Over the Flat Fee
Kris Slayden reminded the members that at August 2012 meeting, the TCBC approved filing a Legislative Budget Request (LBR) for $4,404,984 based on a preliminary analysis of the need for FY 2013-14, with the understanding that the request would be revised during the supplemental process, if needed, based on the actual data from the Justice Administrative Commission (JAC). Ms. Slayden reported that the JAC determined that they do not have data available to correctly identify cases in the pipeline that will be expected to be submitted for payment during FY 2013-14. Due to the data problems with capturing cases currently in the pipeline, as well as current year expenditure information which indicates a possible reduction as compared to last year, staff recommended no change to the current FY 2013-14 LBR for $4,404,984. Judge Roundtree made a motion to approve the staff recommendation. Judge Mahon seconded and the motion passed without objection.
**Foreclosure Backlog Reduction Initiative**

Kris Slayden reported on this agenda item and stated that at the August 2012 meeting, the TCBC approved to file a FY 2013-14 LBR issue for the Foreclosure Backlog Reduction Initiative in the amount of $4.0 million and note in the narrative that $4.0 million and $2.0 million in resources will be needed in FY 2014-15 and FY 2015-16 respectively.

Ms. Slayden briefed the members and stated that the legislature appropriated $5.0 million from the National Mortgage Foreclosure Settlement Funds to supplement the $4.0 million received for the FY 2012-13 initiative. The settlement funds are non-recurring and will be used to provide supplemental resources to reduce the backlog of pending foreclosure cases and provide technology solutions that improve the flow of foreclosure cases.

The legislature has also indicated that consideration would be given to the courts for proposals for a portion of the $200 million settlement funds to further assist in moving the foreclosure cases through the court system. A proposal for a FY 2013-14 supplemental LBR is needed for the National Mortgage Foreclosure Settlement Funds. Judge Steinbeck tasked the Mortgage Foreclosure Workgroup in developing the proposal.

**Judicial Certification**

Dorothy Wilson stated that a Legislative Budget Request (LBR) placeholder issue for judicial certification was submitted in October 2012. The Supreme Court released an opinion in December 2012 certifying the need for additional judgeships. Ms. Wilson reviewed the Judicial Impact Statement for judicial certification and reported that based on the opinion, the issue will be revised and the estimated cost will be decreased to $16.4 million in the supplemental budget request.

**Update on OpenCourt Project**

Patty Harris reported on this agenda item and stated that in August 2012, the Due Process Technology Workgroup (DPTW) submitted three recommendations to the TCBC regarding implementation and funding strategy for OpenCourt. The TCBC approved two recommendations and the third, pertaining to future implementation plans, was tabled for further evaluation. As OpenCourt continues to be tested and evaluated during FY 2012-13, the TCBC directed the DPTW to continue monitoring implementation efforts based on performance metrics and provide status reports back to the TCBC.

Ms. Harris reported that the DPTW assisted in the hiring of an OpenCourt user support contractor and has begun developing statewide data collection templates that may be used towards determining future implementation plans. Full implementation of the tracking spreadsheet is anticipated in February 2013. An evaluation matrix is being developed to assess software improvement needs and implementation progress. The DPTW plans to administer the
evaluation matrix in March 2013 to those circuits currently using or planning to implement OpenCourt. The results from the matrix will be provided to the TCBC at the next meeting for consideration of future FY 2013-14 implementation planning efforts.

**Update on FY 2012-13 Legislative Projects**

**Court Reporting Services Cost Shift Study**
Jessie McMillan reported that in 2010 the TCBC approved a new cost sharing methodology and filed a Legislative Budget Request (LBR) issue for FY 2011-12. The commission also recommended that the total cost sharing funding be part of the court’s budget. This request and the same request submitted for the FY 2012-13 LBR were not approved by the legislature.

The FY 2012-13 General Appropriations Act included proviso language that stated the Justice Administrative Commission (JAC), in coordination with the Public Defenders, State Attorneys and Supreme Court, shall develop a plan to transfer court reporting services from the JAC to the State Courts System. The JAC was required to submit a report to the legislature by November 1, 2012.

In developing a plan, the public defenders questioned the accuracy of the data used by the Office of the State Courts Administrator and were concerned with the circuits that provide transcripts under the cost sharing arrangement for cases originating in one circuit that are later transferred to another public defender for appellate reasons. Currently the 16th, 14th and 12th Circuits produce transcripts that are sent to the 11th, 2nd, and 10th Circuits. Because these transcripts are produced by resources in the originating circuit, the costs are borne in that circuit and the Uniform Data Reporting captures those transcripts in the numbers for those circuits. However, the true responsibility of those costs should be reflected in the circuits that are handling the case. Shifting that portion of the costs to the appellate circuit has no statewide impact, but does reduce the estimated costs in the originating circuits.

Ms. McMillan reviewed the proposed amended FY 2012-13 Cost Sharing Comparison chart that would be used for the FY 2013-14 LBR. The chart was modified for those six circuits but the modification did not affect the statewide LBR recommended by the TCBC and submitted by the court in October 2012. Tom Genung made a motion to approve the revised chart and its release to the cost sharing entities and legislative staff in advance of legislative session. Judge Miller seconded and the motion passed without objection.

**Assessments, Collection and Reporting**
Eric Maclure reported on this agenda item and stated that in 2012, the legislature directed the clerks of court, in consultation with the Office of the State Courts Administrator (OSCA), to develop a uniform form for the identification and imposition of all assessments mandated by
statute by October 1, 2012. The new law also required the clerks to enhance the form and guidelines used to report annually to the legislature on assessments and collections. The Florida Senate specifically requested from the clerks and the State Courts System information on the implementation status of the new law by the end of December 2012.

The Florida Court Clerks and Comptrollers (FCCC) created a “Form Matrix” designed to help clerks keep up to date whatever in-house forms that may have been developed locally. The matrix was submitted to the Supreme Court and Chief Justice Polston directed the circuit chief judges to distribute to the circuit and county judges for use as required by statute. The Supreme Court was also interested in using the data in the matrix to develop an actual uniform form that judges could reference and complete in the courtroom. The chief justice has requested feedback from the chief judges by January 9, 2013.

The FCCC developed a new form to be used by the clerks to record and report on assessments and collections, and report guidelines designed to assist the clerks to consistently classify fines, fees, charges, and costs. In addition, the clerks are required to report on annual assessments and collections to reflect the recording and reporting of assessments using the new operating guidelines and form for the period of October 1, 2012 to September 30, 2013. The FCCC reports that a number of areas need to be addressed and also suggested a pilot project for proof of concept of new documentation and to address impacts of changes to local internal systems.

Mr. Maclure reported that the FCCC and OSCA communicated to the Florida Senate on the implementation status of the new law and he referenced those letters in the materials. Mr. Maclure also recommended ongoing monitoring of the status of implementation by the TCBC.

**Global Positioning Devices in Domestic Violence Cases**

Eric Maclure stated that the legislature provided funding in FY 2012-13 for four circuits to conduct pilot projects on the use of active global positioning satellite (GPS) technology to protect victims of domestic violence. Proviso language was also included that required the courts to submit a report to the legislature by June 30, 2013, on the benefits and limitations of the pilot projects.

Mr. Maclure stated the projects have experienced challenges in implementation and provided a status of each circuit’s project. Three of the circuits received non-recurring funding while one received recurring funding. In August, the TCBC decided not to seek continued funding for the three circuits; however, two of the three circuits who received non-recurring funding are interested in continuing the project if funding is available. Judge Mahon stated that the TCBC Executive Committee discussed the issue, which was not a court project, and determined that other entities are more suited to advocate for the funding.
Study of Compensation of Private Court Appointed Conflict Counsel
Susan Dawson briefly reviewed the draft report to the legislature on Office of the State Courts Administrator’s (OSCA) study of compensation of private court-appointed conflict counsel in criminal cases. Proviso language in the FY 2012-13 General Appropriations Act (GAA) requires the OSCA to submit the report to the legislature by January 15, 2013. OSCA conducted a comparative analysis of the flat fees based on four different methodologies which included: 1) using actual historical data from the Judicial Qualifications Commission on payments made at and over the flat rate fee by case type; 2) adjusting the statutory caps based on the Census Bureau Consumer Price Index; 3) adjusting the statutory caps based on the Bureau of Labor Statistics growth rate in earnings for attorneys from 1981 to 2010; and 4) comparing to the survey responses conducted by OSCA indicating the flat rates charged by private attorneys for non-court appointed cases.

Ms. Dawson reported that during the analysis it was noted that with the exception of capital murder cases, the maximum attorney fees allowed have not been raised since 1981 and the specific flat fees listed in the GAA are equal to or often less than the statutory maximum fees. When compared to statistics generated from the four difference methodologies, the specific flat fees listed in the GAA and the statutory maximum fees set in statutes are not adequate or reasonable. Ms. Dawson stated that analysis of the four methodologies indicate that rate adjustments are warranted and reviewed proposed rate increases compared to the current flat fee rates in the GAA.

Ms. Dawson added that the TCBC Executive Committee recommended revising the report to focus on critical areas such as RICO and capital cases (Priority 1 Case Types). Kris Slayden reviewed the proposed flat fees for the Priority 1 Case Types and the methodology used. Judge McGrady made a motion to approve the revisions to the report and proposed flat fee rate increases. Judge Roundtree seconded and the motion was passed without objection.

Update from the Chief Justice’s Designee to the CCOC
Judge McGrady reported that the Clerk of Court Operations Corporation developed a white paper to examine the clerks’ revenue and budget structure and to address budget issues. He reviewed the six budget model issues and potential resolutions identified in the paper. The clerks also report that based on the results of the November 8, 2012 Article V Revenue Estimating Conference, the CCOC is projecting an $18.1 deficit in the Clerks of Court Trust Fund at the end of FY 2012-13 and a $58.6 million deficit in FY 2013-14.

FCCC Legislative Proposal for a Continuing Legislative Appropriation
Judge Steinbeck stated that the Florida Court Clerks and Comptrollers (FCCC) provided to the court draft legislation designed to stabilize funding for the clerks of court. Meetings between the courts and clerks will continue on the proposed legislation. Lisa Goodner added that Fred
Baggett, FCCC General Counsel, has agreed that the courts and the clerks are a part of a system and their budgetary needs have to be balanced. In addition, he expressed the need for a mechanism for adjusting budgets based on workload. The FCCC is reviewing some of the court’s concerns with the continuing appropriation proposal.

Preparing for 2013 Legislative Session
Eric Maclure reviewed information regarding legislative leadership, legislative committee descriptions, and emerging policy issues.

Dorothy Wilson stated that legislative budget committees would begin meeting in January and anticipated the following activities in the coming weeks: overview of the State Courts System presentation to the committees; legislative base budget review of how allocations are actually expended; legislative budget request presentations to committees; legislative budget review for potential reductions; performance evaluations on local funding initiatives such as Child Advocacy Centers and Global Positioning Devices in Domestic Violence Cases; Governor’s budget recommendations; and legislative committees’ budget recommendations.

Other Business
Judge Steinbeck reminded members that TCBC representatives will be present in Tallahassee during legislative committee meetings. She asked that members communicate any concerns or issues taking place locally that would impact the budget or efforts in advocating for the legislative budget request.

The next meeting will be held in Tallahassee during legislative session and the date has yet to be determined.

Adjournment
With no other business before the Commission, the meeting adjourned at 2:30 p.m.