Welcome and Approval of Meeting Minutes
Judge Steinbeck called the Trial Court Budget Commission (TCBC) meeting to order at 8:33 a.m. The roll was taken and a quorum was present.

A motion was made by Judge Roundtree to adopt the January 7, 2013 minutes as drafted. Judge McGrady 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 experienced a modest increase due to the continued implementation of approved salary actions. After the adjustments for lapse, overtime, and leave payouts, the ending projected liability was $1.67 million under the salary appropriation. This is a significant decrease from the
same time last year when the liability was $5.6 million under the salary appropriation. The lapse generated for this year is currently at 1.7% and has not been this low since FY 2003-04. Ms. Wilson also stated leave payouts are 70% above where the trial courts were last year in March mainly due to retirements and changes in judicial assistants for new judges. In addition, salary increases to address issues with both recruitment and retention of the court interpreter and court reporting positions have also increased the current year payroll liability.

Lisa Goodner stated payroll actions taken in one year continue to impact liabilities in future years. These issues will be monitored closely for their impact on FY 13-14 payroll projections, and to determine if a salary management schedule will need to be implemented in FY 13-14. Judge Steinbeck added that no agency is ever fully funded for their payroll liability. Salary management plans have been implemented in previous years to generate lapse to ensure the payroll liability is covered.

The Federal Grants Trust Fund liability was under appropriation by $19,765. The Administrative Trust Fund liability was under appropriation by $34,227.

The Governor’s proposed budget recommended eliminating positions vacant for longer than 180 days. Ms. Wilson stated the Legislature could review vacant position data as well, however, at this time had not recommended eliminating any positions from the trial courts. Ms. Wilson reviewed trial court vacancies as of March 31, 2013, noting vacancies over 180 days (ten positions), and vacancies over 365 days (three positions). The Executive Committee referred this issue to the Personnel Committee for review and to provide recommendations back to the TCBC.

**Rate Distribution Actions and Other Salary Adjustments**

Theresa Westerfield provided a status as of April 1, 2013, 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, $244,036 was expended and affected 198 FTE.

The estimated cost for the approved longevity increases for judicial assistants was $731,000 and the cost to date was $672,692 and affected 599 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 $432,970. This issue will continue to impact liabilities next year through October 2013.
The estimated cost to increase the pay grade and starting salaries of court reporter I, court reporter II, and court reporting services managers was $338,000. Actual costs to date were $309,601.

Forty-four requests for position reclassification have been approved or are pending approval. The cost of the requests total $188,560.

The members discussed the possibility of loosening the restrictions for the rate distribution to allow chief judges to reward hard working employees outside the current rate distribution criteria. Continued discussion regarded how additional actions would impact the salary liability for FY 13-14 which may require the TCBC to return to a 30, 60, 90 day freeze on vacant positions. Theresa Westerfield stated the trial courts were currently operating on a modified 30 day vacant position salary management plan. Under the current plan, vacancies for trial court administrators, trial court technology officers, judicial assistants, as well as vacancies in the Federal Grants Trust Fund, and vacancies in the Administrative Trust Fund, require zero days of vacancy. All other remaining positions in General Revenue and the State Courts Revenue Trust Fund are held vacant for 30 days. Judge Roundtree motioned to maintain the current rate distribution criteria. Judge Perry seconded, and the motion passed without objection.

**Operating Budgets**

Dorothy Wilson reported on the status of the combined Trial Court General Revenue and State Courts Revenue Trust Fund operating budgets as of March 31, 2013, noting the reports included foreclosure funds appropriated in February 2013. Ms. Wilson indicated that expenditures were up slightly in the due process elements compared to last year. Mediation Arbitration Services has a remaining balance of $1,093,515 as of March 31, 2013, with expenditures up 5% from last year. The Expert Witness element is up over 5% from last year with a remaining balance of $2,098,419 as of March 31, 2013. Court Reporting has seen a slight increase of 1% compared to last year with a March 31, 2013 remaining balance of $3,655,957, while Court Interpreting is also up by 1% with a remaining balance of $1,097,602. Civil Traffic Infraction Hearing Officers also showed a slight uptick of 1% with $906,331 in remaining balance for this fiscal year.

Ms. Wilson provided a status of the Senior Judge Days and noted that as of March 31, 2013 2,823 regular days and 3,077 foreclosure days were remaining. Judge Steinbeck added that the report only captures days served and submitted for compensation. Mark Weinberg stated there are a sufficient number of days available but not enough senior judges to do the work. Currently judges must be retired for one year before they can return as a senior judge. Judge Mahon stated the need to educate the legislature regarding this issue. Judge Mahon continued, stating an actuary had conducted an analysis and determined it would cost $1.7 million to reduce the current one year waiting period down to one month. The actuarial report, according to Judge Mahon, determined judicial retirements would increase as more judges sought to become senior judges.
**Trust Fund Cash Balances**

Dorothy Wilson reviewed trust fund cash balances as of March 31, 2013.

Ms. Wilson reviewed the cash analysis for the SCRTF and reported that the ending cash balance was $9.1 million. The analysis was updated with the Article V Revenue Estimating Conference projections revised February 6, 2013. The cash analysis also shows estimated year-end cash balance of $9.9 million.

Ms. Wilson reviewed the cash statement for the ATF stating the current cash balance is $2 million. This trust fund is comprised of cost recovery collections.

**Criminal Conflict Counsel Payments Over the Flat Fee**

Ms. Wilson reviewed the actions taken to date to address the conflict counsel expenditures. The actions included use of $684,671 from the due process reserve, maximizing the 5% budget transfer authority to transfer $717,111 from the circuit court’s other operating categories to the due process category, and submitting a budget amendment which established authority in the ATF in the amount of $999,895. Cash was then transferred from the SCRTF to ATF to pay the expenditures. Ms. Goodner stated if the courts are unsuccessful in obtaining a back of the bill appropriation for the estimated deficit of $693,912, this amount may have to come from the circuit’s operating budgets.

Jessie McMillan presented an annualized projection for the amount paid over the flat fee for conflict counsel criminal cases using data from July through February 2013. This updated projection estimated expenditures would be down by $1.3 million compared to the prior year. In addition Ms. McMillan reviewed the monthly breakdowns by circuit of the amounts paid over the flat fee and provided a comparison of year to date expenditures to the annualized expenditures. Finally, she presented an expenditure summary by circuit and by case type.

Judge Stargel stated that survival of limited registry does not look promising. Walt Smith asked if the law was changed, would authority to have a limited registry cease to exist. Judge Mahon stated he believed that was true.

**Foreclosure Backlog Reduction Initiative**

Alex Krivosheyev provided a status of the Foreclosure Backlog Reduction Initiative and reported that the number of estimated pending cases decreased by 8,000 cases since January 2013. Mr. Krivosheyev stated the courts were keeping up with current filings and had reduced the backlog by 19,000 cases since June 30, 2012. As of February 28, 2013, the number of estimated pending cases was 358,674.
Mr. Krivosheyev reviewed the average monthly dispositions and noted they continue to trend upwards. Dismissals accounted for 42% of the dispositions; 56% were disposed by default, judge, and non-jury trial; and 1% was disposed by other means. Mr. Krivosheyev added that overall filings are slightly higher on the monthly average.

**Judicial Viewer Implementation**

Kris Blakeslee presented an update on judicial viewer implementation. Ms. Blakeslee stated the 3rd and 12th Circuits requested no funding as they had purchased judicial viewers using county funds. Benchmark did not meet CAP standards and the Florida Courts Technology Commission (FCTC) is working with them to get them certified. Mentis has been selected by the 2nd and 9th Circuits, and the 1st and 16th are in negotiations with Mentis. The 6th and 16th Circuits have selected JAWS which is the 13th Circuit’s in-house solution. The 8th, 10th, 14th, and 15th Circuits have selected or are making updates to the ICMS solution. The 7th, 11th, and 18th Circuits are still deciding on a viewer to implement. The 20th Circuit is working with its counties and clerks for a solution.

**Foreclosure Initiative Workgroup Report**

Mark Weinberg thanked the workgroup members and support staff for their hard work and efforts in preparing the report. Mr. Weinberg stated the efforts of the workgroup provided the groundwork for the filing of a supplemental Legislative Budget Request (LBR) seeking more than $35 million over three fiscal years. 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. In the first year, $9.9 million for judicial and case management resources, and $5.2 million for technology costs was requested. The second and third year funding request is only for the judicial and case management resources.

The Clerks of Court have also filed a supplemental LBR seeking additional resources. Judge Steinbeck stated a conference call was held with the Clerks of Court. During the call, the clerks stated the larger counties would be ready July 1st to support the court resources to further address the foreclosure backlog should the courts and clerks receive the additional funds. During the conference call, the clerks also stated many of the smaller counties would be ready on or shortly after July 1st.

The workgroup researched potential process improvements and has recommended the use of three nationally recognized performance indicators: time to disposition; age of pending cases; and clearance rate. Along with the performance indicators, the workgroup made recommendations including a statutory revision, a rule amendment, administrative orders, docket control policies, and training components. Walt Smith made a motion to endorse the
supplemental LBR request of $35 million from the National Mortgage Foreclosure Settlement funds. Tom Genung seconded, and the motion was adopted without objection.

Susan Dawson explained the proposed rule amendment to rule 1.490 and stated the revision would allow for referral of residential mortgage foreclosure cases to a general magistrate with implied consent of the parties. The consent is implied unless objected to within ten days. Ms. Dawson said this approach is similar to rule 12.490, Florida Family Law Rules of Procedure. In addition, subsection (d) of rule 1.490 would be amended to include language stating, “Magistrates shall not practice law of the same case type in the court in any county or circuit the magistrate is appointed to serve.”

Ms. Dawson reported that two administrative orders have been drafted by the workgroup. The first draft order directs establishment of case management plans by the chief judges, and directs the clerks of court to collect specific data on mortgage foreclosure cases. Judge Brunson asked if a circuit judge would still be involved, similar to family court. Ms. Dawson affirmed and the case would still be reviewed by a judge. Judge Mahon commented that the media is reporting that Florida has the longest amount of time from filing to disposition among the 50 states and the legislature is concerned about the time to disposition. Mr. Smith asked if every circuit would be required to have a written plan. Kris Slayden responded each circuit could have an administrative order from the chief judge, or at a minimum, have a written plan. Mr. Weinberg added the plan is a vehicle to get resources implemented. Judge Steinbeck stated the intent of a plan is to allow maximum flexibility within each circuit, within defined parameters, so each circuit can be successful.

The second draft administrative order directs the Office of Court Education to work with a faculty trained judge, selected by the Chair of the TCBC, to develop and present a training program to ensure judges, magistrates, and case managers have the essential information and skills to fulfill their duties with regard to implementation of the mortgage foreclosure initiative. In addition, the second draft order exempts general magistrates, who are assigned residential mortgage foreclosure cases exclusively, from attending both phases of the Florida Judicial College, as would otherwise be required in Administrative Order No. AOSC12-53. Instead, a condensed version of the Florida Judicial College general magistrate education program would be developed and become available.

Ms. Dawson referenced a letter from Judge O.H. Eaton, Jr. sent to Chief Justice Ricky Polston concerning Rule 1.110(b), Florida Rules of Civil Procedure, which sets forth the verification requirements in mortgage foreclosure complaints. In the letter, Judge Eaton states the rule does not require any particular person to sign the verification, does not give trial courts additional authority to sanction plaintiffs who make false allegations, and although the opinion that adopted the rule provided an effective date, it did not address whether the rule applied to pending cases. Chief Justice Polston referred the letter to the Mortgage Foreclosure Workgroup for review. Ms.
Dawson stated the workgroup was waiting to see if current proposed legislation would deal with these issues. Judge Steinbeck stated after session the workgroup will determine what action might be necessary. Tom Genung made a motion to defer action on the workgroup’s report until after the end of the legislative session. Judge Roundtree seconded, and the motion passed without objection.


**State Courts Revenue Trust Fund**
Alex Krivosheyev reviewed the FY 2012-13 State Courts Revenue Trust Fund (SCRTF) projections by source from the February 6, 2013 Revenue Estimating Conference, and the data reflected that the November 2012 revenue estimate of $107.7 million was revised down to $102.3 million. For FY 2013-14 and FY 2014-15, the revenue estimates were $109.2 million and $95.7 million respectively. The revenue estimate for FY 2015-16 was $82.4 million. The changes in estimates are primarily due to changes in forecasted foreclosure filings.

**General Revenue**
The FY 2012-13 estimates were revised on March 15, 2013, and were estimated to be $25 billion in recurring and non-recurring funds. The total available funds including carry forward amounts were estimated to be $27.3 billion. The Financial Outlook Statement indicates that in FY 2012-13, the General Revenue Fund will be $2.3 billion dollars in surplus. For FY 2013-14 and FY 2014-15, the estimates were $26.1 and $27.3 billion, respectively.

**Update on 2013 Legislative Session**

**Overview of House and Senate Budget Proposals**
Dorothy Wilson reviewed the House and Senate budget proposals. Ms. Wilson noted the two chambers have significant differences in their proposals specifically for Child Advocacy Centers and Post-Adjudicatory Drug Court. The Senate has proposed $3.5 million in recurring funding for the advocacy centers compared to the House’s proposed $50,000 in non-recurring funding. The Senate has proposed $5.5 million in recurring funding for the drug courts compared to the House’s $1 million in non-recurring. Judge Steinbeck commented the Senate drug court proposal fully funds the request made in the LBR while the House proposal is only partially funding the issue. Ms. Goodner stated the House has proposed $7 million to the courts for operational support, but the Senate has not agreed to this issue, and the funds will most likely be distributed to other issues. Walt Smith asked if a list was available for the line item in Senate Bill (SB) 1500 regarding the restoration of small county historic courthouses. Ms. Wilson replied there is not a list at this time and these details would be provided in the proviso language in the
Overview of Budget Conforming Bills and Implementing Legislation
Ms. Wilson stated new language in section 13 of SB 1502 provided that remaining funds in the Clerks of Court Trust Fund may not transfer to the General Revenue Fund and would remain available to clerks for FY 2013-14 expenditures.

Eric Maclure reported on SB 1508 (Court-Appointed Counsel) stating this bill eliminates some of the provisions enacted during the 2012 legislative session (ch. 2012-123, Laws of Fla.). In particular the bill deletes the authority for the chief judge to restrict the number of attorneys on the general registry list; eliminates authority for the chief judge to establish limited registries of private attorneys who agree to accept as full payment the flat fees prescribed in law, except in capital and racketeering cases; eliminates direction for the court to appoint from the limited registry unless there are no attorneys available on the limited registry; and eliminates a requirement for an attorney, in order to be included on registry, to certify whether he or she is willing to accept the flat fees as full payment. Mr. Maclure also reported that the bill raises three of the statutorily prescribed maximum fees for criminal representation by a private attorney, including life felonies, which the bill raises to $9,000 from $3,000; capital cases at the trial level, which the bill raises to $25,000 from $15,000; and appeals, which the bill raises to $9,000 from $2,000. Mr. Maclure reminded the commission that the Office of the State Courts Administrator was directed by the Legislature to study the reasonableness and adequacy of the flat fees and that its January 2013 report found there are grounds to raise the fees. He noted that the report recommended that the Legislature focus first on certain case types likely to result in excess fee payments.

Mr. Maclure also reported on SB 1510, which reestablishes a Capital Collateral Regional Counsel (CCRC) office for the northern region of the state. Currently, collateral representation in the northern region is provided by private attorneys on a registry, while representation in the middle and southern regions is provided by CCRC offices. He said the bill also provides for the Justice Administrative Commission to take over (from the Chief Financial Officer) certain responsibilities related to payment of private attorneys who provide capital collateral representation.

Overview of Pay and Benefits Legislation
Ms. Westerfield compared the pay and benefits portion of the Senate and House versions of the General Appropriations Act (GAA). The House version, HB 5001, specifies an across the board raise of $1,400 for eligible employees. The Senate version, SB 1500, provides for a 3% across the board raise for eligible employees. Both bills propose an increase to judicial salaries: HB 5001 - $1,400; SB 1500 – 5.1% increase. Both chambers also have language addressing the
health insurance issue for Other Personal Services employees averaging 30 or more hours per week. There are no proposed changes to the employee premiums for health insurance.

**Legislation Related to the Florida Retirement System**

Both chambers have pending legislation regarding the Florida Retirement System (FRS). House Bill CS/CS/HB 7011 closes the pension plan to all new enrollees as of January 1, 2014, requiring those employees to join the investment plan. Senate Bill CS/CS/SB 1392, mandates only the Elected Officers’ Class, and the Senior Management Service Class, to the investment plan with an effective date of July 1, 2014. SB 1392 also lowers the employee contribution rate to the investment from 3% to 2%.

Questions were raised regarding employees who “cash out” their investment plans when they leave state government. Employees who leave state employment and cash out their FRS Investment Plans are not eligible to re-enroll into the FRS. Even an employee who “rolls” their plan into a 401K would be considered cashed out and not eligible to return. Judge Stargel commented a new employee would probably like the flexibility of the investment plan, work a few years, obtain employment outside of state government, and decide to cash out their investment plan not realizing they would not be able to rejoin at a later date. Judge Terrell stated this is a notice issue and the employees should be made aware of this information. Judge Steinbeck asked if employees are noticed. Ms. Westerfield replied the information is provided to the new employees when they begin employment and at separation. Judge Menendez asked if you could buy back time. Judge Stargel replied you could, but you still had to be eligible and cashing out makes you ineligible.

**Bills Removing Clerks of Court from the Appropriation Process**

Mr. Maclure briefed the members on the proposed House and Senate conforming bills that would remove the clerks of court from the General Appropriations Act and explained that the basic concept of both bills is for the clerks of court to retain locally, revenues generated through the operation of the courts system which are not otherwise required to be remitted to the state. Currently, revenues collected by the clerk that are not otherwise directed elsewhere are deposited into the Clerks of Court Trust Fund and are considered “state funds.” The bill eliminates the reference to these revenues as “state funds” and, in the case of some filing fees, describes the money as “fee income of the office of the clerk of the circuit court.”

Each month, the clerk will remit to the state revenues collected in the previous month which exceed 1/12th of the clerk’s approved budget. If the clerk experiences a deficit as verified by the Clerks of Court Operations Corporation (CCOC), the clerk may retain funds locally as necessary to fully fund the deficit. If the deficit persists, the Governor may approve release of funds from the Clerks of Court Trust Fund.
Mr. Maclure noted that a key difference in the two bills is the Senate bill requires that a portion of filing fees collected by the clerk each month would still be remitted to the state for deposit into the Clerks of Court Trust Fund rather than being retained locally first, for possible submission each month. He also noted that, under the House bill, the clerks would begin using the new Legislative Budget Commission budget approval process in summer 2014, while under the Senate bill, such implementation would be delayed until summer 2017.

**Foreclosure Bills and Senior Judge Retirement Restrictions**

Mr. Maclure reported first on the substantive foreclosure provisions in HB 87 and SB 1666. He explained the bills had numerous provisions: specifies documentation the plaintiff must provide as part of the complaint in order to establish a right to foreclosure on a mortgage; prescribes what the plaintiff must do in the case of lost documents; prescribes the forms of protection for lost or stolen notes; revises the existing expedited foreclosure process to open the process to all lien holders, and to reduce the number of required hearings; reduces the statute of limitations for a deficiency action; and limits the type of relief the court can provide in the case of a challenge to a foreclosure judgment.

He noted that the substantial difference between the bills is that the Senate bill includes provisions (not contained in the House bill) that allow certain foreclosure notices to be posted on a website of the clerk of court rather than being published in a newspaper. Mr. Maclure also explained that both foreclosure bills contain language designed to enable newly retired judges to return as senior judges without having to wait a year in order to avoid having their retirement benefits suspended. He said the provisions would apply to judges who, at time of retirement, have reached the later of their normal retirement age or age when vested and who terminate employment with Florida Retirement System employers for at least one calendar month before returning as a senior judge.

**Other Significant Budget Bills**

Mr. Maclure briefly mentioned that the House also has a budget-related bill that revises requirements under the FACTS system maintained by the Department of Financial Services. Under FACTS, agencies post certain contract information. Mr. Maclure noted that the House bill, however, contains an exception for the judicial branch making participation optional.

**Judicial Conference and TCBC Legislative Activities**

Judge Shinholser complimented the great teamwork that has been evident among all parties. Judge Bonner echoed those sentiments, and said all staff had provided information in a timely manner. Judge Mahon commented the legislature is taking a new look at our branch and we should be proud.
Update from the Chief Justice’s Designee to the Clerk of Court Operations Corporation Executive Council

Judge McGrady reported on the Clerk of Court Operations Corporation’s (CCOC) white paper on how to increase the clerks’ revenue. The white paper noted the elimination of the 8% surcharge would generate $32 million; elimination of the carry forward back to General Revenue would save an estimated $10 million; and retaining the $88 civil filing fee would generate an additional $30 million. The clerks also report that based on the results of the February 6, 2013 Article V Revenue Estimating Conference, the CCOC is projecting an $17 deficit in the Clerks of Court Trust Fund at the end of FY 2012-13 and a $55 million deficit in FY 2013-14.

Other Business

Judge Steinbeck reminded members that the legislature was in session and members should communicate any concerns or issues taking place locally that would impact the budget. She thanked Ms. Goodner and staff for all their efforts in preparing for this meeting, and following the legislation across the street.

Adjournment

With no other business before the Commission, the meeting adjourned at 11:53 a.m.