

**District Court of Appeal Budget Commission
Video Conference Call
Meeting Minutes
August 14, 2018**



Members Present

Judge Jonathan Gerber, Chair
Judge Clayton Roberts, Vice Chair
Judge Bradford Thomas
Judge Edward LaRose
Judge Stevan Northcutt
Judge Leslie Rothenberg
Judge Spencer Levine

Judge Jay Cohen
Marshal Kevin Taylor
Marshal Jo Haynes
Marshal Veronica Antonoff
Marshal Daniel DiGiacomo
Marshal Charles Crawford

Others Present

Judge Stephanie Ray, Kristina Samuels, Justice Polston, 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 Opening Remarks

Judge Jonathan Gerber welcomed members and called the District Court of Appeal Budget Commission (DCABC) meeting to order at 3:30 p.m.

Judge Gerber then noted Section IV., Section A., first sentence of the June 18, 2018, meeting minutes should be edited to state Judge Roberts, and then asked if there were any other revisions to the meeting minutes. Donna Brewer noted Section V., Section A., second sentence should be edited to state Judge Thomas, and Judge Thomas requested Kristina Samuels, Clerk of the 1st DCA, be reflected as in attendance.

Judge Gerber then asked the commission if there were any objections to the revisions offered to the June 18, 2018, meeting minutes. Hearing none, Judge Gerber moved the minutes as approved.

Agenda Item II.: Updates

A. 1st DCA Chief Deputy Clerk Promotional Increase Exception Request

Judge Gerber reported this request has been approved by the Supreme Court and implemented.

B. 1st DCA Deputy Clerk III Reclassification Exception Request

Judge Gerber reported this request has been approved by the Supreme Court and implemented.

C. Judicial Suite Staffing Complement Request

Judge Gerber reported this request was not approved by the Supreme Court and referenced the letter communicating the decision in the meeting packet.

Agenda Item III.: FY 2019-20 Legislative Budget Request (LBR) Updates

Judge Gerber provided an overview of the LBR process and referenced the timeline. He then stated the LBR issues should be listed in priority order prior to submission to the Supreme Court.

A. 2nd DCA New Courthouse

Judge Gerber reported narrative has been added to reflect the cost estimates provided in the 2016 Department of Management Services needs study have been adjusted for inflation through 2019.

B. 5th DCA Hurricane Windows

Judge Gerber reported this issue remains the same as presented at the June 18, 2018, DCABC meeting and Judge Cohen concurred.

C. Unfunded Deputy Marshal Positions

Judge Gerber reported at the June 18, 2018, DCABC meeting, the LBR requested 9.5 FTE. After the return of 1.0 FTE from the 1st DCA during the meeting, the commission voted to revise the LBR request to 10.0 FTE, with the revised amount to be provided by OSCA staff. Judge Gerber reported the revised LBR cost as \$676,067.

Judge Gerber asked if there were any questions or objections to the revisions presented in Agenda Items III.B. and III.C. Dorothy Willard recommended the second paragraph be removed from the narrative in Agenda Item III.C. There were no objections to Ms. Willard's recommendation.

D. Employee Pay Issue

Judge Gerber noted an overview of the two phases of the Employee Pay Issue and offered his recommendation that this issue be considered in the LBR prioritization. There were no objections.

E. Certification of New Judgeships

Judge Gerber provided this issue is generally submitted as a supplemental LBR, but if there will be any new judgeships requested the issue needs to be prioritized at this time. Judge Gerber then inquired if there were any courts that would submit a request for new judges. There being no response, Judge Gerber requested this issue be removed from FY 19-20 consideration.

Judge Gerber then moved to prioritize the FY 2019-20 LBR issues in the same order as presented. There being no objections, Judge Gerber noted the priority order as unanimously approved.

Agenda Item IV.: Fiscal Year 2018-19 Budget Status

A. Salary Budget

Dorothy Willard presented the Adjusted Start-Up Salary Budget using June 2018 data, and reported the adjusted liability over salary appropriation is projected at \$426,928. Ms. Willard reported that supplemental appropriations for retirement and health insurance should be received soon and projections will be finalized at that time.

Ms. Willard then reported the July 2018 Salary Budget reflects lapse and liability adjustments of approximately \$160,000 and should this trend continue, the payroll liability should be covered by September 2018.

B. Positions Vacant Over 180 Days

Dorothy Willard presented the Positions Vacant over 180 Days as of July 31, 2018.

C. Operating Budgets

Dorothy Willard presented the FY 2017-18 Operating Budgets as of July 31, 2018.

D. Trust Fund Cash Statement Overview

Dorothy Willard presented the Administrative Trust Fund (ATF) Cash Analysis and reported the cash balance as of July 31, 2018, was \$328,487.

Agenda Item V.: Salary Committee Recommendations

Judge Gerber thanked Judge Northcutt, Judge Roberts, and the five marshals of the DCA's for all their hard work regarding the Salary Budget Committee (SBC) recommendations to be presented, with special thanks to Judge Northcutt and Marshal Haynes. Judge Gerber then requested Judge Northcutt present the issues.

A. Improving Salary Projections Proposal

Judge Northcutt provided an overview of the DCABC charge(s) as mandated in Florida Rules of Judicial Administration 2.235, and then presented the guiding principles the DCABC has adopted to best execute these mandates. Judge Northcutt noted these principles were followed by the SBC while creating the proposal(s) to be presented to the commission today.

Judge Northcutt then provided an overview of the SBC recommendations to improve the way salary costs are projected and to maximize salary dollars each year. In addition, should salary conditions permit, the SBC recommendations would provide each court with a portion of available rate for chief judge flexibility of rate distributions within individual courts. Judge Northcutt added that the SBC would monitor and analyze liability and savings data, and would report to the DCABC should there be a need to implement rate and vacancy restrictions to cover payroll costs through the end of a fiscal year. Judge Northcutt assured the commission that timely decisions would be made to utilize the budget properly and to avoid end-of-year scrambling to utilize rate, and that activity would be reported by the SBC to the DCABC quarterly.

Judge Northcutt then reported the SBC recommendations for this issue have been incorporated into the draft Budget and Pay Memorandum, to be presented in Agenda Item V.B.

Justice Polston complimented Judge Northcutt for his comprehensive work and presentation of the issue but expressed concerns about funds being spent for positions that should be funded through Agenda Item III.D. Justice Polston also commended the SBC's proposal for oversight of activity to ensure there was equity among the district courts of appeal; however, he feels the Supreme Court should be included in the assurance of equity and knows of no better way to capture that assurance than through the Budget and Pay Memorandum. Judge Northcutt expressed the willingness of the SBC to be considerate of the Supreme Court and provide diplomacy regarding position pay and equity. Justice Polston requested Beatriz Caballero review the SBC recommendations via the Personnel Regulations to ensure there are no conflicts.

Judge Gerber reported the SBC recommendations for this issue have been incorporated into the next agenda item addressing the draft Budget and Pay Memorandum.

B. FY 2018-19 Budget and Pay Administration Memorandum Recommendations

Judge Northcutt stated the SBC recommendations are based on the draft Budget and Pay Memorandum that was presented by OSCA staff at the June 18, 2018, DCABC meeting. Judge Northcutt provided that the changes recommended are a summation of Rules of Judicial Administration 2.235 and the authority provided to the DCABC, as reviewed in Agenda Item V.A. He also reported the changes are consistent with the previous Budget and Pay Memorandum except the Chief Justice's approval for rate distribution has been removed.

Marshal Haynes noted that the in last paragraph on page 53, the word less will be changed to more.

Judge Gerber opened the floor for discussion. There being none, Judge Gerber motioned to recommend the draft Budget and Pay Memorandum be revised to include the SBC's proposal as shown on pages 45 through 48 of the meeting materials, to include the SBC's recommendations as shown on pages 52 through 54 of the meeting materials, and to retain previous recommendations by OSCA staff beginning on page 55 of the meeting materials,

There being no objections, Judge Gerber noted the recommend changes as unanimously approved.

C. Clerks' Office Staffing Requests

1. 2nd DCA Request to Reclassify Deputy Clerk Is to Deputy Clerk IIs

Judge Gerber reported the 2nd DCA recently reclassified 4.0 FTE from Deputy Clerk I to Deputy Clerk II, as the amount did not reach the threshold of requiring DCABC approval.

2. 4th DCA Request to Use Vacant Deputy Marshal FTE to Hire Deputy Clerk III

Judge Gerber provided an overview of the 4th DCA's request to utilize 1.0 vacant Deputy Marshal FTE to hire 1.0 Deputy Clerk III and asked if there were any questions. There being none, Judge Gerber noted this request as unanimously approved.

3. 5th DCA Request to Use Vacant Deputy Marshal FTE to Hire Deputy Clerk II

Judge Gerber provided an overview of the 5th DCA's request to utilize 1.0 vacant Deputy Marshal FTE to hire 1.0 Deputy Clerk II and asked Judge Cohen if there was additional information to report. Judge Cohen reported there was none. Judge Gerber asked if there were any objections. There being none, Judge Gerber noted this request as unanimously approved.

Dorothy Willard provided a clarification to the commission regarding page 70 of the meeting packet. Consideration 2 states that approval of the above requests will not impact the FY 2019-20 unfunded Deputy Marshal Positions LBR. Ms. Willard explained that with the approval of Agenda Items V.C.2. and V.C.3., the 1.0 FTE returned by the 1st DCA needs to be retained as unfunded and not returned to the legislature, as was approved by the DCABC at the June 18, 2018, DCABC meeting.

Judge Gerber thanked Ms. Willard for her oversight, and then moved to keep the 1.0 FTE, Administrative Assistant I as unfunded and do not return to the legislature. There being no objections, Judge Gerber noted the motion unanimously approved.

Agenda Item VI.: 2nd DCA Funding Request for Special Risk Retirement for Marshal

Judge LaRose provided an overview of this issue, and stated it is not an individual issue, but an issue that could potentially impact all appellate court's ability to hire a Marshal. Judge Roberts stated the position of Marshal has not traditionally been a law enforcement position, but the statute has been amended to include training with law enforcement and the 1st DCA interprets that statute as law enforcement training of 780 hours. However, he understands the concern of special risk as they are the first line of defense and feels they should be included as special risk.

Judge Levine inquired if approval was being requested and Judge LaRose indicated it is not. However, Judge LaRose requested input for an alternative solution, as DMS has denied the 2nd DCA's request for Special Class membership.

Judge Levine expressed concerns that approval of this request would open the door to other staff that have completed the 780 hours law enforcement training, and possibly additional unintended consequences.

Judge LaRose asked if he could have Judge Atkinson informally reach out to DMS staff to discuss this issue. There were no objections and Judge Gerber approved,

Agenda Item VII.: Adjournment

Judge Gerber noted in the past the next DCABC meetings have been held primarily during the summer months; however, he would like future meetings to be held each quarter via video conference. Judge Gerber stated OSCA staff will poll for future meeting dates in the near future.

With no other business before the commission, the meeting was adjourned at 4:51 p.m.