

Court of Claims

House Transportation and Justice Subcommittee

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Legislative Service Commission*

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LSC Redbook for the Court of Claims

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Note: The estimated General Revenue Fund (GRF) spending for FY 2003 used in this LSC Redbook reflects the 2.5% reduction made as a result of the Governor's January 22, 2003 budget cut order. The executive reduction was applied across-the-board to FY 2003 GRF appropriations, subject to certain exceptions. Subsequent to such reductions (and not reflected in the Redbook), state agencies were permitted to reallocate the amount that each of their GRF appropriation line items was reduced, while still absorbing the 2.5% budget cut within the total amount of their GRF appropriations.

Court of Claims

- Relocation to Ohio Courts Building scheduled for Spring 2004

OVERVIEW

The Court of Claims, established in 1975, is the only statutory court with statewide jurisdiction. The Court has the following two major responsibilities:

- (1) It has original, exclusive jurisdiction over all civil actions (i.e., personal injury, property damage, contracts, and wrongful imprisonment) filed against the state of Ohio and its agencies. Prior to its creation, there was no forum for such civil action. The Civil Division of the Court handles these cases.
- (2) In 1976, the Victims of Crime Compensation Program was enacted and its administration was assigned to the Court. From 1976 until July 1, 2000, the Court's Victims of Crime Division handled all claims for compensation from the Victims of Crime Fund. The Office of the Attorney General then investigated the claim and filed a finding of fact and recommendation with the Court. At the start of FY 2001, the Victims of Crime Compensation Program underwent a transformation. With the passage of Am. Sub. S.B. 153 of the 123rd General Assembly, the primary responsibility for the administration of the Victims of Crime Compensation Program was shifted from the Court to the Office of Attorney General. The fiscal ramifications of this change will be discussed in more detail later in this section.

The Court consists of incumbent or retired justices or judges of the Supreme Court of Ohio, courts of appeals, and courts of common pleas, who sit by assignment of the Chief Justice of the Supreme Court. The appointments to the Court are temporary, usually about three months. Many of the judges, however, are reappointed for multiple terms. While a motion can be filed requesting that a panel of three judges hear a particular case, these cases must present unusual or complex issues of law or fact for the request to be granted. Few cases are eligible for a hearing before a panel of three judges.

In addition to its judges, the Court also has six commissioners who are appointed by the Chief Justice of the Supreme Court of Ohio. Commissioners are not required to have previous judicial experience, although they are required to be lawyers with three years of work experience.

Civil Division

As previously mentioned, the Court possesses exclusive jurisdiction in all civil claims against the state of Ohio and its agencies. Along with three appointed judges, the Court also uses clerks to handle civil actions against the state of \$2,500 or less. A single clerk or referee may administratively hear a claim and render a judgment. Any case involving claims greater than \$2,500 must be heard by a judge. A majority of the civil actions are handled administratively. The civil side of the Court's operation is funded by GRF line item 015-321, Operating Expenses.

The appeals process for civil cases is quite straightforward. If the case was originally heard by a clerk of the Court (involving \$2,500 or less), the case can be appealed to a judge of the Court. The decision of the judge is final. If the case was originally heard by a judge of the Court (over \$2,500), the case may be appealed to the Tenth District Court of Appeals in Franklin County, and further appealed to the Supreme Court of Ohio.

Victims of Crime Division

Historically, the Court's other major area of activity had been its responsibility to administer the Victims of Crime Compensation Program. Under the Program, individuals suffering personal injury as the result of criminal conduct were eligible to apply for compensation. This compensation included, but was not limited to, psychiatric care/counseling, medical expenses, work loss compensation, and unemployment benefits loss. Dependents could also receive awards for economic loss, replacement services loss, and certain funeral expenses in the case of a homicide. The maximum award was \$50,000 per victim, per criminal incident.

To be eligible for compensation, a victim must report the crime to a law enforcement officer within 72 hours of its occurrence and must file a claim of compensation within two years after the date of the crime. The Office of the Attorney General investigates the crime and loss claim, and, at one time, returned a finding of fact and recommendation to the Court. Previous to July 1, 2000, when Am. Sub. S.B. 153 went into effect, the Court followed the following steps. First, a single court commissioner rendered a written opinion. At that point, the claimant or the Office of the Attorney General could appeal the decision of the commissioner, whereupon the case then proceeded to a panel of three commissioners for a full hearing. Finally, the appeal of the decision could go one step further to a judge of the Court of Claims. No further appeal could occur after the judge's determination.

As mentioned in the beginning of this overview of the Court, the Program underwent a transformation effective FY 2001. Pursuant to Am. Sub. S.B. 153, the responsibility for administering the Victims of Crime Compensation Program was transferred from the Court of Claims to the Office of the Attorney General. The transfer significantly changed the role that the Court plays in these cases. Whereas before, the Court rendered the initial decisions on compensation cases and was responsible for disbursing reparation awards, now this responsibility has been transferred to the Office of the Attorney General. The Court still handles the appeals process.

Prior to Am. Sub. S.B. 153, the operation of the Court's Victims of Crime Division was funded entirely by its State Special Revenue (SSR) Fund line item 015-601, Victims of Crime. On July 1, 2000, a new SSR line item was created to finance the activities of the Court's Victims of Crime Division (015-603, CLA Victims of Crime). Because of the reduction in the Court's duties and responsibilities relative to the Victims of Crime Compensation Program, the appropriation is much smaller than what it has been in the past.

Shared costs

After the changes caused by Am. Sub. S.B. 153, the Court contracted for the assistance of a consultant, DMG-Maximus, to conduct a financial review of the operational costs shared by the Court’s Civil and Victims of Crime divisions. (Shared costs include expenses such as office rent, clerks and clerk administration, judicial and administrative services staff, computer services, and fiscal services.) In previous years, the Court had split shared costs evenly (50/50) between the Civil and Victims of Crime divisions. Since the majority of the Victims of Crime Compensation Program had shifted to the Office of the Attorney General, the Court wanted to examine how those shared costs should be adjusted. With the help of the consultant, the Court determined that the shared costs between the two divisions should be divided such that the Civil Division would pay 67% and the Victims of Crime Division would pay 33%.

Ohio Courts Building

Between February and May of 2004, the Court expects to be relocating their organization to the newly restored Ohio Courts Building, formerly known as the Ohio Departments Building. The costs associated with the Court’s relocation are built into its FY 2004-2005 biennial budget, and account largely for the GRF funding increases in FYs 2004 and 2005. The table below presents the Court’s costs, estimated at \$500,000, to physically move its operation, as well as to purchase new office furniture and equipment.

As of this writing, the Court appears uncertain as to whether it will have to pay rent for the space that it will occupy in the Ohio Courts Building, and as a result, has built office rent into its FY 2004-2005 biennial budget in the likelihood that it does in fact have to pay office rent.

Estimated Costs for Court of Claims Relocation	
Type of Expense	Estimated Cost
Movers	\$ 40,000
High-density shelving	\$ 80,000
Modular work stations	\$120,000
Chairs for offices, waiting rooms, and courtrooms	\$118,310
Tables and desks for offices and courtrooms	\$ 45,500
Copiers, computers, and servers	\$160,000
Total Estimated Relocation Expenses	\$563,810

Executive recommendation

It should be noted that, as required by division (B) of section 107.03 of the Revised Code, the executive branch of the state of Ohio has limited authority over the state’s judicial branch, especially in the case of their biennial budgets and associated permanent and temporary law. Although these budgets are presented to the legislature as executive recommendations, the Office of Budget and Management in reality only serves as the conduit through which judicial budgets are passed to the legislature.

Total funding requested

For FY 2004, the Court has requested total funding of \$4.79 million, an increase of 6.3% from an adjusted total FY 2003 appropriation of \$4.50 million. The total funding amount requested by the Court for FY 2005 is \$4.96 million, an increase of 3.5% over the FY 2004 requested total amount of funding.

GRF funding requested

For FY 2004, the Court has requested GRF funding totaling \$3.25 million, an increase of 12.2% from an adjusted total FY 2003 appropriation of \$2.90 million. The total GRF funding amount requested by the Court for FY 2005 is \$3.37 million, an increase of 3.6% over the FY 2004 requested total amount of funding. Because of the loss of the revenue associated with the Victims of Crime Compensation Program, GRF funding now accounts for slightly more than two-thirds of the Court's total annual budget. Prior to the reduction in the Court's role in the Victims of Crime Compensation Program, GRF funding accounted for only about one-tenth of its annual budget.

Appropriation line items

The Court's budget structure can be summarized as follows:

- All of the Court's appropriated GRF funding is held in a single administration line item: 015-321, Operating Expenses.
- The Victims of Crime Fund (Fund 5K2) moneys used by the Court are appropriated to line item 015-603, CLA Victims of Crime.
- The budget of the Court also includes a GRF line item for which funds are never appropriated in the biennial budget bill: 015-402, Wrongful Imprisonment Compensation. The line item's funds are transferred from the Controlling Board's budget on an as-needed basis to pay individuals who have been judged wrongfully imprisoned in the state of Ohio. When a wrongful imprisonment judgment has been journalized in a court of common pleas, the Controlling Board, upon certification by the Court of Claims, transfers the sum necessary to the line item.

ANALYSIS OF EXECUTIVE PROPOSAL

Court of Claims

Purpose: To hear and determine all civil actions against the state of Ohio and its agencies and to administer appeals for the Ohio Victims of Crime Compensation Program.

The following table shows the line items that are used to fund the Court’s activities, as well as the Governor’s recommended funding levels.

Fund	ALI	Title	FY 2004	FY 2005
GRF	015-321	Operating Expenses	\$3,255,597	\$3,374,404
SSR	015-603	CLA Victims of Crime	\$1,532,043	\$1,582,684
Total Funding: Court of Claims			\$4,787,640	\$4,957,088

The Court is a single program series agency. Specific activities within the Court that this analysis will focus on include:

- **CIVIL DIVISION**
- **VICTIMS OF CRIME DIVISION**

Civil Division

Program Description: The Court of Claims was created by the passage of the Court of Claims Act in 1975. The Court’s authority is contained in Chapter 2743. of the Revised Code. The Court serves as the court of original, exclusive jurisdiction over all civil actions filed against the state of Ohio and its agencies. On average, around 1,200 civil cases have been filed with the Court over the last seven years. It appears that most civil cases do not go to trial; the matters are either dismissed for various reasons, e.g., failure to state a cause of action, or settled out of court.

Funding Source: GRF

Line Item: 015-321, Operating Expenses

Implication of the Executive Recommendation: For FY 2004, the Court has requested GRF funding totaling \$3.25 million, an increase of 12.2% from an adjusted total FY 2003 appropriation of \$2.90 million. The total GRF funding amount requested by the Court for FY 2005 is \$3.37 million, an increase of 3.6% over the FY 2004 requested total amount of funding. The costs associated with the Court’s relocation are built into its FY 2004-2005 biennial budget request, and account largely for the GRF funding increases in FYs 2004 and 2005.

When civil cases are filed against the state, the affected state agency and not the Court pay judgments against the state; thus the Court’s GRF funds go only to cover its annual operating expenses. The amount of GRF funding requested by the Court should allow it to operate and continue all of its current activities in the next biennium. The Court has no programmatic expansions planned.

Earmarking: None

Permanent and Temporary Law: None

Victims of Crime Division

Program Description: The Victims of Crime Act, contained in sections 2743.51 to 2743.72 of the Revised Code, established the Victims of Crime Compensation Program in 1976. Individuals suffering personal injury as the result of criminal conduct are eligible to apply for compensation. This compensation includes, but is not limited to, medical expenses, work loss, unemployment benefits loss, and replacement services. Dependents may receive awards for economic loss, replacement services loss, and certain funeral expenses incurred after a victim's death. The maximum award is \$50,000 per victim per incident. Prior to FY 2001, the Court essentially controlled the program. As of FY 2001, the Court's involvement in the program was reduced to hearing appeals of decisions made by the Office of the Attorney General.

Funding Source: SSR

Line Item: 015-603, CLA Victims of Crime

Implication of the Executive Recommendation: The Court essentially requested continuation services funding, which means the amount of moneys that it calculated were necessary to perform the role of the appellate authority for the Victims of Crime Compensation Program. The amount should be sufficient to pay for the Court's annual costs associated with its appellate role, including payroll expenses of five full-time program staff.

Earmarking: None

Permanent and Temporary Law: None

ADDITIONAL FACTS AND FIGURES

Court of Claims Staffing Levels by Fiscal Year*							
1998	1999	2000	2001	2002	2003*	2004*	2005*
65	62	60	41	33	31	31	31

*The staffing levels displayed in the above table represent full-time equivalents (FTEs). The number of FTEs for FYs 2003 through 2005 represent an estimate.

The drop in the staffing level of the Court of Claims following FY 2000 reflected the transfer of the Victims of Crime Compensation Program to the Office of the Attorney General. As a result of the transfer, the Court reduced the level of staffing in their Victims of Crime and Civil divisions. The reduction in staff occurred over roughly a two-year period (FYs 2001 and 2002) because the Court continued to handle all victims' claims that were filed prior to July 1, 2000, the date on which the Office of the Attorney General took control of the program.

Civil Caseload by Calendar Year							
Civil Case Types	1996	1997	1998	1999	2000	2001	2002
Administratively processed claims (\$2,500 or less)	819	716	636	1,022	707	674	594
Judicially processed claims (over \$2,500)	492	540	458	398	518	465	457
Totals	1,311	1,256	1,094	1,420	1,225	1,139	1,051

According to the Court, while there are fluctuations from year to year in the number of civil cases filed with the Court, the number of civil cases it handles annually has generally remained fairly constant over the last 20 to 25 years. It appears that most civil cases do not go to trial; the matters are either dismissed for various reasons, e.g., failure to state a cause of action, or settled out of court.

Based on conversations with the Court, annual variations in the size of its civil caseload are caused by many factors, including the impact of weather on road conditions and media coverage of certain issues, e.g., medical malpractice.

PERMANENT AND TEMPORARY LAW

There are no permanent or temporary law provisions contained in the executive budget that appear to directly affect the duties, responsibilities, or fiscal operations of the Court of Claims.

REQUESTS NOT FUNDED

Under existing law – division (B) of section 107.03 of the Revised Code – the executive branch of the state of Ohio has limited authority over the state’s judicial branch, especially in the case of their biennial budgets and associated permanent and temporary law. Although these budgets are presented to the legislature as executive recommendations, the Office of Budget and Management in reality only serves as the conduit through which judicial budgets are passed to the legislature.

General Revenue Fund

GRF 015-321 Operating Expenses

2000	2001	2002	2003 Estimate	2004 Executive Proposal	2005 Executive Proposal
\$2,458,920	\$2,131,295	\$2,527,521	\$2,900,488	\$3,255,597	\$3,374,404
	-13.3%	18.6%	14.8%	12.2%	3.6%

Source: GRF

Legal Basis: Section 37 of Am. Sub. H.B. 94 of the 124th G.A. (originally established by Am. Sub. H.B. 694 of the 114th G.A., the main operating appropriations act covering FYs 1982 and 1983)

Purpose: The line item essentially funds the payroll, maintenance, and equipment costs of the Court of Claims' Civil Division.

GRF 015-402 Wrongful Imprisonment Compensation

2000	2001	2002	2003 Estimate	2004 Executive Proposal	2005 Executive Proposal
\$75,501	\$841,237	\$0	\$0	\$0	\$0
	1014.2%		N/A	N/A	N/A

Source: GRF

Legal Basis: As-needed line item; ORC 2743.48

Purpose: The line item is used to pay a sum of money to those who have been judged wrongfully imprisoned, in addition to reasonable attorney fees and other expenses. When a wrongful imprisonment judgment is journalized, the Controlling Board, upon certification by the Court of Claims, transfers the sum necessary to the line item. Since the Controlling Board provides money for the awards on an as-needed basis, the line item does not receive a direct appropriation through the main operations appropriations act passed by each General Assembly. The necessary funds are typically transferred from moneys appropriated to the Controlling Board for the purpose of assisting state agencies and political subdivisions in responding to disasters and emergency situations.

State Special Revenue Fund Group

402 015-601 Victims of Crime

2000	2001	2002	2003 Estimate	2004 Executive Proposal	2005 Executive Proposal
\$18,235,635	\$0	\$0	\$0	\$0	\$0
		N/A	N/A	N/A	N/A

Source: SSR: (1) Court costs of \$30 and \$9 imposed, pursuant to ORC 2743.70, upon on an offender convicted of or pleading guilty to a felony or misdemeanor, respectively, other than a nonmoving traffic violation, (2) money collected by the state pursuant to its right of subrogation, (3) federal Victims of Crime Act funds used only for awards to compensate victims of crime for out-of-pocket expenses incurred as a result of their victimization (CFDA 16.576, Crime Victim Compensation), (4) seventy-five dollars of the \$425 fee collected pursuant to ORC 4511.191 for the reinstatement of a driver's license that was suspended for operating a motor vehicle while under the influence of alcohol or drugs (OMVI), (5) payments collected by the Department of Rehabilitation and Correction from prisoners who voluntarily participate in an approved work and training program, (6) small miscellaneous charges for things such as copying, and (7) portions of the proceeds of the sale of a forfeited vehicle as specified in ORC 4503.234(D)(2)

Legal Basis: Discontinued line item; ORC 2743.191 (originally established by Am. Sub. H.B. 82 of the 111th G.A.; revenue stream moved into the Office of the Attorney General's budget pursuant to Am. Sub. S.B. 153 of the 123rd G.A.)

Purpose: Prior to July 1, 2000, the revenue deposited in the state treasury to the credit of the fund was used for the purpose of compensating victims of crime, including all administrative costs incurred by the Court of Claims and the Office of the Attorney General. Revenue for various victims assistance activities and programs in the Office of the Attorney General's budget also drew on the fund. The amounts paid against claims awarded to victims were determined by commissioners of the Court of Claims, but the size of any award could not exceed \$50,000 per victim per any one incident. The fund was eliminated from the Court's budget with the passage of Am. Sub. S.B. 153 of the 123rd G.A. and its involvement with the Victims of Crime Compensation Program was narrowed to an appellate function funded through Fund 5K2, the CLA Victims of Crime Fund.

5K2 015-603 CLA Victims of Crime

2000	2001	2002	2003 Estimate	2004 Executive Proposal	2005 Executive Proposal
\$0	\$10,423,254	\$1,840,596	\$1,602,716	\$1,532,043	\$1,582,684
	N/A	-82.3%	-12.9%	-4.4%	3.3%

Source: SSR: Cash transferred by the Director of Budget and Management from the Office of the Attorney General's Victims of Crime Fund (Fund 402), also known as the Reparations Fund

Legal Basis: Section 37 of Am. Sub. H.B. 94 of the 124th G.A.; ORC 2743.531 (originally established by Am. Sub. S.B. 153 of the 123rd G.A.)

Purpose: The fund is used to pay for the Court of Claims' appellate role in the Victims of Crime Compensation Program. Specifically, the fund pays for: (1) the compensation of the commissioners of the Court of Claims, (2) the compensation of judges of the Court of Claims necessary to hear and determine appeals from the commissioners, (3) the compensation of any personnel of the Court of Claims needed to administer ORC 2743.51 to 2743.72, and (4) other administrative expenses of hearing and determining appeals by the commissioners and judges of the Court of Claims.

LSC Budget Spreadsheet by Line Item, FY 2004 - FY 2005

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2002</i>	<i>Estimated 2003</i>	<i>Executive 2004</i>	<i>% Change 2003 to 2004</i>	<i>Executive 2005</i>	<i>% Change 2004 to 2005</i>
<i>CLA Court of Claims</i>								
GRF	015-321	Operating Expenses	\$ 2,527,521	\$2,900,488	\$ 3,255,597	12.2%	\$ 3,374,404	3.6%
General Revenue Fund Total			\$ 2,527,521	\$ 2,900,488	\$ 3,255,597	12.2%	\$ 3,374,404	3.6%
5K2	015-603	CLA Victims of Crime	\$ 1,840,596	\$1,602,716	\$ 1,532,043	-4.4%	\$ 1,582,684	3.3%
State Special Revenue Fund Group Total			\$ 1,840,596	\$ 1,602,716	\$ 1,532,043	-4.4%	\$ 1,582,684	3.3%
<i>Total All Budget Fund Groups</i>			\$ 4,368,117	\$ 4,503,204	\$ 4,787,640	6.3%	\$ 4,957,088	3.5%