Court of Claims

House Transportation and Justice Subcommittee

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Legislative Service Commission

March 29, 2007

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LSC Redbook

for the

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March 29, 2007

Court of Claims

- Court requests funding amount necessary to maintain current service levels
- Additional funding will be dedicated to equipment purchases

OVERVIEW

Duties and Responsibilities

The Court of Claims, established in 1975, is the only statutory court with statewide jurisdiction. The Court's duties and responsibilities are summarized below.

- ***Civil actions filed against the state.*** The Court has original, exclusive jurisdiction over all civil actions (i.e., contract disputes, personal injury, property damage, immunity of state officers and employees, discrimination, and wrongful imprisonment) filed against the state of Ohio and its agencies. Prior to its creation, there was no forum for such civil actions.
- ***Victims of crime appeals.*** The Court hears appeals from decisions made by the Attorney General on claims allowed under the Victims of Crime Law.
- ***Wrongful imprisonment claims.*** The Court acts as the state's fiduciary agent for processing claims of wrongful imprisonment.

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

Civil Actions Filed Against the State

The Court of Claims 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.

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.

The Court's decisions in these civil matters may be appealed. If a 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 a 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 Appeals

Abbreviated Victims of Crime Program History

In 1976, the Victims of Crime Compensation Program was enacted and its administration was assigned to the Court. 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.

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. Pursuant to that legislation, 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, this responsibility was transferred to the Office of the Attorney General. The Court still handles the appeals process.

Under current law, if a crime victim applicant does not agree with the final decision made by the Office of the Attorney General, that individual, within 30 days, may file an appeal to have the claim heard before a three-commissioner panel of the Court of Claims of Ohio. A further appeal may be taken to a judge of the Court.

Hit-Skip Legislation

Am. Sub. H.B. 461 of the 126th General Assembly, effective April 4, 2007, will allow a qualifying claimant to file a claim for an award of reparations under the Crime Victims Reparations Law if the person suffers economic loss from conduct that caused serious physical harm to a person and constituted a violation of either the offense of "failure to stop after an accident" or "failure to stop after a nonpublic road accident." The act permits such an application for an award of reparations if the criminally injurious conduct occurred on or after July 1, 2000. Whether the practical effect of this latter provision will be to trigger a significant one-time surge in filings with the Office of the Attorney General and subsequent appeals to the Court is uncertain.

Wrongful Imprisonment Claims

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 pay that judgment to the Court's GRF line item 015-402, Wrongful Imprisonment Compensation. The Court of Claims simply serves as the fiduciary agent for these claims.

Pursuant to division (E)(2) of section 2743.48 of the Revised Code, upon presentation of requisite proof to the Court, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts:

- The amount of any fine or court costs imposed and paid, and the reasonable attorney's fees and other expenses incurred by the wrongfully imprisoned individual in connection with all associated criminal proceedings and appeals, and, if applicable, in connection with obtaining the individual's discharge from confinement in the state correctional institution.
- For each full year that the individual was imprisoned in the state correctional institution for the offense of which the individual was found guilty, $40,330 or the adjusted amount determined by the Auditor of State, and for each part of a year that the individual was so imprisoned, a prorated share of $40,330 or the adjusted amount determined by the Auditor of State.
- Any loss of wages, salary, or other earned income that directly resulted from the individual's arrest, prosecution, conviction, and wrongful imprisonment.
- The amount of certain cost debts the Department of Rehabilitation and Correction recovered from the wrongfully imprisoned individual.

During settlement negotiations, the wrongfully imprisoned individual (plaintiff) is given the option of accepting the judgment amount in the form of a structured settlement annuity (periodic payments), a lump-sum cash payment, or a mix of periodic payments and cash.

Since the Controlling Board provides the money for such judgments on an as-needed basis, the Court's line item does not receive a direct appropriation through the main operating appropriations act enacted by each General Assembly. The necessary funds are typically transferred from the Controlling Board's GRF line item 911-401, Emergency Purposes/Contingencies, which contains moneys generally appropriated for the purpose of assisting state agencies and political subdivisions in responding to unexpected events, disasters, and emergency situations.

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. For FY 2008, the Court of Claims has requested total funding of $4.4 million, an increase of 3.5% from the total estimated FY 2007 expenditure of $4.2 million.[1] The total funding amount requested by the Court for FY 2009 is $4.5 million, an increase of 1.8% over the FY 2008 requested total amount of funding.

GRF funding. For FY 2008, the Court of Claims has requested funding for its GRF operating line item (015-321) totaling $2.8 million, an increase of 5.7% from the estimated FY 2007 GRF expenditure of $2.7 million. The total GRF funding amount requested by the Court for FY 2009 is $2.9 million, an increase of 2.9% over the FY 2008 requested total amount of funding.

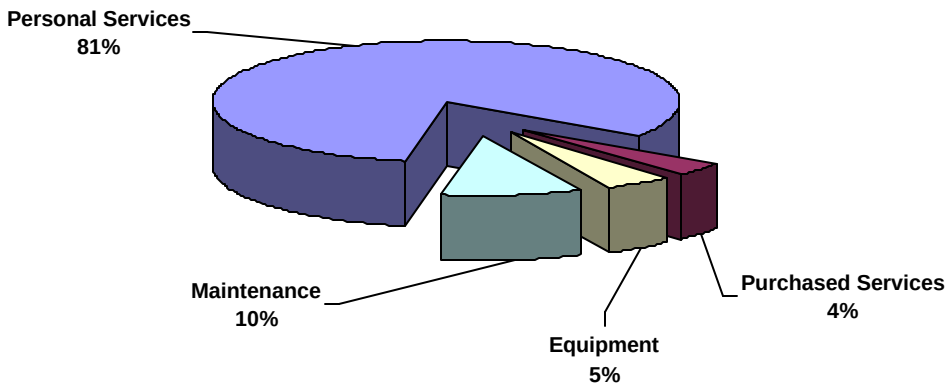
[1] These calculations are based on the fiscal activity of line items 015-321, Operating Expenses, and 015-603, CLA Victims of Crime. Expenditures made from the as-needed GRF line item 015-402, Wrongful Imprisonment Compensation, have been omitted.

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. While the Court has no programmatic expansions planned, the funding will allow the Court to make cost of living salary adjustments, as well as to make various equipment purchases including office furniture, videoconferencing equipment, copiers and printers, and other information technology related equipment.

Expense by Object Summary

The pie chart immediately below shows the total requested appropriations (FYs 2008 and 2009) by major object of expense. This information is shown for the GRF and for all funds.

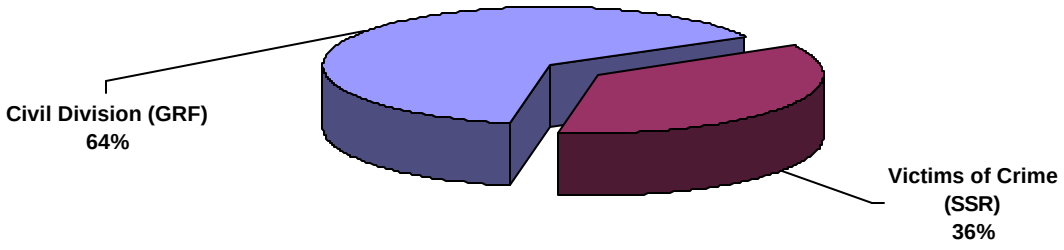
Total Budget by Object of Expense
FYs 2008 and 2009



Expense by Fund Group and Division Summary

The pie chart immediately below shows the total requested appropriations (FYs 2008 and 2009) by fund group and division. This information is shown for the GRF and for all funds.

Total Budget by Fund Group and Division
FYs 2008 and 2009



Staffing Levels

The table below displays the number of staff paid, or to be paid, by the Court from FYs 2002 through 2009.

Court of Claims Staffing Levels by Fiscal Year*								
Division	**2002**	**2003**	**2004**	**2005**	**2006**	**2007****	**2008****	**2009****
Civil	--	--	--	24.5	24.5	24.5	24.5	24.5
Victims of Crime	--	--	--	11.5	12.0	12.0	12.0	12.0
Totals	**33.0**	**35.5**	**33.0**	**36.0**	**36.5**	**36.5**	**36.5**	**36.5**

* The staffing levels displayed in the above table represent full-time equivalents (FTEs). The staffing levels for FYs 2007 to 2009 represent funded FTEs.
** FYs 2005 to 2009 include FTEs for the Court's judges and commissioners, prior years do not.

Case Terminations by Calendar Year

Case Statistics by Calendar Year							
Cases by Division	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**
Civil Filings Against the State							
Administratively processed claims ($2,500 or less)							
Cases Filed	707	674	594	702	604	683	359
Cases Terminated	660	681	540	766	644	671	374
Cases Pending	178	171	225	161	121	133	118
Judicially processed claims (over $2,500)							
Cases Filed	518	485	457	432	420	455	375
Cases Terminated	494	523	519	450	467	399	380
Cases Pending	633	611	549	531	484	540	535
Trials/Hearings Held*	---	---	---	---	117	71	117
Conferences Held*	---	---	---	---	813	1158	1483
Victims of Crime Appeals							
Cases Filed	451	358	281	170	170	108	154
Cases Terminated	467	480	284	199	174	137	103
Cases Pending	238	116	113	84	80	51	102
Trials/Hearings Held*	---	---	---	---	170	148	135
Administrative Orders	179	262	196	151	129	130	166

*Data not tracked prior to CY 2004.

Civil Filings. 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.

***Crime Victims Appeals*.** The Court hears and determines appeals from decisions for awards of reparations that are determined by the Office of the Attorney General under the Crime Victims Reparations Law. Decisions of the Attorney General may be first appealed to a panel of commissioners of the Court; those decisions may only be appealed to a judge of the Court.

ANALYSIS OF EXECUTIVE PROPOSAL

For the purposes of this analysis of the executive-recommended budget for the Court of Claims, it is considered a single program series agency, whose services and activities can be generally divided into two distinct programs.

Single Program Series **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 of Claims, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2008	FY 2009
General Revenue Fund				
GRF	015-321	Operating Expenses	$2,830,489	$2,912,000
		General Revenue Fund Subtotal	**$2,830,489**	**$2,912,000**
State Special Revenue Fund				
SSR	015-603	CLA Victims of Crime	$1,582,684	$1,582,684
		State Special Revenue Fund Subtotal	**$1,582,684**	**$1,582,684**
Total Funding: Court of Claims			**$4,413,173**	**$4,494,684**

This analysis focuses on the following specific programs within the Court of Claims program series:

- ***Program 1.01 – Civil Division***
- ***Program 1.02 – Victims of Crime Division***

Program 1.01 – 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.

Funding Source: GRF

Line Item: 015-321, Operating Expenses

Implication of Executive Recommendation: 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. While the Court has no programmatic expansions planned, the funding will allow the court to make cost-of-living salary adjustments, as well as to make various equipment purchases including office furniture, videoconferencing equipment, copiers and printers, and other information technology related equipment.

Temporary and Permanent Law

It does not appear that the executive-recommended budget contains any permanent or temporary law provisions directly affecting the Court's Civil Division.

Program 1.02 – 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: Cash transferred from the Office of the Attorney General's Victims of Crime Fund (Fund 402), also known as the Reparations Fund

Line Item: 015-603, CLA Victims of Crime

Implication of 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.

Temporary and Permanent Law Provisions

It does not appear that the executive-recommended budget contains any permanent or temporary law provisions directly affecting the Court's Victims of Crime Division.

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General Revenue Fund

GRF 015-321 Operating Expenses

2004	2005	2006	2007 Estimate	2008 Executive Proposal	2009 Executive Proposal
$2,636,591	$2,364,164	$2,548,355	$2,678,331	**$2,830,489**	**$2,912,000**
	-10.3%	7.8%	5.1%	**5.7%**	**2.9%**

Source: GRF

Legal Basis: Section 203.90 of Am. Sub. H.B. 66 of 126th 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 funds the payroll, maintenance, and equipment costs of the Court of Claims' Civil Division.

GRF 015-402 Wrongful Imprisonment Compensation

2004	2005	2006	2007 Estimate	2008 Executive Proposal	2009 Executive Proposal
$2,036,990	$0	$2,357,877	$2,500,000	**$0**	**$0**
		N/A	6.0%		

Source: GRF

Legal Basis: ORC 2743.48; As needed line item

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 operating 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

5K2 015-603 CLA Victims of Crime

2004	2005	2006	2007 Estimate	2008 Executive Proposal	2009 Executive Proposal
$1,426,233	$1,063,527	$1,221,627	$1,582,684	**$1,582,684**	**$1,582,684**
	-25.4%	14.9%	29.6%	**0.0%**	**0.0%**

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: ORC 2743.531; Section 203.90 of Am. Sub. H.B. 66 of 126th G.A. (originally established by Am. Sub. S.B. 153 of the 123rd G.A.)

Purpose: The fund and related line item are 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 judges of the Court of Claims necessary to hear and determine appeals from the Office of the Attorney General, and (2) the compensation of any personnel of the Court of Claims needed to administer ORC 2743.51 through 2743.72.

LSC Budget Spreadsheet by Line Item, FY 2008 - FY 2009

Fund	ALI	ALI Title	2006	Estimated 2007	Executive 2008	% Change 2007 to 2008	Executive 2009	% Change 2008 to 2009
CLA Court of Claims								
GRF	015-321	Operating Expenses	$ 2,548,355	$2,678,331	$ 2,830,489	5.7%	$ 2,912,000	2.9%
GRF	015-402	Wrongful Imprisonment Compensation	$ 2,357,877	$2,500,000	$ 0	-100.0%	$ 0	N/A
General Revenue Fund Total			**$ 4,906,232**	**$ 5,178,331**	**$ 2,830,489**	**-45.3%**	**$ 2,912,000**	**2.9%**
5K2	015-603	CLA Victims of Crime	$ 1,221,627	$1,582,684	$ 1,582,684	0.0%	$ 1,582,684	0.0%
State Special Revenue Fund Group Total			**$ 1,221,627**	**$ 1,582,684**	**$ 1,582,684**	**0.0%**	**$ 1,582,684**	**0.0%**
Total All Budget Fund Groups			***$ 6,127,859***	***$ 6,761,015***	***$ 4,413,173***	***-34.7%***	***$ 4,494,684***	***1.8%***