

# **LSC Redbook**

**Analysis of the Executive Budget Proposal**

## **Court of Claims**

*Jamie L. Doskocil, Senior Budget Analyst  
Legislative Service Commission*

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# TABLE OF CONTENTS

<b>OVERVIEW</b> .....	<b>1</b>
<b>Mission</b> .....	<b>1</b>
<b>Executive Recommended FY 2010-FY 2011 Biennial Budget</b> .....	<b>1</b>
<b>Operations</b> .....	<b>3</b>
Staffing.....	3
Compensation Costs.....	4
<b>ANALYSIS OF EXECUTIVE PROPOSAL</b> .....	<b>6</b>
<b>Civil Division (GRF line item 015321)</b> .....	<b>6</b>
<b>Victims of Crime Appeals (SSR line item 015603)</b> .....	<b>8</b>
<b>Wrongful Imprisonment Claims (GRF line item 015402)</b> .....	<b>9</b>

## **ATTACHMENTS:**

- Catalog of Budget Line Items
- Budget Spreadsheet By Line Item

# Court of Claims

- 5% of FY 2009 GRF appropriation voluntarily lapsed
- Staffing and service levels to be maintained
- Potential benefit and payroll increases budgeted

## OVERVIEW

### Mission

The Court of Claims, established in 1975, is the only statutory court with statewide jurisdiction. Prior to its creation, there was no forum for civil actions filed against the state of Ohio. The Court of Claims' duties include:

1. Adjudicating civil actions filed against the state;
2. Hearing appeals from decisions made by the Attorney General on claims allowed under the Victims of Crime Law; and
3. Acting as the state's fiduciary agent for processing claims of wrongful imprisonment.

### Executive Recommended FY 2010-FY 2011 Biennial Budget<sup>1</sup>

**Appropriations.** For FY 2010, the Court of Claims has requested total funding of \$4,282,053, a decrease of 3.2% from the adjusted total FY 2009 appropriation amount of \$4,424,125. The Office of Budget and Management has estimated that FY 2009 expenditure levels will mirror the appropriation; however, according to staff of the Court, approximately 5% of its FY 2009 GRF appropriation will be voluntarily lapsed. As such, the requested FY 2010 appropriation is more representative of a "flat funded" budget request. For FY 2011, the Court has requested total funding of \$4,363,034, an increase of 1.9% from the requested FY 2010 amount.

According to staff of the Court, it will work within these requested annual amounts and maintain current service levels by:

- Foregoing planned salary increases;
- Reducing the use of assigned judges and increasing the use of staff magistrates, which should generate a savings;
- Reducing unemployment expenses;

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<sup>1</sup> Pursuant to section 107.03 of the Revised Code, the Governor is not permitted to make any alterations in the biennial budget requests submitted to the Office of Budget and Management by the judicial branches of the state. Thus, herein, as the Court of Claims is an entity of the judicial branch of the state, the executive recommendations reflect the appropriations and language as requested by the Court.

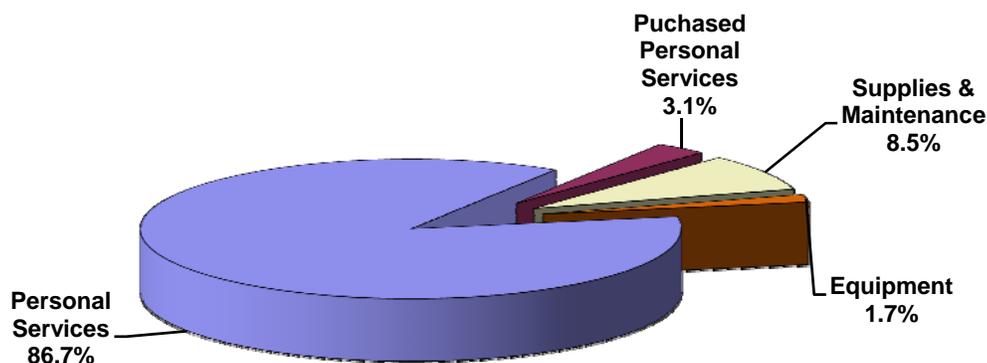
- Utilizing teleconferencing technology, resulting in a reduction in motor vehicle costs and travel-time costs; and
- Reducing equipment purchases.

Table 1. Executive Budget Recommendations by Fund Group, FY 2010-FY 2011					
Fund Group	FY 2009*	FY 2010	% change, FY 2009-FY 2010	FY 2011	% change, FY 2010-FY 2011
General Revenue	\$2,841,441	\$2,699,369	-5.0%	\$2,780,350	3.0%
State Special Revenue	\$1,582,684	\$1,582,684	0.0%	\$1,582,684	0.0%
<b>TOTAL</b>	<b>\$4,424,125</b>	<b>\$4,282,053</b>	<b>-3.2%</b>	<b>\$4,363,034</b>	<b>1.9%</b>

\*FY 2009 figures represent appropriations. The Court intends to lapse 5% of its FY 2009 GRF appropriation, which means that their FY 2010 GRF budget represents a flat funded request.

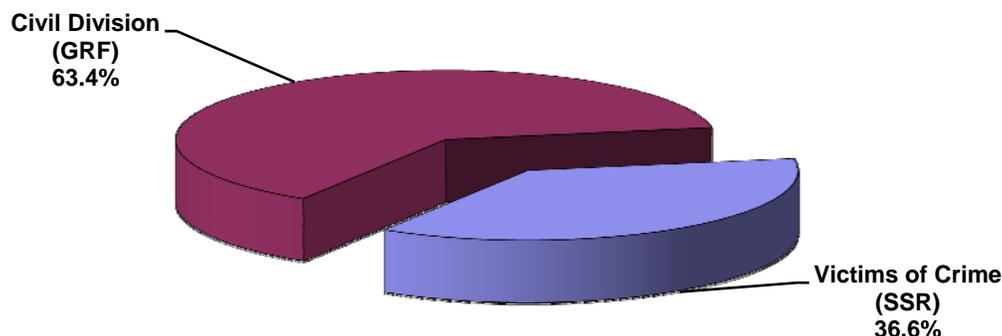
**Expense category.** Chart 1 immediately below summarizes the Court's proposed biennial budget in terms of the types of operating expenses for which its appropriations will be allocated. Close to 90% of its total biennial appropriation will be allocated for personal services, which represents the payroll-related expenses (salary and fringe benefits) associated with the equivalent of 30-plus full-time staff positions (FTEs).

**Chart 1: Biennial Executive Budget Recommendations by Expense Category, FY 2010-FY 2011**



**Fund groups.** As summarized in Chart 2 below, the Court is funded through two primary funding sources: (1) GRF and (2) State Special Revenue funds, specifically cash transferred from the Victims of Crime/Reparations Fund (Fund 4020), which is used primarily by the Office of the Attorney General. Each source of funding is dedicated to supporting the primary functions of the Court, including administering the civil docket and overseeing the appeals of victims of crime applications, respectively.

**Chart 2: Biennial Executive Budget Recommendations by Fund Group and Division, FY 2010-FY 2011**



## Operations

### Staffing

Tables 2 and 3 below display staffing levels, in terms of full-time equivalent staff positions (FTEs) maintained by the Court from FYs 2005 through 2011. Table 2 reflects the FTEs of the Court's two major divisions: Civil and Victims of Crime. Table 3 represents FTEs by type of appointment. It should be noted that a number of employees are paid on a per diem basis. For this reason, the numbers may not illustrate a physical portrayal (i.e., head count) of the Court's staffing, which currently employs 43 persons, with a number of them being part-time. No staffing reductions are anticipated in the next biennium.

Division	2005	2006	2007	2008	2009	2010	2011
Civil	23.34	24.58	23.55	22.91	23.89	23.67	23.67
Victims of Crime	11.49	11.80	12.03	11.67	11.60	11.56	11.56
<b>Totals</b>	<b>35.83</b>	<b>36.38</b>	<b>35.58</b>	<b>34.58</b>	<b>35.49</b>	<b>35.23</b>	<b>35.23</b>

\*The staffing levels displayed in the above table represent full-time equivalents (FTEs). FYs 2009 to 2011 represent projected staffing levels.

**Judges.** The Court resides in Franklin County and consists of judges who sit by temporary assignment of the Chief Justice of the Supreme Court. The Chief Justice may appoint incumbent justices or judges of the Supreme Court, courts of appeals, or courts of common pleas, or retired justices or judges eligible for active duty pursuant to Division (C) of Section 6 of Article IV of the Ohio Constitution. The appointments to the Court are temporary, lasting roughly three months. Many of the judges, however, are reappointed for multiple terms.

**Commissioners.** In addition to its judges, the Court also has seven commissioners who are appointed by the Chief Justice of the Supreme Court of Ohio for six-year terms. These commissioners are responsible for hearing and determining crime victims' appeals. Commissioners are not required to have previous judicial experience, but are required to be lawyers with three years of work experience.

<b>Appointment Types</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Permanent Staff	29.78	29.21	29.50	28.98	28.90	28.98	28.98
Temporary Staff	1.55	2.01	.96	.87	1.57	1.27	1.27
Commissioners	3.01	3.61	3.67	3.40	3.57	3.53	3.53
Judges	1.49	1.55	1.45	1.32	1.45	1.45	1.45
<b>TOTALS</b>	<b>35.83</b>	<b>36.38</b>	<b>35.58</b>	<b>34.57</b>	<b>35.49</b>	<b>35.23</b>	<b>35.23</b>

\*The staffing levels displayed in the above table represent full-time equivalent (FTE) staff positions. FYs 2009 to 2011 represent projected staffing levels.

### **Compensation Costs<sup>2</sup>**

The compensation levels of approximately 15% of the Court of Claim's employees are set either by the Revised Code or the Supreme Court. For the remainder, compensation levels are set upon delegated authority granted to the Clerk by the Supreme Court. Judges and referees are paid on a per diem basis. Cumulative per diem costs can vary from year to year depending on the number of cases filed with the Court of Claims and how many of those cases are heard by a single judge/referee or if a panel of three judges/referees are appointed to a case because of its complexity. Table 4 below illustrates the employees whose salaries are set either by the Revised Code or the Supreme Court.

While the Clerk has discretionary power with respect to determining most salary costs, all budgetary matters including the Court's payroll line item are discussed quarterly with the Administrative Director of the Supreme Court.

<sup>2</sup> Section 2743.08 of the Revised Code requires that the Supreme Court fix the compensation to be paid the clerk and deputy clerks, court reporters, secretaries, and clerical personnel employed by the Court of Claims.

<b>Table 4. Court of Claims Statutorily Compensated Employees</b>				
<b>Employee Title</b>	<b>ORC Statutory Authority</b>	<b>Compensation Type*</b>	<b>Current Salary/Per Diem Rate</b>	<b>Funding Source</b>
Judges	2743.04	Per diem, based on the current salary of a judge of a court of appeals, plus travel expenses if the judge resides outside of Franklin County*	\$528 per day	GRF
Magistrates (Referees)**	2743.03(C)(3)	Per diem, plus expenses (if a panel of three magistrates is appointed, the salary and expenses of the remaining two shall be taxed as costs of the case)	\$528 per day	GRF (potentially supplemented by parties to a case if certain conditions are met)
Commissioners	2743.54(B)	Hourly rate, plus expenses if the commissioner resides outside of Franklin County (set by the Supreme Court)	\$40 per hour	Fund 5K20 (Court of Claims Victims of Crime Fund)

\*This per diem arrangement applies to retired judges (which currently is the case). If, however, an incumbent judge is appointed, the per diem is equal to that allowed a retired judge less a per diem amount computed on his/her annual compensation.

\*\*Magistrates (referees) specialize in disputes arising between the state and a contractor concerning the terms of a public improvement contract.

## ANALYSIS OF EXECUTIVE PROPOSAL

This section provides a more detailed discussion of the appropriations that finance the Court's handling of civil cases, victims of crime appeals, and wrongful imprisonment settlements. Also incorporated, as appropriate, is historical caseload, expenditure data, and program context. The recommended FY 2010 and FY 2011 appropriations for the Court's two primary funding mechanisms are shown in Table 5 immediately below.

Table 5. Executive Budget Recommendations by Fund Group, FY 2010-FY 2011					
Fund	ALI and Name			FY 2010	FY 2011
<b>General Revenue Fund (GRF)</b>					
GRF	015321	Operating Expenses		\$2,699,369	\$2,780,350
<b>State Special Revenue Fund (SSR) Group</b>					
5K20	015603	CLA Victims of Crime		\$1,582,684	\$1,582,684
<b>Total Funding: Court of Claims</b>				<b>\$4,282,053</b>	<b>\$4,363,034</b>

### Civil Division (GRF line item 015321)

The expenses of operating the Court's Civil Division, which is responsible for hearing all civil claims filed against the state of Ohio and its agencies, are paid from moneys appropriated from this GRF line item. As previously noted, the Court's recommended FY 2010 GRF appropriation of \$2,699,369 is more representative of a "flat funded" budget when compared to the planned lapse of 5% from its FY 2009 GRF appropriation. For FY 2011, the Court has requested a 3.0% increase in its GRF appropriation, or \$2,780,350. The additional funding for FY 2011, approximately \$81,000, is primarily to help offset potential future increased costs associated with personal services expenses, particularly health benefits and payroll charges.

Of the line item's annual appropriation, the Court plans to allocate an estimated \$2.4 million or so to pay for the payroll expenses of 23.67 FTE staff positions. The remaining amounts in each year will be allocated for a mix of purchased personal services, supplies and maintenance, and equipment. The Court has no planned major equipment purchases for the upcoming biennium.

**Administrative determinations.** Along with three appointed judges, in civil actions against the state for \$2,500 or less the Clerk may administratively determine a claim and render judgment. A majority of the civil actions are handled administratively.

**Judicial determinations.** Any case involving claims greater than \$2,500 must be decided by a judge. In most cases, a single judge will hear a case, but the Chief Justice may assign a panel of three judges to a civil action that presents novel or complex issues

of law and fact. While a motion may be filed requesting that a panel of three judges hear a particular case, few cases are eligible for a hearing before a panel of three judges.

**Referees.** Whenever the chief justice of the Supreme Court believes an equitable resolution of a case will be expedited, the chief justice may appoint referees (also known as magistrates) in accordance with Civil Rule 53 to hear the case. For disputes arising between the state and a contractor concerning the terms of a public improvement contract let by the state, the Supreme Court is required to appoint a referee, or a panel of three referees.<sup>3</sup>

**Appeals.** The Court's decisions in these civil matters may be appealed. Cases that were originally determined by the Clerk of the Court (involving \$2,500 or less) may be appealed to a judge of the Court. The decision of the judge is final. Cases that were originally heard by a judge of the Court (over \$2,500) may be appealed to the Tenth District Court of Appeals in Franklin County, and further appealed to the Supreme Court of Ohio.

**Case-filing statistics.** Details on the filing and disposition of civil cases from calendar years 2002-2008 for both administratively processed claims and judicially processed claims is summarized in Table 6 immediately below.

<b>Table 6. Civil Case Filings, Calendar Years 2002-2008</b>							
<b>Type of Action</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b>Administratively processed claims (\$2,500 or less)</b>							
Cases Filed	594	702	604	683	359	514	687
Cases Terminated	540	766	644	671	374	472	675
Cases Pending	225	161	121	133	118	160	172
<b>Judicially processed claims (over \$2,500)</b>							
Cases Filed	457	432	420	455	375	381	407
Cases Terminated	519	450	467	399	380	356	419
Stay/Interlocutory Appeals*	---	---	200	161	164	171	182
Cases Pending	549	531	484	540	535	560	548
Trials/Hearings Held*	---	---	117	71	117	248	151
Conferences Held*	---	---	813	1,158	1,483	1,515	1,632

\*Data not tracked prior to CY 2004.

<sup>3</sup> The referees need not be attorneys, but must be persons knowledgeable about construction contract law, a member of the Construction Industry Panel of the American Arbitration Association, or an individual or individuals deemed qualified by the Chief Justice to serve.

### **Victims of Crime Appeals (SSR line item 015603)**

This SSR line item 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 sections 2743.51 through 2743.72 of the Revised Code. Its appropriation is supported by cash transferred by OBM from the Victims of Crime/Reparations Fund (Fund 4020), which is used primarily by the Office of the Attorney General. The line item's FY 2010 and FY 2011 appropriations of \$1,582,684 represent no change from the identical amount for FY 2009.

Of the line item's annual appropriation, the Court plans to allocate an estimated \$1.3 million to pay for the payroll expenses of 11.56 FTE staff positions. The remaining amounts in each year will be allocated for a mix of purchased personal services, supplies and maintenance, and equipment.

**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.

**Case-filing statistics.** Details on the filing and disposition of victims of crime appeals from calendar years 2002-2008 is summarized in Table 7 immediately below.

<b>Table 7. Victims of Crime Appeals, Calendar Years 2002-2008</b>							
<b>Type of Action</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Cases Filed	281	170	170	108	154	98	138
Cases Terminated	284	199	174	137	103	125	99
Cases Pending	113	84	80	51	102	75	82
Trials/Hearings Held*	---	---	198	161	145	210	136
Administrative Orders	196	151	129	130	166	159	108

\*Data not tracked prior to CY 2004.

### **Wrongful Imprisonment Claims (GRF line item 015402)**

The Court of Claims acts as the state's fiduciary agent for processing claims of wrongful imprisonment. 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 015402, Wrongful Imprisonment Compensation. 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.

**Formula.** 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 (currently \$47,209.40). For partial years, the share is prorated.
- 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.

**Settlement disbursements.** Table 8 below shows the total amount of money that the Court has disbursed to make wrongful imprisonment settlements from FYs 2000-2009 year to date.

<b>Table 8. Wrongful Imprisonment Settlement Disbursements, FYs 2000-2009</b>	
<b>Fiscal Year</b>	<b>Total Disbursed</b>
2000	\$75,501
2001	\$841,237
2002	\$0
2003	\$0
2004	\$2,036,990
2005	\$0
2006	\$2,357,877
2007	\$4,260,000
2008	\$0
2009*	\$601,450

\*As of 2/11/2009

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*General Revenue Fund*

**GRF 015321 Operating Expenses**

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$2,548,355	\$2,617,810	\$2,603,050	\$2,841,441	<b>\$2,699,369</b>	<b>\$2,780,350</b>
	2.7%	-0.6%	9.2%	<b>-5.0%</b>	<b>3.0%</b>

**Source:** GRF

**Legal Basis:** Section 255.10 of Am. Sub. H.B. 119 of 127th 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 015402 Wrongful Imprisonment Compensation**

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$2,357,877	\$4,260,000	\$0	\$0	<b>\$0</b>	<b>\$0</b>
	80.7%				

**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 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*

**5K20 015603    CLA Victims of Crime**

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$1,221,627	\$1,362,488	\$1,350,493	\$1,582,684	<b>\$1,582,684</b>	<b>\$1,582,684</b>
	11.5%	-0.9%	17.2%	<b>0.0%</b>	<b>0.0%</b>

**Source:** SSR: Cash transferred by the Director of Budget and Management from the Office of the Attorney General's Victims of Crime Fund (Fund 4020), also known as the Reparations Fund

**Legal Basis:** ORC 2743.531; Section 255.10 of Am. Sub. H.B. 119 of 127th 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 2010 - FY 2011

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2008</i>	<i>2009</i>	<i>As Introduced 2010</i>	<i>% Change 2009 to 2010</i>	<i>As Introduced 2011</i>	<i>% Change 2010 to 2011</i>
<b>CLA Court of Claims</b>								
GRF	015321	Operating Expenses	\$ 2,603,050	\$ 2,841,441	\$ 2,699,369	-5.0%	\$ 2,780,350	3.0%
<b>General Revenue Fund Total</b>			<b>\$ 2,603,050</b>	<b>\$ 2,841,441</b>	<b>\$ 2,699,369</b>	<b>-5.0%</b>	<b>\$ 2,780,350</b>	<b>3.0%</b>
5K20	015603	CLA Victims of Crime	\$ 1,350,493	\$ 1,582,684	\$ 1,582,684	0.0%	\$ 1,582,684	0.0%
<b>State Special Revenue Fund Group Total</b>			<b>\$ 1,350,493</b>	<b>\$ 1,582,684</b>	<b>\$ 1,582,684</b>	<b>0.0%</b>	<b>\$ 1,582,684</b>	<b>0.0%</b>
<b>Total All Budget Fund Groups</b>			<b>\$ 3,953,543</b>	<b>\$ 4,424,125</b>	<b>\$ 4,282,053</b>	<b>-3.2%</b>	<b>\$ 4,363,034</b>	<b>1.9%</b>