

LSC Redbook

Analysis of the Executive Budget Proposal

Court of Claims

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ATTACHMENTS:

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

Court of Claims

- Court proposes GRF funding cut of 7.4% in FY 2012, another 2.8% in FY 2013
- Cost savings expected from staff attrition and early retirement incentives

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.

Appropriation Overview

Appropriations. Pursuant to R.C. 107.03, 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 branch of the state. Therefore, the executive recommendations reflect the appropriations as requested by the Court of Claims.

For FY 2012, the Court of Claims has requested total funding of \$4,156,192, which represents a decrease of 4.7% from the FY 2011 total appropriation of \$4,363,034. For FY 2013, the Court has requested total funding of \$4,083,736, an additional decrease of 1.7% from the FY 2012 requested amount. These reductions were made to its sole GRF line item. Table 1 below compares the Court's FY 2011-FY 2013 appropriations by fund group.

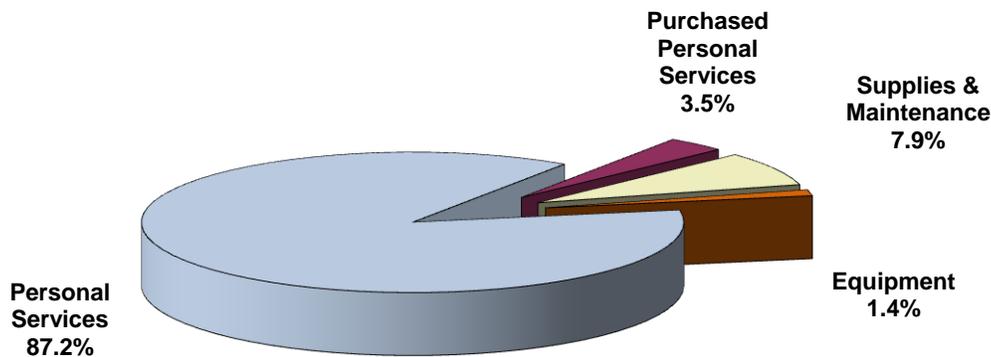
According to staff of the Court, it will work within these requested annual amounts by offering early retirement incentives, and by not filling existing vacant positions, some of which were just recently vacated. One full-time position (which is supported by both GRF and non-GRF funds) and two part-time positions (two temporary law students) will be left vacant. The Court believes that these staff reductions will not affect its ability to maintain current service levels.

Table 1. Executive Budget Recommendations by Fund Group, FY 2012-FY 2013					
Fund Group	FY 2011*	FY 2012	% change, FY 2011-FY 2012	FY 2013	% change, FY 2012-FY 2013
General Revenue	\$2,780,350	\$2,573,508	-7.4%	\$2,501,052	-2.8%
State Special Revenue	\$1,582,684	\$1,582,684	0.0%	\$1,582,684	0.0%
TOTAL	\$4,363,034	\$4,156,192	-4.7%	\$4,083,736	-1.7%

*FY 2011 figures represent estimated expenditures.

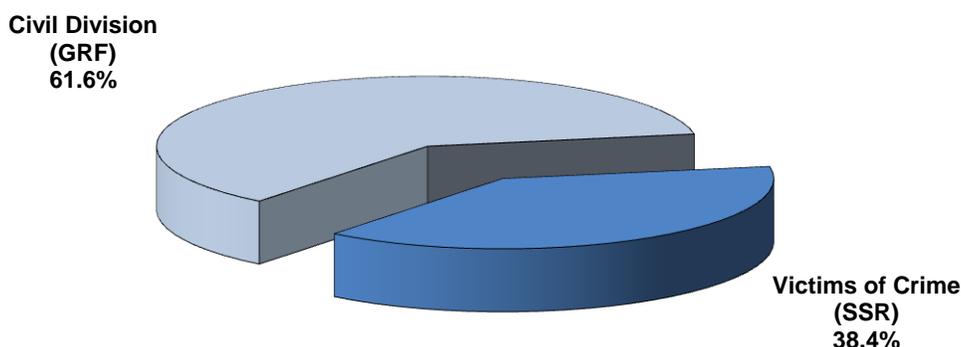
Expense category. Chart 1 below summarizes the Court's proposed biennial budget by object of expense. Approximately 87% of its total biennial appropriation will be allocated for personal services, which represents the payroll-related expenses (salary and fringe benefits) associated with the equivalent of nearly 32 full-time staff positions.

Chart 1: Biennial Executive Budget Recommendations by Expense Category, FY 2012-FY 2013



Fund groups. As summarized in Chart 2 below, the Court is funded through two primary sources: (1) GRF and (2) State Special Revenue funds, specifically cash transferred from the Victims of Crime/Reparations Fund (Fund 4020), which is administered 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 2012-FY 2013



Staffing and compensation

Tables 2 and 3 below display staffing levels in terms of full-time equivalent (FTEs) staff positions maintained by the Court from FYs 2005 through 2013. Table 2 reflects the number of FTEs for 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 part-time. For this reason, the numbers may not illustrate a physical portrayal (i.e., head count) of the Court's staffing.

Table 2. Court of Claims Staffing Levels by Division, FYs 2005-2013*									
Division	2005	2006	2007	2008	2009	2010	2011*	2012*	2013*
Civil	23.3	24.6	23.6	22.9	23.9	23.1	23.5	21.2	21.2
Crime Victims	11.5	11.8	12.0	11.7	11.6	10.7	11.8	10.6	10.8
Totals	34.8	36.4	35.6	34.6	35.5	33.8	35.3	31.8	32.0

*The staffing levels displayed in the above table represent full-time equivalents (FTEs). FYs 2011 through 2013 are projections.

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 six commissioners who are appointed by 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.

Appointment Types	2007	2008	2009	2010	2011	2012	2013
Permanent Staff	29.5	29.0	28.9	29.3	28.5	27.5	27.5
Temporary Staff	1.0	0.9	1.6	0.7	1.8	0.0	0.0
Commissioners	3.7	3.4	3.6	2.7	3.6	2.9	3.1
Judges	1.5	1.3	1.5	1.1	1.4	1.4	1.4
Totals	35.7	34.6	35.5	33.8	35.3	31.8	32.0

*The staffing levels displayed in the above table represent full-time equivalents (FTEs). FYs 2011 through 2013 are projections.

The compensation levels of approximately 15% of the Court of Claims' employees are set either by the Ohio Revised Code or the Supreme Court of Ohio.¹ 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.

¹ R.C. 2743.08 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.

Employee Title	R.C. Statutory Authority	Compensation Type	Current Salary/Per Diem Rate	Funding Source
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 is taxed as costs of the case)	\$528 per day	GRF***
Commissioners	2743.54(B)	Hourly rate, plus expenses if the commissioner resides outside of Franklin County (set by the Supreme Court)	\$40 per hour	Court of Claims Victims of Crime Fund (Fund 5K20)

*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.

***Potentially supplemented by parties to a case if certain conditions are met.

Operations

As previously mentioned, the Court serves three primary functions: (1) to adjudicate civil actions filed against the state, (2) to hear appeals from decisions made by the Attorney General on claims allowed under the Victims of Crime Law, and (3) to act as the state's fiduciary agent for processing claims of wrongful imprisonment.

Civil Division

The Court's Civil Division is responsible for hearing all civil claims filed against the state of Ohio and its agencies. Claims can be adjudicated administratively, or by referees and judges, as described in more detail below.

Administrative determinations. 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 of the Supreme Court of Ohio 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 believes an equitable resolution of a case will be expedited, the Chief Justice may appoint referees (also known as magistrates) in accordance with Civil Procedure 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.²

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.

Details on the filing and disposition of civil cases from calendar years 2004-2010 for both administratively processed claims and judicially processed claims is summarized in Table 5 below.

Table 5. Civil Case Filings, Calendar Years 2004-2010							
Type of Action	2004	2005	2006	2007	2008	2009	2010
Administratively processed claims (\$2,500 or less)							
Cases Filed	604	683	359	514	687	506	768
Cases Terminated	644	671	374	472	675	547	704
Cases Pending	121	133	118	160	172	145	222
Judicially processed claims (over \$2,500)							
Cases Filed	420	455	375	381	407	396	463
Cases Terminated	467	399	380	356	419	457	438
Stay/Interlocutory Appeals	200	161	164	171	182	180	188
Cases Pending	484	540	535	560	548	492	526
Trials/Hearings Held	117	71	117	248	151	120	123
Conferences Held	813	1,158	1,483	1,515	1,632	1,469	1,446

Victims of Crime Appeals

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.

² 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.

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.

Details on the filing and disposition of victims of crime appeals from calendar years 2004-2010 is summarized in Table 6 below.

Type of Action	2004	2005	2006	2007	2008	2009	2010
Cases Filed	170	108	154	98	138	99	96
Cases Terminated	174	137	103	125	99	103	89
Cases Pending	80	51	102	75	82	62	58
Trials/Hearings Held	198	161	145	210	136	110	98
Administrative Orders	129	130	166	159	108	126	127

Wrongful Imprisonment Claims

The Court of Claims acts as the state's fiduciary agent for processing claims of wrongful imprisonment. Money to pay any such claims is transferred to the Court on an as-needed basis by the state's Controlling Board.

Pursuant to R.C. 2743.48(E)(2), 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 \$47,823.12). 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; and
 - The amount of certain cost debts the Department of Rehabilitation and Correction recovered from the wrongfully imprisoned individual.

Table 7 below shows the total amount of money that the Court has disbursed to make wrongful imprisonment settlements from FYs 2000-2011, year to date.

Table 7. Wrongful Imprisonment Settlement Disbursements, FYs 2000-2011	
Fiscal Year	Total Disbursed
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	\$772,316
2010	\$1,088,396
2011*	\$281,096

*As of 3/18/2011.

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. The recommended FY 2012 and FY 2013 appropriations for the Court's two primary funding mechanisms are shown in Table 8 below.

Table 8. Budget Recommendations by Fund Group, FY 2012-FY 2013				
Fund	ALI and Name		FY 2012	FY 2013
General Revenue Fund (GRF)				
GRF	015321	Operating Expenses	\$2,573,508	\$2,501,052
State Special Revenue Fund (SSR) Group				
5K20	015603	CLA Victims of Crime	\$1,582,684	\$1,582,684
Total Funding: Court of Claims			\$4,156,192	\$4,083,736

Operating Expenses (GRF line item 015321)

The expenses of operating the Court, primarily the Court's Civil Division, are paid with money appropriated to this GRF line item. The Court's recommended FY 2012 GRF appropriation of \$2,573,350 represents a 7.4% reduction from the FY 2011 appropriation. The recommended FY 2013 appropriation of \$2,501,052 is a further decrease of 2.8%. Since much of this line item is used for payroll expenses, the reduction in funding will have a direct impact on staffing levels. Staff reductions, the equivalent of approximately 2 FTEs, will be made through attrition and early retirement incentives.

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 R.C. 2743.51 to 2743.72. 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 2012 and FY 2013 appropriations of \$1,582,684 represent no change from the amount appropriated for FY 2011.

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. However, once the expenditure is made, the amounts are tracked as spending by the Court.

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Court of Claims

General Revenue Fund

GRF 015321 Operating Expenses

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$2,603,050	\$2,701,237	\$2,670,384	\$2,780,350	\$2,573,508	\$2,501,052
	3.8%	-1.1%	4.1%	-7.4%	-2.8%

Source: General Revenue Fund

Legal Basis: Section 251.10 of Am. Sub. H.B. 1 of 128th G.A. (originally established by Am. Sub. H.B. 694 of the 114th G.A., the main operating appropriations act covering FY 1982 and FY 1983)

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

GRF 015402 Wrongful Imprisonment Compensation

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$0	\$772,316	\$1,088,396	\$0	\$0	\$0
	N/A	40.9%	-100%	N/A	N/A

Source: General Revenue Fund

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.

Court of Claims

State Special Revenue Fund Group

5K20 015603 CLA Victims of Crime

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$1,350,493	\$1,342,666	\$1,226,348	\$1,582,684	\$1,582,684	\$1,582,684
	-0.6%	-8.7%	29.1%	0.0%	0.0%

Source: State Special Revenue Fund Group: 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 251.10 of Am. Sub. H.B. 1 of 128th 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.

FY 2012 - FY 2013 Introduced Appropriation Amounts

All Fund Groups

Line Item Detail by Agency			FY 2010	Estimate FY 2011	Introduced FY 2012	FY 2011 to FY 2012 % Change	Introduced FY 2013	FY 2012 to FY 2013 % Change
Report For Main Operating Appropriations Bill			Version: As Introduced					
CLA Court of Claims								
GRF	015321	Operating Expenses	\$ 2,670,384	\$ 2,780,350	\$ 2,573,508	-7.44%	\$ 2,501,052	-2.82%
GRF	015402	Wrongful Imprisonment Compensation	\$ 1,088,396	\$ 0	\$ 0	N/A	\$ 0	N/A
General Revenue Fund Total			\$ 3,758,780	\$ 2,780,350	\$ 2,573,508	-7.44%	\$ 2,501,052	-2.82%
5K20	015603	CLA Victims of Crime	\$ 1,226,348	\$ 1,582,684	\$ 1,582,684	0.00%	\$ 1,582,684	0.00%
State Special Revenue Fund Group Total			\$ 1,226,348	\$ 1,582,684	\$ 1,582,684	0.00%	\$ 1,582,684	0.00%
Court of Claims Total			\$ 4,985,127	\$ 4,363,034	\$ 4,156,192	-4.74%	\$ 4,083,736	-1.74%