Ohio Judicial Conference
Budget Resource Handbook
For Ohio Judges and Their Funding Authorities
Second Edition

The Collaborative Project on the Local Budget Process
Edited by Judge Deborah J. Nicastro
9/1/2012
BUDGET PROCESS PARTICIPANTS

The system of funding Ohio courts is a mosaic of state constitutional and statutory provisions with an overlay of case law interpreting those provisions and local practice and tradition. The diversity of local government practices prevents a comprehensive analysis of all local issues that may affect the budget process but this Chapter explains the parameters of the budget process.

Understanding the jurisdiction of each level of the Courts, the funding authorities for each level of the Court and the budget decision makers and key personnel is essential for understanding the funding mosaic.

COURT JURISDICTION

Ohio’s court system has three levels: Trial, Appellate, and Supreme. The trial courts are typically the place of entry into Ohio’s court system and include each of the 88 counties’ courts of common pleas, municipal courts and county courts, and the court of claims for certain types of cases. The Appellate Courts review the trial courts’ application of the law. The Supreme Court of Ohio is the final appellate court in Ohio.

APPELLATE COURTS

The courts of appeals are established by Article IV, Section 1 of the Ohio Constitution, and their jurisdiction is outlined in Article IV, Section 3. As intermediate level appellate courts, they hear appeals from the common pleas courts as well as the municipal and county courts. Ohio is divided into twelve appellate districts. The number of judges in each district varies from four to twelve, depending on a variety of factors, including the court’s caseload and size of the district. Each court of appeals selects one of the counties in its district as its principal seat.

COMMON PLEAS COURTS

Each county in Ohio has a court of common pleas. The work of the Ohio courts of common pleas is divided into four different jurisdictions: general, domestic relations, juvenile and probate. In some counties, the judge has responsibility for all four jurisdictional areas. In larger counties with higher caseloads, multiple judges may serve one division.

MUNICIPAL AND COUNTY COURTS

Municipal courts jurisdiction is defined statutorily. Municipal and county courts are trial courts for misdemeanor offenses, traffic cases, misdemeanor OVI cases, preliminary hearings for felony OVI, and civil actions up to $15,000. Municipal and county courts are the courts with the highest volume of cases in the state.

Municipal Courts may have a jurisdiction that is within the corporate limits of the municipal corporation or they can have a territorial jurisdiction that includes areas outside the corporate limits of the municipal corporation (i.e., including the unincorporated territory).
### Chart of Funding Authorities by Court

<table>
<thead>
<tr>
<th>Court</th>
<th>Funding Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supreme Court of Ohio</td>
<td>State of Ohio</td>
</tr>
<tr>
<td>Court of Appeals</td>
<td>Combination of state, host county, guest counties</td>
</tr>
<tr>
<td>Common Pleas</td>
<td>Combination of state and county</td>
</tr>
<tr>
<td>County Courts</td>
<td>Combination of state and county</td>
</tr>
<tr>
<td>Municipal (Single City)</td>
<td>Combination of state, county, and city council</td>
</tr>
<tr>
<td>Municipal (Multi-Districts)</td>
<td>Combination of state, county, host city council, guest city councils</td>
</tr>
</tbody>
</table>

### Budgeting Personnel and Decision Makers

<table>
<thead>
<tr>
<th>Court</th>
<th>Court Decision Makers</th>
<th>Funding Decision Makers</th>
</tr>
</thead>
</table>
| Supreme Court          | Chief Justice  
                        Administrative Director                                     | Governor  
                        Ohio General Assembly  
                        State Budget Director                                         |
| Appellate Courts       | Presiding / Administrative Judge;  
                        Administrator/Fiscal Officer                             | Host County Commissioners  
                        District Counties  
                        Host county administrator                                     |
| Common Pleas           | Presiding / Administrative Judge;  
                        Court Administrator/Fiscal Officer                     | County Commissioners  
                        County Administrator                                             |
| County                 | Presiding Judge                                             | County Commissioners  
                        County Administrator                                             |
| Municipal (Single city)| Presiding / Administrative Judge;  
                        Clerk/Administrator/ Fiscal Officer                   | Mayor  
                        City Council  
                        City or Village Manager  
                        Finance Director                                                |
| Municipal (Multi-district)| Presiding / Administrative Judge;  
                          Clerk/Administrator/ Fiscal Officer                   | Mayor  
                          Host city council  
                          Guest city councils  
                          Host city / village manager  
                          Finance Director                                                |
COURT FUNDING IN OHIO

Ohio courts are funded from three sources: the general fund of the state, county and/or local governments; court costs paid by litigants; and grant monies from public and private sources.

THE GENERAL FUND

As a general rule, any expense of court operations which is not specifically provided by statute to be paid from a special court fund is paid from the General Fund of the applicable state, county and/or local governments.

APPELLATE COURTS

The county designated as the principal seat of the Appellate Court, and each county in the appellate district, fund the court's operation based on their proportion of the district's population (ORC §2501.181).

- The clerk of court must provide stationary and law books and the county commissioners must supply facilities "and such other conveniences as the court deems necessary." (ORC §2501.18).

- The state must provide shorthand reporters, law clerks, secretaries, and any other employees that the court considers necessary for its efficient operation. (ORC §§ 2501.16, 2501.17)

- The county commissioners must provide the compensation of constables when the appellate court deems that "business thereof so requires" the appointment of constables (ORC §§ 2701.07, 2701.08)

COMMON PLEAS COURTS

In order to fund common pleas courts, county commissioners are authorized annually to levy a property tax to create a judicial and court fund that can be used for court related expenses, including those for common pleas general division (ORC §307.01) probate division (ORC §2101.11) and juvenile division (ORC §2151.10). This power is limited by the Ohio Constitution's limit of 10 mills for property tax levies within a county imposed without a vote of the people. As a practical matter, these monies are unavailable because they are almost entirely used to support education and existing county programs. Therefore, county commissioners often rely on the General Fund to pay for all divisions of common pleas courts (ORC §5707.02).

- County commissioners are required to purchase and furnish such things as a courthouse, a juvenile court building, and detention facilities. They are also required to supply the "equipment, stationery, and postage, as it considers reasonably necessary for the proper and convenient conduct of county offices and such facilities as will result in expeditious and economical administration of such offices." (ORC §§ 307.01, 307.02 and 5707.02)
All common pleas courts, including probate courts, in counties with more than 70,000 inhabitants may appoint and fix the salary of "constables." Constables may be hired "when, in the opinion of the court, the business thereof so requires." The compensation of the constables is paid "from the county treasury upon warrant of the county auditor." (ORC §§ 2701.07, 2701.08)

### MUNICIPAL AND COUNTY COURTS

The entities responsible for paying the operational expenses of the municipal and county courts depend on the territorial jurisdiction of the court. Municipal courts may have a jurisdiction that is within the corporate limits of a single municipal corporation or they may have a territorial jurisdiction that includes other municipalities outside the corporate limits of the municipal corporation (i.e., including the unincorporated territory). (ORC §§ 1901.02, 1901.01) In county-operated municipal courts (like Hamilton, Lawrence, and Ottawa counties), the county commissioners pay all of the municipal court's operating expenses. (ORC §1901.024) In municipal courts that are not county-operated, the municipal corporations and townships that are within the territorial jurisdiction pay the costs of operating the court based on their proportionate share by caseload. (ORC §1901.026) The legislative authorities of the municipal court are required to provide the following:

- Suitable facilities/employees from the city treasury; a county-operated municipal court shall be paid out of the treasury of the county in which the court is located. (ORC §1901.36)

- Liability insurance for judges and other personnel in an amount not less than $50,000.00. (ORC §1901.38)

- Compensation for one or more interpreters, one or more mental health professionals, one or more probation officers, an assignment commissioner, deputy assignment commissioners, other court aides, typists, stenographers, statistical clerks, and official court reporters as the municipal/county court may appoint (ORC §1901.33)

- Health care coverage for the judges, clerks and deputy clerks (ORC §§ 1901.111; 1901.312)

- Compensation for one bailiff of in the same proportion as the compensation for judges (ORC §1901.33)

- Compensation for the Clerk of Court in the same proportion as the compensation of judges (ORC §1901.31(C)(1)) but the legislative authority shall provide the compensation for deputy clerks.

- Premiums for bonds for the clerk and bailiff (ORC §1901.37)
COURT COSTS

Court costs and fees assessed against litigants or court users may be a significant but must not be a complete source of court funding. As stated in the Ohio Judicial Conference’s Policy Statement on Court Costs (11/18/2005),

Although it may be appropriate in some circumstances for the government to charge a user fee for services received, such is not the case for access to justice for it is an essential right of the people. Further any requirement upon the court to depend on its own order to levy fines, costs, fees or taxes upon the people in order to provide for its support encourages corruption and injustice and should be resisted.

STATUTORY AUTHORITY FOR COURT COSTS

Court costs are authorized by state statute and implemented by a court order. The amount of any court cost is set by state statute unless the statute authorizes the court through the administrative judge to set the amount of a particular cost. The 2008 Report and Recommendation of the Joint Committee to Study Court Costs and Filing Fees contains a list of statutorily authorized court costs.

ALLOCATION OF AND RESTRICTIONS ON THE USE OF COURT COSTS

The allocation of court costs between the General Fund of the state, county or local governments and specially designated court funds is also set by state statute. The proper use of the court costs by the state, county or local governments or the courts is also designated by state statute. For instance, all courts are authorized by statute to assess a court cost for computer aided legal research and computerization of the clerk of court’s office. Once collected, the monies must be deposited into a specially designated fund and can only be used for the stated purposes.

GRANT RESOURCES

Grant sources are not addressed in this Handbook as they are usually project specific, do not generally provide for the day-to-day operation of the courts and information changes rapidly. However, for current grant opportunities and information, contact the Judicial & Court Services Division of the Supreme Court of Ohio and the Ohio Department of Public Safety, Office of Criminal Justice Services.
THE CASE FOR EMPATHY
BY JUDGE NORMAN EDWARD LANE

JUDGE NORMAN EDWARD LANE IS THE JUDGE OF THE GENERAL DIVISION OF THE COURT OF COMMON PLEAS FOR
WASHINGTON COUNTY OHIO. HE EARNED HIS B.A. AND J.D. FROM THE CAPITAL UNIVERSITY. REFERENCES AND RESEARCH
WERE PROVIDED BY MRS. MEGAN BAUMGARTEL, B.A. OHIO UNIVERSITY, M.S., SOCIAL WORK, THE OHIO STATE UNIVERSITY

An absence of empathy is a recognized cause of antisocial behavior.¹ No office holder, in a democracy, whether a
judge, council member, commissioner, mayor or other elected official wants to be cast as antisocial. Persons with
antisocial disorder are characterized as being persistent liars, thieves, impulsive, reckless, as having superficial
charm, a sense of extreme entitlement, inadequate control of anger and temper and numerous other undesirable
attributes.²

One might assume that our electoral process keeps those with undesirable personality traits out of public office. I
know that if you have read this far, you may have already identified in your mind, by name, an office holder who
has some of these traits. After 23 years in public office too many names come into my head. Budget disputes can
bring out the worst in each of us.

Each generation of Americans face unique challenges. However, it is my belief, as an office holder, that as elected
officials we have a solemn duty to use our best efforts to make our democracy work efficiently and effectively
every day. As elected officials, we serve various and diverse constituents. Our goal must be to maintain the
confidence of every American in our system of government. Elected officials may be viewed as role models in their
communities. Local officials are often seen as those most responsive to individual and societal needs. To achieve
this we must have empathy. This can be difficult in budget negotiations. The greater the dispute—the greater the
need for empathy. Empathy is a concept with many different definitions that cover a broad spectrum. Empathy
involves understanding the emotional states of other people. Empathy is distinct from sympathy, pity, and
emotional contagion. An empathic response requires that one have the capacity to put him or herself in another
person’s place to such a degree that he/she is able to experience the meaning of that person’s feelings, wishes and
thoughts.³ One of the more interesting factors in empathy is that it seems grounded in the innate capacity to
associate with the bodily movements and facial expressions one sees in another. Research demonstrates that by
the age of two, children normally begin to display the fundamental behavior of empathy by having an emotional
response that corresponds with another person.

Empathic behavior signifies that:

- The person is interested in making himself or herself understood; and there is an equivalent motivation to
understand the language of the other person. In doing so, people interacting empathically engage in a
reciprocal process of synchronous giving and receiving through verbal and non-verbal communication.
This involves several different interpersonal roles: as equals who understand each other, as comrades
who share with each other, and simply as colleagues.⁴

³ Kaplan H.I. Sadock, B.D. (1988). Synopsis of Psychiatry Williams & Wilkins:
Guliford Press: New York; London at p. 29
To operate successfully in budget negotiation, we must have empathy, display it and we must garner it. This, like all of our other skills, must be honed over time. We have all been honored by our fellow citizens with election to office. They expect us to make their government work and work well. They rightfully demand excellence. Empathy creates a level of understanding that is necessary in successful negotiations.

FUNDING AUTHORITIES' PERSPECTIVE

- LOCAL GOVERNMENTS OFTEN HAVE A LIMITED ABILITY TO INCREASE REVENUES TO SATISFY DEMAND. In many instances the funding authorities have maximized their discretionary taxing authority and must go to voters to get additional authority to raise funds. Many expenses that are mandated are not particularly popular with voters and a plea to voters would not be successful. Some revenue sources are earmarked for specific costs and are not available for discretionary spending. Funding for courts is for the most part a general fund issue.

- ACCOUNTABILITY FOR EFFICIENT AND EFFECTIVE ALLOCATION OF RESOURCES IS A PRIMARY RESPONSIBILITY OF FUNDING AUTHORITIES. The legislative authority often has limited discretion or ability to manage the use of allocated resources. Efficient use of resources is the responsibility of each elected official and their department. Funding relationships for courts vary greatly under the dictates of the Ohio Revised Code and the Ohio Constitution. However, the need for accountability and effective allocation of resources is the same.

- FUNDING AUTHORITIES SHOULD BE SENSITIVE TO TREATING ALL AGENCIES AND ENTITIES THAT DEPEND ON THEM FOR FUNDS IN A FAIR AND EQUITABLE WAY. Salaries and pay increases should be consistent. Budget reductions present special challenges and should generally be negotiated with empathy. Some jurisdictions tend to be more organized at personnel and budget management. Some are more likely to consider selective and evidence based budget and personnel practices. Other jurisdictions tend to be less organized and more likely to apply a general across the board policy. Most counties also have the added dimension of individually elected managing officials.

- FUNDING AUTHORITIES SHOULD ESTABLISH A BUDGET PROCESS THAT BALANCES ACCOUNTABILITY AND FAIRNESS. The purpose is to lead the authorities through a credible exercise that results in an informed discretionary decision on allocation of funding.

OTHER RESOURCES

County Commissioners Association of Ohio's County Advisory Bulletin 2002-2005 Local Permissive Filing Fees for Courts.

COURTS' PERSPECTIVE

- **FAIR AND IMPARTIAL ADMINISTRATION OF JUSTICE IS THE PRIMARY DUTY OF THE COURTS.** This requires every Ohio judge to support the Constitutions of the United States and Ohio, to administer justice without favor or prejudice to persons, and to faithfully and impartially discharge and perform the duties incumbent upon that judge according to the best of his or her ability and understanding. These Constitutions repeatedly provide that certain rights of the people be preserved, equally protected, and redressed by due process of law.

- **OUR CONSTITUTIONS REQUIRE SEPARATE AND INDEPENDENT BRANCHES OF GOVERNMENT.** The three branches perform their duties separately and independently and serve to check and balance the authority of each. The legislative branch has the responsibility to collect revenue and appropriate funds in such a manner so as not to deprive the courts of their ability to administer justice. To do otherwise would render the courts powerless as against the other branches. It is a well-established principle that the administration of justice cannot be impeded by the other branches of government in the exercise of their respective powers. The proper administration of justice requires that the judiciary be free from interference in its operations by such other branches. Indeed, it is the duty of such other branches of government to facilitate the administration of justice.

- **COURTS POSSESS INHERENT AUTHORITY TO ORDER FUNDING THAT IS REASONABLE AND NECESSARY.** It is the responsibility of the funding authority to appropriate the requested funds, unless it can establish that the court abused its discretion by requesting unreasonable and unnecessary funding. A court's funding orders are presumed reasonable, and the funding authority bears the burden to rebut the presumption. The reasonableness of a court's request is determined only from a consideration of the request in relation to the factual needs of the court for the proper administration of its business. The Ohio Supreme Court has held that the public interest is served when courts cooperate with their funding authorities. However, such voluntary cooperation should not be mistaken for a surrender or diminution of the plenary power of the courts.

- **USER FEES SHOULD NOT BE THE PRIMARY SOURCE OF COURT FUNDING.** Courts serve an entire community by providing a forum for the fair and just resolution of disputes. Every person is entitled to the fair and impartial administration of justice. Access to justice cannot be dependent upon a person's ability to pay. Neither should the operations of a court be dependent on the amount of money it collects.

**OTHER RESOURCES**

Building Relationships with your Local Funding Authority, Court Administration Committee of the Ohio Judicial Conference
<table>
<thead>
<tr>
<th>STANDARD TERM</th>
<th>JUDICIAL PERSPECTIVE</th>
<th>FUNDING PERSPECTIVE</th>
<th>RECOMMENDATION</th>
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</thead>
<tbody>
<tr>
<td>Journal Entry by court</td>
<td>This is the way a judge speaks in an official capacity.</td>
<td>This is often perceived as a declaration of war. It communicates that the time for negotiation and discussion is over and the time for battle has arrived.</td>
<td>Judge should not first use a letter to communicate a budget request without first negotiating. Commissioners should not be quick to overreact.</td>
</tr>
<tr>
<td>Court Costs</td>
<td>Many costs established by Ohio law do not relate to the operating costs of the court. Court costs are often uncollectable due to the indigence of the parties or other factors. Adding additional costs limits accessibility, makes costs less collectable, and requires additional personnel for collection efforts.</td>
<td>Court costs are viewed as additional revenue that can be used as funds to support general county operations.</td>
<td>All concerned need to educate themselves on where existing court costs are going and the collection rate. Be aware that court costs are largely a hidden tax that fund state programs. A small portion of court costs go to local funding authorities. It is unrealistic to believe that court costs can sustain Ohio courts.</td>
</tr>
<tr>
<td>Local Permissive Filing Fees Special Projects Funds Clerk computerization Fund Court Legal Research Fund</td>
<td>A fund for specific court needs and special projects. These projects must be clearly defined and the resources are for limited purposes. These funds reduce the courts reliance on local funding.</td>
<td>The courts have a lot of flexibility as to how to spend these funds, with little oversight from the funding authority. The court has lots of money at their disposal for special projects.</td>
<td>There should be mutual discussion regarding the most effective and efficient use of these funds.</td>
</tr>
<tr>
<td>General Fund</td>
<td>The court should be funded from the general funds at a reasonable and appropriate level. Courts are a separate branch of government. Reasonable and necessary funding is determined by the judge.</td>
<td>General funds that must be stretched to fund all agencies equally, with no special status for the courts.</td>
<td>All concerned must be aware of the pressures and demands for general funds, and work cooperatively. Obtain dispute resolution services</td>
</tr>
</tbody>
</table>
BEST PRACTICES

The general principles and standards described in this Handbook do not require that each county or municipality in Ohio follow the same process. Indeed, the effect is to provide counties and cities with a great deal of flexibility and permit them to establish their own practices. Even within a single county or city, the practices may change from year to year. This flexibility is necessary but may lead to a relatively unstable and unpredictable situation, which is a major factor in creating misunderstanding and confusion about the budgeting process.

There are several things that judges and the local funding authority can do to improve the atmosphere within which the budget process takes place.

RELATIONSHIP BUILDING

BUILD AN ATMOSPHERE OF TRUST THAT IS FOUNDED ON MUTUAL UNDERSTANDING AND COOPERATION.

Perhaps the most important action that both judges and other elected officials can do to advance the budget process is building an atmosphere of trust. Increased understanding and cooperation between the courts and the local funding authorities is a major step toward building the trust necessary to have a successful budget process.

To that end, when elected officials take office they should make every attempt to get to know the other local elected officials. This should be an on-going process and one that is never too late to begin. Ask questions about the work of the other officials and find out how they see your work. The better you are understood and that you understand, the less opportunity there will be for confusion about your respective roles, and the less opportunity for conflict during times (like the budget) when your respective roles overlap or intersect.

Judges and their local funding authorities often interpret the budget process very differently and it is important to understand how foreign a “journal entry” may be to a county commissioner, mayor, or council member or how unfamiliar a “tax budget” may be to a judge. The chart below defines several standard terms associated with the budget process and indicates when the term may have unintended meaning.

One interesting example is the term “journalize,” which is perceived quite differently depending on whether you are a judge or a county commissioner. For judges, a journal entry has no emotional meaning. It is simply the way a judge is most comfortable communicating his or her views. Where someone else might write a letter, a judge will make a journal entry. But when a judge “journalizes” a budget, the county commissioner who receives the journal entry may interpret it as a declaration of war or as if an atomic bomb has been dropped on him/her. It communicates to the county commissioner that the time for negotiation and discussion is over and the time for battle has arrived. The emotional response of the county commissioner is similar to the “fight or flight” reaction that humans have to any threatening situation. The result may be that the commissioner with a “flight” reaction might give the judge whatever budget has been requested despite the consequences unintended by the judge. In contrast, the commissioner with the “fight” instinct may respond aggressively and the situation might easily escalate into conflict.

Thus, a judge who wants to initiate a conversation about the budget should not begin the process with a journal entry unless all parties clearly understand that it is the beginning of rather than the end of the process. A simple a letter or phone call may be more advisable.
Carryover funds are another matter that can cause resentment and mistrust if judges and funding authorities fail to understand each other’s perspective. At the municipal court level surplus court costs at year-end deserve special attention. Court costs are for the operation of the court and the revenues are cyclical. Of necessity the discussion should begin with a shared or agreed upon definition of carryover funds and an understanding of how they are a problem. There are two types of carryovers. One is unexpended balances or year-end carryovers of the courts. These are unexpected carryovers. The other is the fund balance held by the funding authority at the end of the year in the entire General Fund to ensure the continued operation of county government or to allow courts to be prepared for unexpected and complex litigation.

Each carryover should be discussed separately and the discussion should focus on the reason or reasons why a specific carryover is needed. The budget process needs to be transparent to maintain public confidence. Courts should not feel compelled to spend money merely because they are afraid that their budget next year will be cut. Similarly, the local funding authority should find a way to avoid penalizing courts that have money left over at the end of a fiscal year, and still provide them with access to the money the following year should they not be able to generate the same level of savings again. Resolution of this issue in advance would build trust between courts and the local funding authority. Courts and funding authorities should work together to keep discussions about carryover funds open and honest, as well as to develop some methodology to use when calculating carryover funds.

This point is intended to illustrate that elected officials should take steps initially and often to get to know each other and develop an understanding of your shared role with regard to the budget. Try to recognize when you have different perspectives and identify ways to discuss these matters in ways that are emotionally neutral. Both sides need to ensure that the other side has all the relevant information.

**MEET REGULARLY AND SHARE INFORMATION**

**JUDGES AND LOCAL FUNDING AUTHORITIES SHOULD MEET REGULARLY TO ENSURE GOOD RELATIONSHIPS, AND ALSO TO MAKE SURE EACH IS SHARING INFORMATION THAT WILL BE IMPORTANT TO THE BUDGETING PROCESS.**

Remember that relationships take work and that you cannot build a strong working relationship unless you are in regular communication. Elected officials should meet routinely with each other. This gives you a predictable time and place to mention things that are on your mind. It will enhance communication if you have a routine opportunity to find out what’s going on in terms of revenue forecasting or to inform each other about long term programs for which the county or city should begin to plan. The more opportunities there are for regular and informal sharing, the less likelihood that there will be surprise budget requests or other budget “bombshells.” Some local funding authorities currently hold regular, monthly meetings that involve all county or city elected officials. If regular meetings are not possible in your county or city, then perhaps someone could organize a monthly newsletter or email where each elected official contributes his/her perspective in a news article.
Judges and their court administrators should meet regularly with local funding authorities. Judges should be among the first to share information about problems that a court is having, new regulations or procedural safeguards that a court must implement and the cost of implementing these changes. Similarly, all other relevant information that will promote understanding between courts and local funding authorities should be shared.

The local funding authority should meet regularly with the judge that is in charge of the court’s budget. This is typically the administrative judge, which is a special designation for an experienced judge who handles various reporting and other administrative matters of the court. For small counties there may only be one judge in each division. In those instances, that judge is by definition the administrative judge.

PROFESSIONAL BUDGET STAFF

BOTH PARTIES SHOULD HIRE PROFESSIONAL BUDGET STAFF.

Another best practice in the budget process is to ensure that the court and the funding authority each have staff with the appropriate level of training and experience in the budgeting process. If you have a professional staff, then the elected officials will be able to communicate through the professional staff that is more likely to speak the same language. Similarly, communications between the elected officials should be more positive and productive. Seek out job descriptions and other resources that will help you to hire and train the right budget professionals.

Judges recognize that courts need personnel that are very experienced, highly trained, and able to assume high levels of responsibility. Due to their experience, knowledge, training, and level of responsibility, these personnel may demand higher wages than other employees. The local courts need to be able to explain why the court needs these employees and to provide justification for the additional expenses in the personnel budget compared to other agencies. The court needs to be aware and sensitive to the pressures that local funding authorities are under from other agencies that also believe they need specialized personnel. For example, the Sheriff’s Department will explain their need for personnel with security training and compensation for the dangers associated with police work. Some agencies will have need for higher salaries for employees with technical/computer training. Social service agencies will have high turnover related to stress and they too will be pressuring the funding authority for more money for personnel.

Ideally, judges should hire a court administrator with the appropriate education and experience to help with budgeting responsibilities for the court. If that is not possible, the judge should assign budget responsibilities to someone on their staff who can be trained in budgeting.

County Commissioners should hire a professional county administrator or assign budget responsibilities to a well-trained and experienced clerk or finance manager. In smaller counties this may mean that several counties share the administrator. Similarly, the cities should have a finance director or other competent staff to work with departments on funding.

Professional budget staff should possess technical competence in budgeting along with excellent interpersonal and negotiation skills.
THE DUTIES OF THE PARTICIPANTS

BOTH PARTIES SHOULD UNDERSTAND THEIR DUTIES AND THE DUTIES OF THE OTHER.

The budget year goes from January 1 through December 31st of each year. There are several major steps in this process. Some are defined by the Ohio Revised Code (ORC 5705.28, through 5705.39). Some are designed by the budget personnel. Others have evolved over time out of the practice of budgeting and negotiating between the local funding authority and the courts.

DUTIES OF LOCAL FUNDING AUTHORITIES

County and municipal budgets are formulated annually and involve preparing and adopting a budget. Chapter 5705 of the Ohio Revised Code provides the legal requirements and a time line for completion of the local budget process. These provisions must be followed by all local funding authorities, including county commissioners, chief executive officers, boards, and fiscal officers.

Additional requirements are imposed on funding authorities if the local government is in fiscal emergency declared by the Auditor of the State of Ohio. Chapter 118 of the Ohio Revised Code governs governments in fiscal emergency. See An Introduction to Fiscal Emergency. Although no case law has been found which supports the application of Chapter 118 to the courts, the court whose funding authority is in fiscal emergency should be mindful of the requirements and challenges facing the funding authority.

DUTIES OF COURTS

The Supreme Court of Ohio has held that the courts are not bound by the statutory provisions governing the budget process, but strongly encourages local courts to cooperate with the process. State ex rel. Johnston v. Toulbee, 66 Ohio St. 2d 417 (1981)

Ohio Revised Code §§ 307.01, 2101.11 and 2151.10 purport to regulate the conduct of common pleas courts in the budget process, but in fact, the Courts are not bound to comply therewith.

- “Common pleas courts shall annually submit a written request for an appropriation to the board of county commissioners that shall set forth estimated administrative expenses of the court that the court considers reasonably necessary for its operation.” The Board of county commissioners “shall conduct a public hearing with respect to the written request submitted by the court.” This provision has been held unconstitutional.

- The Board of County Commissioners “shall appropriate the amount of money each year that it determines, after conducting the public hearing and considering the written request of the court, is reasonably necessary to meet all administrative expenses of the court.” The Supreme Court has repeatedly held that all reasonable and necessary requests to fund local courts must be met by the local funding authority. The burden is on the funding authority to establish that the court abused its discretion in submitting a budget which is unreasonable and unnecessary. Government hardship is insufficient by itself to establish an abuse of discretion in determining the required amount of court funding. It is not a defense, it is a factor.
“If the court considers the appropriation made by the board ... insufficient to meet all the administrative expenses of the court, it shall commence an action under Chapter 2731.” The Supreme Court of Ohio has held that the filing of a mandamus action may be initiated in the court of appeals or Supreme Court of Ohio and that the courts are not bound by Chapter 2731 regarding venue of a mandamus action. State ex rel Wilke, Judge v. Hamilton County Board of Commissioners, 90 Ohio St.3d 55 (2000), 2000-Ohio-13.

**RULES OF COURT AND THE BUDGET PROCESS**

Currently none of the rules of court which govern Ohio courts apply to the budget process but to the extent that applicable rules may be adopted in the future, an understanding of the rules of court is important.

The Ohio Constitution authorizes the Supreme Court of Ohio and local courts to establish rules governing many areas. Currently there are rules of superintendence, rules of practice and procedure, local rules, and other rules governing the admission to the practice of law and governing the professional conduct of lawyers and judges.

**RULES OF SUPERINTENDENCE**

Pursuant to Article IV, Section 5(A) of the Ohio Constitution, the Supreme Court has general powers of superintendence over the courts of Ohio. In exercising this responsibility, the Supreme Court of Ohio promulgates rules of superintendence for the courts of Ohio. The Supreme Court has not yet promulgated rules concerning the budget process.

**RULES OF PRACTICE AND PROCEDURE**

Pursuant to Article IV, Section 5(B) of the Ohio Constitution and ORC §2937.46, the Supreme Court prescribes rules governing the practices and procedures in the courts of Ohio, including civil procedures, criminal procedures, appellate procedures, juvenile procedures, rules of evidence, and rules governing traffic. New rules or changes to existing rules are filed with the Ohio General Assembly each year by January 15 and go into effect on July 1 of the same year, unless the Ohio General Assembly adopts a concurrent resolution of disapproval. Once a rule takes effect, it prevails over any existing statute.

**LOCAL RULES**

Pursuant to Article IV, Section 5(B) the local courts may adopt additional rules concerning local practices and procedures as long as these local rules are not inconsistent with the rules promulgated by the Supreme Court of Ohio.
CONFLICT RESOLUTION

Funding disputes can have serious political consequences for both judges and local funding authorities, especially if the funding dispute becomes the subject of litigation or becomes the object of public attention. Be cognizant of the reality that even if you have the facts and the law on your side you can still lose in the court of public opinion. Voters in Ohio have numerous times removed from office one or both sides to a public dispute over funding, and have even done so without regard to the law or the facts of the particular dispute.

Underlying this chapter is the message that everyone involved with funding needs to have rapport with each other. Understanding and mutual respect should be established long before funding becomes an issue. Frequent informal as well as formal meetings are recommended. These opportunities help to build understanding, promote collaboration and partnership, and can help you design solutions that will help your local community move forward together despite economic challenges.

DISPUTE RESOLUTION SERVICES FOR PUBLIC OFFICIALS

As a local public official, you work in an environment where conflict is inevitable. Handled well, conflict can be a powerful vehicle to clarify communications, to build stronger working relationships and to reach consensus. The Supreme Court's Commission on Dispute Resolution has the task of advising the Supreme Court on the development and delivery of dispute resolution services for disputes arising among state, county, and local public officials throughout Ohio. Public officials have found that the use of an impartial third party often helps to successfully overcome differences, to reach agreements and to prevent disputes from escalating into an impasse. Examples of disputes regularly encountered by local public officials include disputes about budgets, personnel issues, and/or other organizational matters.

When either party contacts the Dispute Resolution Section of the Supreme Court of Ohio, the Manager will help identify the appropriate dispute resolution mechanism, such as but not limited to, mediation and assist the parties throughout the process to reach a resolution.

RESOURCES
Ohio Supreme Court
Jacqueline C. Hagerott
Manager, Dispute Resolution Programs
Dispute Resolution Section, 6th Floor
65 S. Front Street
Columbus, Ohio 43215-3431
614.387.9422
E-mail: Jacqueline.Hagerott@sc.ohio.gov
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<tr>
<th>Practice</th>
<th>Role of Judge</th>
<th>Role of Funding Authority</th>
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<tr>
<td>Hire Budget Administrators</td>
<td>Ideally judges should hire a court administrator with the appropriate education and experience to help with budgeting responsibilities for the court. If this is not possible, the judge should assign budget responsibilities to someone on their staff who can be trained in budgeting.</td>
<td>Even if it means that several counties share the administrator, each county should have a court administrator, clerk, or a finance director who is responsible for budgeting.</td>
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<td>Meet Regularly</td>
<td>Judges should meet regularly with their funding authorities. Judges and/or their court administrator should attend all events jointly. They should encourage the funding authority to plan such an event if the funding authority is not scheduling something regular, and judges should be among the first to share information about the court (problems that the court is having, new regulations or procedural safeguards that the court must implement and that may cost money).</td>
<td>The funding authority should meet regularly with the administrative judge. Funding authorities should develop a process that will work in their county to facilitate communication between the county commissioners and all the entities that are funded by the cc. Some counties hold a monthly meeting of elected officials, some distribute a monthly letter/memo/ or newsletter, some hold a monthly luncheon of elected officials.</td>
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<td>Tax Budget</td>
<td>Judges should read the tax budget and be aware of the amount of tax revenue that will be available. Consider whether the revenue is more or less than previous years. Think about what impact this increase or decrease may have on funding for the court.</td>
<td>The funding authority should provide revenue forecasts and finalize the Tax Budget. This information/report should be distributed to all agencies funded by the county. This information should be accurate and an honest reflection of county revenue. The agencies should never fear that the county is secretly hiding or holding back money.</td>
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<td>Initiate Budget Planning</td>
<td>Administrative Judges should share this information with the other judges and consult with the other judges about what is going on in the court that may require new resources.</td>
<td>Funding authorities should initiate the budget process with all county or municipal agencies at around the same time every year. This should come in the form of a letter to all entities. The letter should include an honest description of the revenue situation.</td>
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| Practice: Prepare and Review the Budget. | Role of Judge: Court should take time to prepare a budget and a narrative that explains each line item; the narrative should explain why the budget amounts are necessary and reasonable, and particularly explain in detail any requested increase or decrease. This would include personnel expenses when an employee changes their health insurance coverage.

The court should indicate that they are sensitive to any revenue constraints that the funding authorities have mentioned, and show how the courts are trying to cooperate.

Line items should be dealt with in a priority way. For example, courts should list as a top priority any increases that are required by statute, or because of some arrangement (maintenance agreements). Then the court should list the discretionary increases, again in the form of higher priorities listed first and followed by lower priority items.

The court may list long term projects and ask the funding authority to consider a down payment on these projects.

Courts should pay particular attention to any unspent monies from the prior year and explain to the funding authority any why this money was unspent and any reasons why the courts may not be able to generate the same level of savings again. Explain why it would be unfair or counterproductive to penalize the courts for saving money in a given fiscal year. | Role of Funding Authority: Funding authorities should read the courts budget and narrative. They should give the court some feedback that will reassure the court that the funding authorities have read the narrative and appreciate the effort that went into creating the budget document.

Funding authorities should find a way to reward carryovers and to protect the next budget from being automatically cut by the amount of the carryover. Also, the funding authority should be explicit as to its willingness to provide courts with full funding should they not be able to generate the same level of savings again. |
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<td>Present a written budget.</td>
<td>Judges should find out who is responsible for presenting the court’s budget to the funding authority. The judge needs to see that the auditor, county administrator, mayor, or council member has the appropriate budget information.</td>
<td>Funding authorities should decide who in the county or city is responsible for presenting the budget to the funding authority (commissioners or city council members). Some funding authorities have the auditor present, others have a county administrator, clerk or finance director present, and still others have the agencies do it themselves.</td>
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<td>Hold/Attend budget hearings.</td>
<td>Judges need to attend the budget hearing along with their court administrator or finance director. The judge needs to be prepared to explain why any increase is needed, and any steps the judge has taken to keep the budget in line with available revenue. Judges should be prepared to answer questions about wasteful or underutilized areas like jury costs, use of special project funds, use of indigent drivers alcohol treatment funds, and any other funds created by statute or generated by the courts. A good outcome at a hearing would be for courts to show the funding authority that the courts are making efforts to conserve on expenditures.</td>
<td>The funding authority should schedule and hold budget hearings.</td>
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<td>Announcement of the appropriation budget.</td>
<td>Courts should find out when and how the appropriation budget will be announced by the funding authority.</td>
<td>The funding authority should announce the appropriation budget.</td>
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<td>Prepare a response to the appropriation budget.</td>
<td>The courts should respond to any appropriation budget immediately, explaining the courts needs. You may need to go through your budget again and see if there is a way to lower the amount of your request to show you are trying to cooperate. But ultimately as judge you have the responsibility to operate your court. You must request what you believe is realistic to keep your court open and operating effectively.</td>
<td>Understand that the court has a constitutional responsibility and see if there is any way you can meet the funding demands of the court. Communicate with the court about whether you can accomplish some of the things needed over a longer period of time, or whether you can break some projects into phases and deal with an initial phase during this budget, with a promise to deal with phase two if there are additional tax revenues. Be creative.</td>
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<td>Discuss Conflicts.</td>
<td>Judges should express their concerns openly and meet face-to-face with the funding authorities. Judges should make sure that the funding authorities are aware that judges have very strict, ethical guidelines (the Code of Judicial Conduct) regarding judicial involvement in the policy process or in setting fiscal priorities.</td>
<td>Funding authorities need to be sensitive to the fact that judges have to follow an ethical code of conduct. The funding authorities should not ask a judge to make policy recommendations. Discussion of any such matters should be open and candid, but so should discussions of what the ethical implications are for the judge and where the line is between what can and cannot be discussed.</td>
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<td>Mediate conflict.</td>
<td>Contact the Supreme Court of Ohio's Dispute Resolution Section to obtain dispute resolution services</td>
<td>Same.</td>
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<td>Adopt appropriation Legislation</td>
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<td>The funding authority should adopt appropriation legislation that authorizes expenditures by line item.</td>
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<td>Respond to appropriation legislation.</td>
<td>Judges should discuss with their funding authority how they would like to receive the response to the appropriation legislation. Most funding authorities would prefer a letter indicating that the court and commissioners/mayors/city council members have talked and negotiated and reached agreement to XX budget amount. Some funding authorities would prefer that the final agreement be stated as a journal entry.</td>
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<td>Journalize</td>
<td>If disagreement remains, then court should journalize an amount that they believe is necessary and reasonable to operate the court.</td>
<td>The funding authority must decide whether to fund the court or to go to court.</td>
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<td>Submit and evaluate expenditures.</td>
<td>Submit expenditure documents and evaluate for following year</td>
<td>Pay expenditures and evaluate for following year.</td>
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