BEFORE THE JUDICIAL FINANCE COMMISSION
STATE OF MISSOURI

IN RE: Circuit Court Budget of the 18th Judicial Circuit of the State of Missouri	)	
COOPER COUNTY MISSOURI, a body corporate and politic, by and through its governing body, the **COUNTY COMMISSION OF COOPER COUNTY, MISSOURI,**	)	
Petitioner,	)	
vs.	)	**NOS. 03-0064** **04-0066**
EIGHTEENTH JUDICIAL CIRCUIT, Hon. Donald Barnes, Presiding Judge,	)	
Respondent.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

This matter comes before the Judicial Finance Commission upon a Petition for Review filed on February 24, 2004, by Cooper County, petitioner herein, against the Circuit Court for the Eighteenth Judicial Circuit, respondent herein, and upon remand by the Supreme Court pursuant to its decision on January 13, 2004 in *Cooper County v. Circuit Court of the Eighteenth Judicial Circuit*, 124 S.W. 3d 466 (Mo. Banc. 2004), hereinafter *Cooper County I*. On March 2, 2004, the Commission ordered the consolidation for hearing of the petition for review filed on February 24, 2004 and the remanded case.

On remand, this Commission is ordered to consider the factual reasonableness of attorney's fees for respondent in *Cooper County I* as well as the factual reasonableness of the inclusion of the deputy juvenile officer's salary in the county's 2003 budget. On February 20, 2004, following the remand of *Cooper County I* to this Commission, petitioner filed a Motion for

Leave to File Amended Petition for Review as well as a proposed Amended Petition for Review, in which petitioner seeks to allege various issues not raised before either this Commission or the Supreme Court in *Cooper County I*. Therefore this Commission must now dispense with petitioner's motion, in addition to its other findings regarding *Cooper County I*.

In its petition filed February 24, 2004, petitioner seeks a determination as to whether it is required to fund the salary of a deputy juvenile officer in the amount of $17,834.00 for the last half of the 2004 budget year. Petitioner also seeks a determination as to whether it is required to pay attorney's fees in the amount of $5,000.00 for respondent's representation before this Commission in 2004. Petitioner also alleges that respondent's order mandating the payment of the deputy juvenile officer's salary for the second half of 2004 violates Article X, Section 21 of the Missouri Constitution by imposing a new activity or service on the petitioner.

Based on its Answer, filed March 5, 2004, respondent admits that the amount of $17,834.00 for the second half of the deputy juvenile officer's salary and the amount of $5000.00 for attorney's fees are in fact the amounts in dispute in both the 2003 and 2004 cases. However, respondent disputes petitioner's filing of a Motion for Leave to File Amended Petition for Review and disputes petitioner's allegation that respondent's orders violate Article X, Section 21 of the Missouri Constitution.

Pursuant to subdivision (2) of subsection 5 of section 477.600, RSMo 2000, this Commission is required to issue a written opinion to address the reasonableness of the circuit court budget request.

The Commission concludes that it has jurisdiction to hear and decide this matter. As to *Cooper County I*, this Commission has been granted jurisdiction of the remanded case by the Supreme Court. *Cooper County I*, 124 S.W. 3d 466 (Mo. Banc. 2004). As to the 2004 case, the

petitioner, as the governing body of Cooper County, deemed the budget estimate of the respondent to be unreasonable, and properly filed a petition for review with the Commission pursuant to section 50.640, RSMo 2000, and the Commission now so rules.

First, as to petitioner's Motion for Leave to File Amended Petition for Review, such motion is denied. Supreme Court Operating Rule 12-7.09 governs the ability of parties to submit amended pleadings to this Commission, and reads in pertinent part: "Amendments to pleadings… may be offered at any time prior to the submission to the Commission for decision. The Commission shall decide *in its discretion* whether to allow the offered amendment." (*Emphasis added.*) Since the decision to allow the amendment is within our discretion, we hold that issues raised neither at the time of the filing of the initial 2003 pleadings nor throughout the entire history of *Cooper County I* are not timely and should have been raised in petitioner's motions before this Commission last year. Since they were not raised then, they are not made timely now simply by virtue of the remand to this Commission. Petitioner is free to submit evidence of *facts* that it might find relevant to this Commission's determination of reasonableness in *Cooper County I* (in other words, facts it has already alleged in its earlier petition), but petitioner may not inject new arguments at this late stage.

Second, as to the payment of the deputy juvenile officer's salary for the second half of 2003, we hold that this issue is now moot since the factual issue that brought that matter before us is no longer in dispute. The general rule for mootness as stated by the Supreme Court of Missouri is that "a cause of action is moot when the question presented for decision seeks a judgment upon some matter which, if the judgment was rendered, would not have any practical effect upon any then-existing controversy." *State ex rel. Reed v. Reardon*, 41 S.W. 3d 470 at 473 (Mo. Banc 2001). In *Cooper County I*, then, the grant under which the deputy juvenile officer

was paid for the first half of 2003 was renewed for the second half of 2003, thus the county was not required to pay for the second half of the 2003 salary. Consequently, any order that respondent may have sought to impose for the payment of the second half of such salary is irrelevant since such salary was in fact paid out of grant funds, and no controversy exists as to the payment of the 2003 salary.

Third, as to the issue of whether respondent's order in the 2004 case violates Article X, Section 21 of the Missouri Constitution, to the extent that this Commission has authority to rule on such matters, we hold that it does not violate this section.

However, it should be noted that our ability to rule on such matters is in itself an open question since the issue involved is constitutional and not factual in nature. In the case of *St. Charles County v. Eleventh Judicial Circuit*, this Commission declined to rule on an Article X, Section 21 claim, stating that our statutory adjudicative power in section 50.640, RSMo, was factual in nature, much like an executive agency's adjudicative power. *St. Charles County v. Eleventh Judicial Circuit*, Case No. 01-0060. We therefore followed the logic set forth by the Supreme Court in *State Tax Commission v. Administrative Hearing Commission*, wherein the Court stated that "agency adjudicative power extends only to the ascertainment of facts and the application of existing law thereto in order to resolve issues within the given area of agency expertise." *State Tax Commission v. Administrative Hearing Commission*, 641 S.W. 2d 69 at 75 (Mo. Banc 1982). However, in an even earlier case, *1984 Budget for Circuit Court of St. Louis County*, we did rule on an Article X, Section 21 issue – and our decision in that case was in fact reviewed by the Supreme Court, which held that attorney's fees for the defense of the circuit court did not violate Article X, Section 21 in that instance. *1984 Budget for Circuit Court of St.*

Louis County, Case No.84-0004; *1984 Budget for Circuit Court of St. Louis County*, 687 S.W. 2d 896 at 900 (Mo. Banc. 1985).

Although conflicting history exists as to our ability to rule on such matters, the petitioner properly raised the issue in its 2004 petition, and therefore we will address it until such time as we are provided guidance affirmatively stating that we should not undertake such a review. Article X, Section 21 reads as follows:

> "Section 21. The state is hereby prohibited from reducing the state financed proportion of the costs of any existing activity or service required of counties and other political subdivisions. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs."

In the first instance, as respondent asserts, both petitioner and respondent co-signed the application for the grant that funds the deputy juvenile officer's position, therefore it is difficult for petitioner now to assert that assuming costs that may flow from such grant are services *required* of the county in violation of Article X, Section 21, when in fact petitioner played some part in establishing the requirement on itself. In *1984 Budget*, the Court set forth a test as to what lawful expenditures of the circuit court a county could be required to pay pursuant to section 476.270, RSMo, the general statute that authorizes county expenditures on behalf of circuit courts. In that test, the Court included "those [costs] the local government unit… may have authorized previously, with or without request" as well as "those reasonably necessary for the court to carry out its functions." *1984 Budget*, 687 S.W. 2d at 899. Since the county can be deemed to have authorized previously the costs in question in this case (even though now it may dispute rightfully the reasonableness of those costs, and may no longer be said to agree with or authorize such costs), an Article X, Section 21 challenge does not lie. Furthermore, and perhaps more persuasively, the Court in *1984 Budget* held that the circuit court's legal expenses were not

"an increase in the level of any activity or service" in violation of Article X, Section 21, and also indicated that "ongoing operations of the circuit court" did not violate Article X, Section 21. *1984 Budget*, 687 S.W. 2d at 900. Therefore, we would maintain that the juvenile officer's salary for the second half of 2004, while still subject to a challenge before this Commission as to its statutory and factual reasonableness, is an ongoing activity and not a new activity within the meaning of Article X, Section 21.

Fourth, as to the reasonableness of respondent's attorney's fees for procedures before this Commission in both 2003 and 2004, we find the amounts of $5,000.00 for each year to be reasonable. In both *Cooper County I* and *1984 Budget for Circuit Court of St. Louis County*, the Supreme Court has ruled directly on point that, as a matter of law, "the expenditure for fees incurred in defense of these [court budget] activities may be reasonable." *Cooper County I*, 124 S.W. 3d at 469; *1984 Budget*, 687 S.W. 2d at 900. Clearer guidance could not be given. Since attorney's fees are permissible expenses as a matter of law, it is only left for this Commission to determine if the fees charged in the consolidated cases are factually reasonable. Respondent's attorney has offered sufficient evidence to prove that he has performed work commensurate with the amounts sought as attorney's fees, and moreover petitioner offers no evidence to contradict that of respondent on this issue. Therefore, we find for the respondent in the amount specified above.

Having dispensed with all other matters, we are left now to the main portion of our deliberation: the intertwined issues of reasonableness and maintenance of effort in the 2004 case. In reviewing these matters, we must of course take direction from the guidance provided by the Supreme Court on its remand of this case to this Commission. In *Cooper County I*, the Court stated irrefutably that subsection 6 of section 211.393, RSMo, (a.k.a. the "maintenance of effort

law") allows for the "continuation of services funded by public grants or subsidy", and further stated that "the legislature intended that 'services' (which may be continued at county expense) include personal services", such as those rendered by the deputy juvenile officer in this case. *Cooper County I*, 124 S.W. 3d at 468. This portion of the Court's decision does appear to reverse this Commission's prior holdings, beginning with *Stone County*, wherein we have consistently held that counties in multi-county circuits were *per se* exempt from funding any personal services growth, regardless of the source of that personal services funding. *Stone County Commission v. Thirty-Ninth Judicial Circuit*, Case No. 99-0054. Therefore, in light of the recent decision in *Cooper County I*, petitioner must include the funding of the second half of the salary into the list of items it may be required to fund as a part of its mandatory maintenance of effort calculations.

However, merely being compelled to consider personal services funded from a grant as a part of its maintenance of effort calculation does not lead automatically to a decision in favor of respondent. Our general review of factual reasonableness under section 50.640, RSMo, must be guided by the specific calculation of maintenance of effort under section 211.393, RSMo. Therefore, a new calculation of the petitioner's maintenance of effort must be made, accounting for the factors mandated for our consideration by the Supreme Court. Both parties have submitted for our review their assessment of what Cooper County's maintenance of effort amount entails. Based on our review of the maintenance of effort statute and of the evidence submitted by both parties, we conclude that petitioner's recommendations maintenance of effort are correct. In the instant case of Cooper County's 2004 budget, then, the county's maintenance of effort required minimum funding can be calculated to be $24,987.29, but the juvenile budget as approved by the county is $37,330.26. In other words, the county already has volunteered to

exceed its maintenance of effort requirement by $12,342.97, even before the inclusion of the deputy juvenile officer's salary for the second half of 2004. Since petitioner has in fact exceeded its maintenance of effort amount, it is not reasonable to compel petitioner to exceed this amount since section 211.393, RSMo, specifically relieves counties of growth in the juvenile budget beyond the specified maintenance of effort amount. Therefore, as to any amount included in its budget that exceeds its maintenance of effort amount, the county has the discretion as to whether or not the particular item shall be funded. In essence, maintenance of effort acts as a mandatory minimum level for funding that the county can choose to exceed but not be ordered to exceed. To require the county to exceed this amount by an additional $17,834 in order to pay for the second half of the deputy juvenile officer's salary in this case, as the petitioner seeks in this case, would be unreasonable under 50.640, RSMo, in light of the fact that the county has already gone beyond its statutory requirements as set forth in section 211.393, RSMo.

Furthermore, to allow respondent to order petitioner to pay this salary would render the maintenance of effort law totally meaningless. If section 211.393, RSMo, was construed such that counties could be forced to pay more than their maintenance of effort amount, there would in fact be no point to having the statute at all. The reasonableness test from section 50.640, RSMo, would supersede section 211.393, RSMo, and counties could be made to pay amounts that exceeded their maintenance of effort calculation, as would be the case here, provided that the amounts were deemed reasonable. The Supreme Court of Missouri has held that "the primary rule of statutory construction is to ascertain intent of the legislature from the language used, to give effect to that intent if possible, and to consider the words used in their plain and ordinary meaning." *Wolff Shoe Co. v. Director of Revenue*, 762 S.W. 2d 29 at 31 (Mo. Banc. 1988). These rules of statutory construction presume that the legislature intended to pass a law

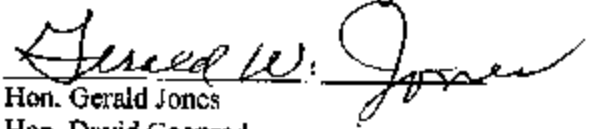
that would have meaning, and disfavor any construction that presumes the legislature passed a law with no meaning. We choose to believe that section 211.393, RSMo, was passed with the intent that it have meaning, and that the meaning of that section was to mandate the maintenance of a specific amount for juvenile services, and no more that that specific amount. To force counties to go beyond the amounts calculated pursuant to section 211.393, RSMo, would effectively strip maintenance of effort of all purpose and make reasonableness under 50.640, RSMo, the only meaningful test for county juvenile expenditures.

However, even if one held that the reasonableness test of 50.640, RSMo, did supersede the maintenance of effort test of 211.393, RSMo, as respondent would claim, we would still hold that respondent's order is factually unreasonable in light of the totality of petitioner's county budget. Subsection 2 of section 50.640, RSMo, states that, when considering reasonableness, this Commission shall consider "the expenditures necessary to support the circuit court in relation to the expenditures necessary for the administration of all other county functions, the actual or estimated operating deficit or surplus from prior years, all interest and debt redemption charges, all capital projects expenditures, and the total estimated available revenues from all sources available for financing the proposed expenditures." Petitioner testified to the rapid depletion of its reserve funds, which it claims – and we agree – make it unreasonable for it to assume additional costs for positions that it did not contemplate funding out of its own pocket. Petitioner also stated that the budget documents reveal that other county departments have not been adding staff. We agree. In light of this fact, it is unreasonable to mandate petitioner to add personnel expenditures in one area of the budget while other areas are not allowed to add personnel. While petitioner did not dispute that the deputy juvenile officer in question provided services that were of value to the county, petitioner made it known that there were other services

which might also be of value that cannot be funded in light of the current fiscal crisis in which petitioner finds itself. Viewed in the totality of petitioner's budget, then, it is unreasonable for petitioner to be required to fund the second half of the deputy juvenile officer's salary.

In conclusion, we order the payment of $5000.00 in attorney's fees to the respondent for the 2003 case and $5000.00 in attorney's fees to the respondent for the 2004 case. We order the release of the remaining escrow from the 2003 case due to the fact that the salary in question in that case has been paid by grant funds. We further order a decrease in the county budget in the amount of $17,834.00 since we deem it unreasonable for petitioner to pay for the deputy juvenile officer's salary for the second half of 2004.

DATED this 26th day of May, 2004.



Hon. Gerald Jones
Hon. David Coonrod, concurring
Hon. Eva Danner, concurring
Hon. Edith Louise Messina, concurring

MINORITY REPORT

We concur wholly with the majority on its first four points. First, petitioner's Motion for Leave to File Amended Pleading is not timely and should be denied. Second, the attorney's fees for the circuit court in the amount of $5000.00 in 2003 and $5000.00 in 2004 are reasonable. Third, the issue of funding the deputy juvenile officer's salary for the second half of 2003 is now moot due to the fact that the grant was in fact renewed and therefore petitioner would not have been required to pay the salary, even in the event that this Commission had so ordered in our opinion of last year. Fourth, Article X, Section 21 of the Missouri Constitution does not apply in

this case. However, we respectfully dissent from the majority as to the reasonableness of funding the second half of the deputy juvenile officer's salary for 2004.

While petitioner's suggestions as to the calculation of maintenance of effort are correct, it is not the amount of maintenance of effort, but rather the proper meaning of maintenance of effort, that compels us to disagree with the majority. The majority maintains that to find in favor of respondent is to render the maintenance of effort statute meaningless, citing the rule of statutory construction wherein it is presumed that the legislature intends its laws to have meaning. *Wolff Shoe*, 762 S.W. 2d at 31 (Mo. Banc 1988). We do not dispute that the maintenance of effort statute has meaning. Rather we disagree with the majority's interpretation of the statute. The same rules of statutory construction cited by the majority also mandate that conflicting statutes be read together so as to render meaning to both. As the Supreme Court noted in *Cooper County I*, statutes must be read *in pari materia* with other relevant statutes in order to construe their true meaning. *Cooper County I*, 124 S.W. 3d at 468 (Mo. Banc. 2004); ***see also*** *City of Washington v. Warren County*, 899 S.W.2d 863, 865 (Mo. Banc 1995).

Since we must consider all relevant statues *in pari materia*, let us turn then to consideration of the statutes here. Subsection 6 of section 211.393, RSMo, states that "each county… shall maintain each year in the local juvenile court budget an amount, defined as 'maintenance of effort funding'" and therein describes its calculation, while in that same subsection it is provided that "the county commission may review such budget and may appeal the proposed budget to the judicial finance commission pursuant to section 50.640, RSMo." Thus, when the maintenance of effort statute was passed by the legislature, certain counties were asked to calculate the savings that they were accruing due to the transfer of certain juvenile court personnel from the county's budget to the state budget. This calculation could then assist the

budget authorities in the composition of the juvenile court budget. The legislature was rightly concerned that, in the absence of such a calculation, a county might simply redirect the savings it was accruing from this transfer of personnel to purposes other than juvenile court operations. However, if such a calculation was statutorily mandated, the legislature reasonably believed the county might instead maintain its same level of commitment to the funding of juvenile court operations. In other words, the county might "maintain its efforts" to fund juvenile court operations. Nowhere in the statute is this calculation expressed as a limitation on the juvenile court's budget that may be exceeded only at the county's option. The statute was designed to *encourage* funding of juvenile court operations given the savings that a county might experience from the transfer of certain employees to the state budget, and even to *mandate* the funding of such operations up to the level specified in the statute. The majority turns the statute on its head and construes it as a limitation on the right of a juvenile court to have its operations reasonably funded. Of course, if the legislature intended that such calculation operate as a ceiling on juvenile court budgets, it would have been easy to draft such language. But nowhere in the statute is such language to be found. Furthermore, this Commission has itself ruled, in *Stone County,* that "'maintenance of effort funding' required by section 211.393.6, RSMo, is a *minimum* level of funding required of each affected county," so for this Commission to interpret the statute in exactly the opposite manner, absent some other instruction by the Supreme Court, would not only run counter to the legislature's intent, but also to this Commission's prior interpretation of that intent. *Stone County v. Thirty-Ninth Judicial Circuit,* Case No. 99-0054 (*Emphasis added.*)

In addition, we should, of course, construe the maintenance of effort statute, which is itself part and parcel of the juvenile code, in light of the legislature's direction as to the interpretation of that code. Section 211.011, RSMo, reads as follows:

> "211.011. The purpose of this chapter is to facilitate the care, protection and discipline of children who come within the jurisdiction of the juvenile court. This chapter shall be liberally construed, therefore, to the end that each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and control as will conduce to the child's welfare and the best interests of the state, and that when such child is removed from the control of his parents the court shall secure for him care as nearly as possible equivalent to that which should have been given him by them. The child welfare policy of this state is what is in the best interests of the child."

We believe this purpose instructs this Commission to factor the best interests of children into any determination of reasonableness that we render. Therefore, we conclude that we have not only the authority, but also the obligation, to review reasonableness in light of the best interests of children even in cases where the county is exceeding its maintenance of effort obligation under section 211.393, RSMo.

Finally, we must construe the maintenance of effort statue in light of section 50.640, RSMo, which serves as the mandate for our Commission. Subsection 2 of section 50.640, RSMo, which governs the manner in which this Commission must proceed, reads in pertinent part:

> "If the county governing body deems the estimates of the circuit court to be unreasonable, the governing body may file a petition for review with the judicial finance commission on a form provided by the judicial finance commission after the estimates are included in the county budget. An amount equal to the difference between the estimates of the circuit court and the amounts deemed appropriate by the governing body shall be placed in a separate escrow account, and shall not be appropriated and expended until a final determination is made by the judicial finance commission under this subsection. The form provided by the judicial finance commission shall include an opportunity for the governing body and the circuit court to state their positions in a summary fashion. If a petition for review is filed, the circuit court shall have the burden of convincing the judicial finance commission that the amount estimated by it and included in the budget is reasonable. In determining if the circuit court estimate is

> reasonable, the judicial finance commission shall consider the expenditures necessary to support the circuit court in relation to the expenditures necessary for the administration of all other county functions, the actual or estimated operating deficit or surplus from prior years, all interest and debt redemption charges, all capital projects expenditures, and the total estimated available revenues from all sources available for financing the proposed expenditures. In determining the reasonableness of any budget estimate involving compensation, the judicial finance commission shall also consider compensation for county employees with similar duties, length of service and educational qualifications."

This statute mandates that the Commission, in arriving at a conclusion that a circuit court request for funding is reasonable or unreasonable, consider a variety of factors. These factors include more than a calculation as to whether a request is, considered in isolation, a reasonable request. Rather, these factors inform us as to whether the request is, given the circumstances of the individual county, a reasonable request in the broader context that faces the county. Therefore, the role that the maintenance of effort statute properly should play in our deliberations is clear: we should consider the maintenance of effort calculation in the broader context that faces a county. If a county has redirected the savings it accrued from the transfer of juvenile court personnel to other purposes, certainly that circumstance should cause us to question the county's commitment to maintain its effort to fund juvenile court operations. Similarly, if a county has exceeded its maintenance of effort calculation, the Commission should consider that as well, since the maintenance of effort calculation was required of counties to help focus budget authorities on the savings they were accruing so that they would use those savings to fund juvenile court needs. Certainly if the legislature thought the calculation meaningful for county budget authorities, it should be considered by the Commission as well.

However, consideration of the maintenance of effort calculation does not dictate, in and of itself, whether a request is reasonable. It informs the commission's decision. It does not compel our decision. Again, if it were the legislature's intent that it operates as a ceiling for

juvenile court funding, the statute would say as much. But it does not, as this Commission has itself ruled in *Stone County* as noted above. In the Commission's experience, we are aware that the maintenance of effort calculations vary wildly from county to county. One county might never need to reach its maintenance of effort amount. Others need to exceed it greatly to adequately fund its juvenile court.

Finally, we must observe that, irrespective of all the statutes cited above, there is a constitutional duty to reasonably fund court operations. That duty exists independent of this Commission and any statute enacted by the legislature. Instead, this duty springs from the separation of powers defined in Article II of the Constitution of Missouri and from Article V of the Constitution of Missouri wherein the judiciary is created. As the Supreme Court has noted, "courts have the inherent power to incur expenses to preserve their existence and protect the orderly administration of business when necessary personnel are not provided by ordinary methods." *State ex. rel. Geers v. Lashly*, 449 S.W. 2d 598 (Mo. Banc. 1970); ***see also*** *1984 Budget for Circuit Court of St. Louis County,* 687 S.W. 2d 896 at 900 (Mo. Banc. 1985). In that light, the judiciary and its budgetary needs are constitutional in nature, as opposed to being created by state statute or county code as many of petitioner's other budget items are. We do not believe that the legislature intended to create any ceiling on the funding of juvenile court operations by the maintenance of effort statute. We believe, to the contrary, that the calculation was created to encourage such funding, and even to mandate it up to a certain statutory level. If it was the intent of the legislature to establish a ceiling on the funding of juvenile court operations, such a statute might run afoul of the constitutionally extant duty to reasonably fund courts and could, if taken to the extreme, threaten the judicial independence envisioned by Article II of the Constitution of Missouri. If the legislature allowed the county to fund a court's

reasonable request only at the county's option, and the legislature itself provided no such funding, the court's constitutional requirement of adequate funding would be entirely circumvented. Therefore, considering the plain language of the maintenance of effort statute, the broad purposes of the juvenile code, the scope of review of our Commission, and the constitutional duty to reasonably fund courts and to preserve judicial independence, we conclude that the majority is in error in concluding that the request for funding is, as a matter of law, unreasonable.

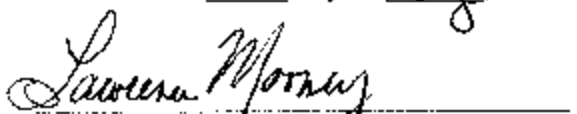
Having dealt with reasonableness as a matter of law, let us consider our duty to determine factual reasonableness in the instant case. As we have noted, to allow petitioner the *per se* right, based on section 211.393, RSMo, to deny all requests above the maintenance of effort amount, would render section 50.640, RSMo, section 211.011, RSMo, and indeed this very Commission, to be meaningless as applied to juvenile court budgets. We do not believe this to be the case. Although section 211.393, RSMo, does set forth statutory obligations for petitioner, we believe that those obligations are to be viewed by this Commission, as all disputes before this Commission, through the lens of factual reasonableness set forth in section 50.640, RSMo. Viewed in that context, then, we believe that respondent can order an amount in excess of the required maintenance of effort, if the request is reasonable, and that the Commission's judgment as to reasonableness is informed by the calculation of the amount required by section 211.393, RSMo. Because section 50.640, RSMo, requires this Commission to balance the budgetary constraints of the county versus the value and type of service provided to determine reasonableness, this is the only way to read section 211.393, RSMo, and our mandate for reasonableness in section 50.640, RSMo, together in any meaningful manner.

In the instant case, applying our test for reasonableness in light of other county budgetary factors versus the value and type of services provided, we conclude that petitioner should be required to fund the deputy juvenile officer's services for the second half of 2004. As the majority accurately states, in light of the decision handed down by the Supreme Court in *Cooper County I*, it is clear that petitioner must include replacement of grant funds used for personal services in the list of reasonable uses under section 211.393, RSMo. *Cooper County I*, 124 S.W. 3d at 468 (Mo. Banc 2004). Since the Supreme Court has deemed it legally reasonable to replace personal services with grant money (i.e., this *type* of service is reasonable), we are left only with a determination as to the factual reasonableness of replacing this particular grant for the personal services of this specific employee (i.e., the *value* of the service). Petitioner offered no evidence to contradict the factual assertions made by respondent as to the value of the deputy juvenile officer's services to Cooper County, and in fact petitioner seemed to concur with respondent's assessment as to his abilities and his services to the county. Therefore the only issue before this Commission is whether respondent's request is reasonable in light of the other budgetary circumstances of petitioner. Respondent put on evidence that the services to the juvenile population of Cooper County would suffer dramatically if the deputy juvenile officer's position were eliminated, since his elimination effectively would double the juvenile officer's caseload. Petitioner did not dispute the evidence put on by respondent, but relied rather on a *per se* notion of reasonableness under section 211.393, RSMo, combined with evidence showing that adding the deputy juvenile officer to the county payroll would impact petitioner's already-depleting reserve funds. If respondent was requesting a new deputy juvenile officer employee, rather than an extension of services that were lost as a result of a grant not being renewed, then perhaps the petitioner's and the majority's arguments would have greater merit. As it is,

however, respondent is merely requesting the extension of a service that the petitioner has deemed valuable enough for its co-signature on a grant application, which indicates in its own right that the county deems the services to be factually reasonable. Furthermore, the county's reserve funds, while shrinking, do not appear from our review to be in any imminent peril, and cannot reasonably be said to be threatened by the use of $17,834.00 for the *potential*, not certain, funding for a deputy juvenile officer position that by all accounts is of great value and service to the citizens of Cooper County.

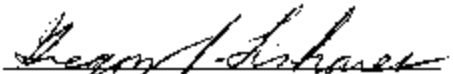
In conclusion, we concur with the majority's order, except that we would not order the decrease in the county budget of the amount of $17,834.00 for the remainder of 2004, and would instead order the payment of respondent's request for that portion of the 2004 budget.

DATED this 26th day of May, 2004.



Hon. Lawrence Mooney, Chair
Hon. Robert Clayton II, Vice-Chair, concurring
Honorable David Lee Vincent III, concurring

I hereby certify that copies of the foregoing order were mailed by certified mail, addressee only, return receipt requested, this 26th day of May, 2004, to: William McCullah, 221 Main Street, Forsyth, Missouri 65653, attorney for Petitioner; Steven A. Fritz, 202 West Fourth, Sedalia, Missouri 65301, attorney for Respondent.



Gregory J. Linhares
Commission Counsel