

# New York Law Journal

ALM Properties, Inc.

Page printed from: [New York Law Journal](#)

[Back to Article](#)

## Court System Submits No-Growth Budget

John Caher

New York Law Journal

12-03-2012

ALBANY - The judiciary on Nov. 30 submitted a do-more-with-less budget request of nearly \$2 billion that increases aid for civil legal services by \$15 million, provides \$10.9 million in additional support for indigent criminal defense caseload caps, includes \$8.2 million in funding for the second phase of judicial pay raises and still manages to cut state operational expenses—the portion covered by state tax dollars—by \$212,013.

[Read the proposed budget.](#)

Chief Administrative Judge A. Gail Prudenti said cost efficiencies resulting from expanded e-filing, continued constraints on hiring, restrictions on overtime, increased use of online rather than printed materials and general belt-tightening helped offset the investment in civil and criminal legal services as well as the expenses of mandatory pay increments for non-judicial employees and a raise of about 4.3 percent for judges.

Although the total budget would increase about 3.9 percent, the state-funded operational budget would decrease .012 percent. In general, the 187-page spending proposal is largely a status quo proposal, reflecting what the judiciary says is a new way of thinking in light of several years of strict constraints.

"It is a zero-growth budget," Prudenti said in an interview. "It is a delicate balance between the judiciary's obligation, which I feel very strongly about, to provide the judicial and non-judicial staff with what they need to fulfill their mission, and also at the same time being sensitive to the need to be a responsible partner in government."

**New York State Judiciary General Fund Budgets**  
(In Millions)

Fiscal Year	State Operations	Fringe Benefits	Total
2004-05	\$1,390	\$361	\$1,751
2005-06	\$1,436	\$396	\$1,832
2006-07	\$1,644	\$430	\$2,074
2007-08	\$1,618	\$455	\$2,073
2008-09	\$1,802	\$467	\$2,269
2009-10	\$1,790	\$479	\$2,269
2010-11	\$1,844	\$541	\$2,385
2011-12	\$1,725	\$581	\$2,306
2012-13	\$1,754	\$545	\$2,299
*2013-14	\$1,754	\$634	\$2,388

\* requested  
SOURCE: Office of Court Administration

There are no new capital projects, although the budget would re-appropriate \$51 million from the 2007-08 budget for a court officer training academy in Brooklyn. Courts will generally continue to close down at 4:30 p.m. to avoid overtime expenses, judicial hearing officers will be scaled back to support mainly Family Court operations and only critical positions will be re-filled as employees retire or leave the court system, Prudenti said.

"I have had to come up with many, many, many cost-saving measures," Prudenti said. "We are continuing to fill only the most critical positions where they are most needed, in the trial courts. We are not filling any positions at the Office of Court Administration and we will be taking a careful look on a weekly and monthly basis of how many people are leaving the court system and carefully filling only essential positions."

The budget presented to Governor Andrew Cuomo and legislative leaders Friday and posted to the OCA website (<http://www.courts.state.ny.us/admin/financialops/Budgets.shtml>) includes \$18 million to cover incremental pay raises to which non-judicial employees are entitled under the Taylor Law, even though contracts with the 12 unions representing those workers have expired.

It also includes funding for the second phase of a three-year judicial pay boost. Last year, after 13 years without a raise, judicial salaries were increased about 17 percent. Unless the Legislature rescinds the second year of the pay hike, judges will receive raises of about 4.3 percent when the state fiscal year begins on April 1.

Prudenti said the budget is designed to constrain spending while providing resources necessary for the day-to-day operation of the courts and substantially advancing one of Chief Judge Jonathan Lippman's major priorities: support for civil legal services.

This year, Lippman was able to double the amount provided to civil legal service providers, from \$12 million to \$25 million. Next year, he would increase that by 60 percent, to \$40 million.

#### The Impact of Sandy

Assemblywoman Helene Weinstein, a Brooklyn Democrat who chairs the Judiciary Committee, said the no-growth budget appropriately takes into consideration the state's fiscal situation, made all the more precarious by unanticipated and mounting costs related to Hurricane Sandy. Weinstein, a longtime advocate for indigent legal services, said Sandy will inevitably result in substantial legal needs for the most susceptible citizens.

"The timing couldn't be more useful," Weinstein said. "A lot of people, because of the economy, are unable to afford counsel, and here in the city and on Long Island a lot of legal issues have arisen [as a result of the storm]," Weinstein said.

Weinstein said it is too early, especially because of Sandy and the unclear impact it will have on the overall state budget, to predict how the proposal will fare when it is reviewed in the context of the executive budget the governor will present in January. However, she said the Judiciary budget seemingly balances the Third Branch's responsibilities and needs with the fiscal realities facing the state.

"Clearly, the court system has suffered layoffs and cutbacks and obviously if we had a different economic climate and we could bring back some of those positions, especially in family court, it would be ideal," Weinstein said. "The budget presented is one that recognizes the fiscal situation the state is in. It shows a lot of fiscal restraint."

Senator John Bonacic, an Orange County Republican who chairs the Judiciary Committee in the upper chamber, praised Lippman and Prudenti for submitting a budget that actually decreases the state's tax-funded obligation.

"During the past two years, the Judiciary has done solid work in terms of expanding e-filing, something I want to build on, and has also absorbed the costs of the judicial raises while streamlining operations," Bonacic said. "I look forward to seeing the budget enacted with appropriate support for the judges' goals of enhancing funding for legal services."

There was no immediate reaction from the governor's office.

Milton Williams Jr., chairman of the board of Modern Courts, said in a press release that the budget recognizes the fiscal times yet still ensures "a robust judiciary." He called on the Legislature to enact the Judiciary budget without changes.

"It cannot be emphasized enough that any erosion of the court system will be detrimental to the economic health of our state," Williams said.

Steven Banks, attorney-in-chief of the Legal Aid Society, said Sandy has already greatly expanded the need for civil legal services.

Copyright 2013. ALM Media Properties, LLC. All rights reserved.

"Before the hurricane, we could represent at best 20 percent of families and individual seeking our legal help and since the hurricane the numbers seeking our help with housing and foodstamps and medical care and public benefit problems have increased exponentially," Banks said.

Banks said the budget balances "the austerity of the times," with the "extraordinary legal needs of low income families as a result of continuing economic downturn, and now the double whammy of the hurricane."

The boost in civil legal service funding was immediately applauded by bar leaders.

New York State Bar Association President Seymour James said the increase in funding for legal services is both vitally necessary and fiscally prudent.

James said studies have shown that unrepresented litigants consume considerably more time and court resources than those who are adequately represented by counsel.

"Everybody is concerned about the fiscal condition of the state, but we believe access to justice is a priority," James said in an interview. "There is really a tremendous unmet need for legal services. When a person is unrepresented it tends to take more of the court's time, so the court system may actually see some savings with the provision of counsel in indigent matters."

Carey Dunne, president of the New York City Bar Association, said in a statement that the increase "will provide vitally needed services to the victims of Hurricane Sandy and the millions of other New Yorkers who cannot afford legal services to address their basic human needs. This continues Judge Lippman's tremendous leadership in seeking true access to justice in New York."

In addition to the increased support for civil legal services, the budget would increase the assigned counsel fund by 35 percent, to \$41.8 million, by providing \$10.9 million more to advance a legislatively-mandated program that caps the number of cases attorneys providing services to indigent criminal defendants are allowed to carry. When fully implemented on April 1, 2014, caseloads will be limited to 400 misdemeanors or 150 felonies per attorney in a 12-month period.


"The budget certainly reflects the legal requirement to continue to implement the case cap rule so that our clients are represented by lawyers with proper caseloads, particularly given how many clients are wrongfully accused of criminal conduct," Banks said.

The budget summary notes that non-judicial staffing, at 14,749, is "below levels last seen a decade ago, despite a significant increase in our workload," and maintains that the budget request seeks only the "minimum" funds necessary to operate the court system. It observes that in recent years the "court system has streamlined administration, eliminated or reduced programs that are not critical to its core mission, modified court operations, and cut all but essential expenditures."

"The goal is not just to reduce costs, but to rethink the way that we do business and to find the best, and most efficient, ways to serve the justice needs of all New Yorkers," according to the budget message. "Any further reduction would seriously jeopardize the ability of the courts to fulfill their core mission."

@|John Caher can be contacted at [jcaher@alm.com](mailto:jcaher@alm.com).

THE NATIONAL  
LAW JOURNAL  
PRESENTS  
**Emerging Issues in  
Patent Litigation**  
March 22, 2013 New York, NY

Sponsored by:  **MOLOLAMKEN**

**Register Today!**

