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## NY State Judges Won't Receive a Pay Raise Next Year, Panel Decides

BY DAN M. CLARK

STATE judges in New York won't be getting a pay raise next year after members of a panel created by the Legislature to evaluate such an increase declined to grant one Wednesday, citing the state's looming \$6.1 billion budget deficit.

The decision marks the first time in nearly a decade that state judges in New York will be paid the same amount as the year before.

Panel members who voted against a raise cited the state's dire fiscal picture.

And unless the state Legislature moves to change that decision, state judges in New York won't be eligible for a pay increase until 2024 at the earliest. The panel's decision Wednesday is binding for the next four years unless reversed by state lawmakers.

Three individuals appointed by Gov. Andrew Cuomo to the panel torpedoed a potential pay raise for the state's judges after a fourth member, an appointee of the State Assembly, agreed to side against an increase. That gave them a majority

vote on the seven-member panel.

Robert Megna, a Cuomo appointee and a previous director of the state Division of Budget, led the opposition Wednesday to the pay increase. He said the state's finances were too strained to justify any additional spending for the state's judges.



Robert Megna

"Given the difficulty of the fiscal situation we're in now, I just don't think I can move forward on the salary increase," Megna said.

He was joined on that position by the two other Cuomo appointees—former top Cuomo aide Jim Malatras and former Revlon Inc. general counsel Mitra Hormozi—and Peter Madonia, an appointee of Assembly Speaker Carl Heastie, D-Bronx.

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# Pay Raise

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An alternative proposal brought up at Wednesday's meeting, meant as a compromise, would have left judicial salaries at their current levels until 2021, after which those jurists would likely receive an annual pay increase for the following three years.

Megna shot down that proposal, arguing that the state's current fiscal crisis was expected, as of now, to persist beyond next year. Madonia, who was once chief of staff to New York City Mayor Michael Bloomberg, said he also wasn't comfortable with the idea.

"I would assume the out-years are even less clear," Madonia said. "Once you give, even if the Legislature wanted to down the road, it's hard to take away. They're not going to take away."

Proskauer Rose partner Michael Cardozo, the chairman of the panel, and Randall Eng, a retired presiding justice of the Appellate Division, Second Department—both appointees of Chief Judge Janet DiFiore—were in support of continuing the current pay model, but were outvoted.

"I'm disappointed. I think this is a wrong and irresponsible decision," Cardozo said.

Former State Sen. Seymour Lachman, a Democrat from Brooklyn who was appointed by Senate Majority Leader Andrea Stewart-Cousins, D-Westchester, wasn't present at the meeting.

Judges in New York are currently paid based on what their counterparts at the federal level earn. Judges of the State Supreme Court—the lowest tier—are paid

the same as federal U.S. district court judges.

That means that, under the current model, the pay of state judges in New York rises and falls with that of federal judges, whose salaries are determined through annual cost-of-living adjustments. Last year, that increase was nearly \$3,000.

That number is then used to determine how much other judges in New York will earn. Judges on the state's appellate courts, for example, would receive a pay increase proportionate to the new salaries of their colleagues on the State Supreme Court.

That will no longer be the case after Wednesday's vote. The state's Commission on Legislative, Judicial, & Executive Compensation voted to delink the salaries of state-paid judges from those at the federal level. A standalone pay increase for those judges wasn't considered.

State Supreme Court justices in New York currently earn \$210,900 annually. Over the last decade, their salary has gone up approximately \$74,000 from \$136,700 in 2011.

Another increase was likely under the model thrown out during Wednesday's meeting. The state Office of Court Administration had estimated next year's salary increase for the state's judges would cost about \$2.7 million, less than 1% of the court system's budget.

That's also a small fraction of the state's current \$6.1 billion budget deficit, which is mostly the result of Medicaid costs. It's unclear how the state plans to fill that gap.

Chief Administrative Judge Lawrence Marks testified before

the panel in November that the state Office of Court Administration wouldn't seek an additional \$2.7 million from the state to cover the cost of the raises. That expense would, instead, be absorbed, Marks said.

Cardozo, at Wednesday's meeting, repeated that promise from Marks, but members of the panel in opposition to a pay increase were skeptical that it could actually be fulfilled.

"It can absorb what it thinks it can absorb today," Madonia said. "If the powers that be go back to the agencies and say they want a 10% cut, that statement about absorption maybe isn't true six months from now."

If the state's finances were in better shape, the vote likely would have been different. Megna said during Wednesday's meeting that he actually supported an increase for the state's judges—just not in the current fiscal climate.

Megna said they'll know more next month when Cuomo unveils his executive budget proposal, which is expected to include ideas to bridge the state's outstanding deficit. The state Division of Budget has said cuts are possible, but no final solution has been pitched.

Even if the state came up with a plan to close the deficit next month, that wouldn't help the panel in its decision. By law, it has to make its binding recommendations to the Legislature by the end of December.

A report detailing the commission's decision is expected to be made available to the public in the coming weeks.

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