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# Judicial Pay Commission Backs Staged Parity With US Salaries

Andrew Keshner, New York Law Journal

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A state commission voted 4-3 on Monday to put New York State Supreme Court justice salaries on par with those of federal district court judges by 2018.

The majority embraced a proposal that would have justices making 95 percent of the salary of their federal counterparts in the upcoming fiscal year, which begins April 1, 2016.

Federal district judges are due to make \$203,100 and 95 percent of that sum is \$192,945. By statute, the salary is rounded up, meaning the Supreme Court 2016 salary could become \$193,000.

State Supreme Court justices currently make \$174,000 a year.

According to the majority recommendation, the Supreme Court salary in 2017 would remain at 95 percent of the federal salary for 2017, also including whatever cost of living adjustment was applied to the federal salary.

Compensation would climb to 100 percent in 2018. The state salary would remain pegged to the federal salary in 2019.

The commission's two representatives chosen by the court system and the two chosen by the Legislature formed the majority. Gov. Andrew Cuomo's three appointees voted against the plan, voicing concern over possible fiscal implications.

The New York State Commission on Legislative, Judicial, & Executive Compensation's recommendations for the upcoming year would become law unless the Legislature passed a bill on modification or abrogation, which Cuomo would have to sign by March 31, 2016.

Likewise, for years 2017 through 2019, if lawmakers want to alter the pay recommendation, any bill would have to be passed and signed before March 31, which is the last day of the fiscal year.

A different commission would decide salaries after 2019.

The seven commission members also voted unanimously to correct pay disparities for certain courts, such as Surrogate's Court, County Court and Family Court.

When the state in 1977 took control of pay for county- and city-level courts, different municipalities paid their judges differently and the discrepancies were not addressed in the following years.

The commission adopted a proposal originally put forward by the Office Court Administration, which said County, Family and Surrogate's Court judges should be paid no less than 95 percent of a Supreme Court justice salary. Any position already above the 95 percent mark would remain at that percentage.

District Court judges, as well as New York City Civil Court and Criminal Court judges, would make 93 percent of the Supreme Court salary.

City Court and New York City Housing Court judges would make 90 percent of the Supreme Court salary.

The commission must submit its report to the courts, Legislature and governor's office by Dec. 31.

The majority consisted of Sheila Birnbaum, the commission chair, who is a partner at Quinn Emanuel Urquhart & Sullivan; Barry Cozier, senior counsel at LeClairRyan and a former Appellate Division, Second Department, justice; James Lack, a former Court of Claims judge and former state senator; and Roman Hedges, a former deputy secretary of the New York State Assembly's Ways and Means Committee.

Birnbaum and Cozier were selected by Chief Judge Jonathan Lippman. Lack was selected by the Senate and Hedges by the Assembly.

Cuomo's appointees are Fran Reiter, a partner at government relations firm the Reiter Giuliani Group; Mitra Hormozi, general counsel and chief compliance officer for Revlon; and Gary Johnson, executive legal counsel at Medgar Evers College.

Court administrators praised the majority decision.

Chief Judge Jonathan Lippman, a guiding force in the 2010 passage of a law creating the quadrennial commission, said the decision "treats judges with the respect and dignity they deserve and is consistent with the critical work they do. It's really a reaffirmation of the importance of having a salary commission I personally was very proud to have gotten out of the Legislature."

The commission was created to address a more than decade-long judicial salary freeze. Effective April 2015, the commission's duties were expanded to also consider executive and legislative pay.

"What I'm most proud of is the process," Lippman said of the commission's work, adding that judicial salaries were "no longer the political football. The process works and I'm very proud."

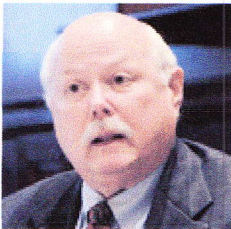
Chief Administrative Judge Lawrence Marks said the commission decision "finally redresses our state's judges for the intolerable 13-year period from 1999 to 2012 in which they were

denied even a single cost-of-living adjustment. The commission should be commended for finishing what the last commission began four years ago."

The Office of Court Administration had proposed that pay parity take effect immediately, on April 1.

## Final Decisions

When the commission members met last week, they agreed on the premise that judges were due for the raise. Yet they disagreed on how high a raise and when it should go into effect. Cuomo's appointees emphasized that decisions made on judicial pay could carry precedent for how the commission determined pay for the other branches.



Roman Hedges  
NYLJ/Rick Kopstein

Meanwhile, Hedges offered a proposal whereby the judiciary would make 95 percent of the federal salary by 2019; a state salary entirely matching federal salaries was "a pretty rarefied atmosphere," he said ([NYLJ, Dec. 8](#)).

On Monday, divisions over parity with the federal bench had not changed.

Reiter said she recognized that judges "viewed themselves as somewhat separate." Still, she said, they are "public servants and their compensation has to be viewed in the bigger picture of salary compensation across the board."



Fran Reiter  
NYLJ/Rick Kopstein

Reiter offered a proposal where Supreme Court justices would make 90 percent of the federal judicial salary by the end of four years.

She said the federal judicial salary in 2019 would be approximately \$209,000, meaning the state salary at 2019 would be about \$188,000.

Reiter said she held the state's judiciary in high regard, but said "they are not exempt from fiscal realities."

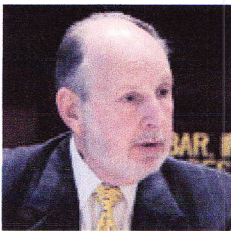
But in pushing for eventual full parity, Hedges emphasized the importance of finding a number that, at least in the public sector, attracted and retained top judicial talent. "I've got to be prepared to get into that world, perhaps more than my own personal instincts would say I should, because I want to be competitive. I want to get the best."

As Hedges laid out his proposal—which would later gain the majority support—he said it was "very different" than Reiter's proposal,

"Very," agreed Reiter.

She noted the commission recommendations will become law unless the Legislature and governor challenge it.

"I guarantee it that that's what's going to happen if you're talking about that kind of increase," said Reiter, referring to the possibility of a challenge.



James Lack  
NYLJ/Rick Kopstein

Lack said lawmakers have a right to contest the commission recommendations.

After the commission meeting, Reiter said the Cuomo appointees would either put out a statement or minority report staking out their position. "I think the governor's representatives were very cognizant of the larger fiscal picture. I think we believe we acted responsibly, while paying due respect to the judiciary," she said.

After the meeting, Birnbaum said she thought "the process worked very well. The level of discussion was high and heartfelt. We came to a decision the majority of the commission agreed with."

Birnbaum said the commission will reconvene in 2016 to consider legislative and executive branch salaries. It has a November 2016 deadline to make a recommendation.

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