

## 'How Much' and 'How Soon' Are Questions for Pay Panel

BY ANDREW KESHNER

MEMBERS of a judicial pay commission agreed Monday that judges are due for a raise. Yet they differed on how much judges would receive and how fast they would get it.

In the New York State Commission on Legislative, Judicial and Executive Compensation's first meeting since court administrators urged immediate pay parity between state Supreme Court justices and federal district court judges, some commission members appeared to latch onto the court proposal. Other members, especially those selected by Gov. Andrew Cuomo, raised concerns.

During a Nov. 30 public hearing, Chief Administrative Judge Lawrence Marks detailed the Office of Court Administration's proposal to bring state justices' salaries, now \$174,000, in line with federal judges' salaries, which are due to rise to \$203,100 in January.

A number of bar groups and judicial associations support OCA's call for the 16.7 percent raise to create parity between the benches (NYLJ, Dec. 1).

On Monday, however, Fran Reiter, one of Cuomo's three appointees, said it was "important to keep in mind that what we do for judges, like it or not, will be seen as setting some kind of benchmark" for lawmakers and the executive branch when the commission takes up their compensation next year.

Reiter, a partner with the government relations consulting firm Reiter Giuliani Group, said she was

"100 percent sold" that an increase was in order, but was "not 100 percent there yet, that I want to go to the federal level, even over a period of years."

Likewise, Mitra Hormozi, general counsel and chief compliance officer for Revlon, another Cuomo appointee, said it was impossible to look at the judicial pay decision in a vacuum.

The third Cuomo appointee, Gary Johnson, said the commission recommendation could have a "direct impact" on pay negotiations with state employees.

Johnson, executive legal counsel at Medgar Evers College, said "restraint" was important, noting a "fragile" economy.

The three Cuomo appointees appeared curious to hear more about an idea from Roman Hedges, the New York Assembly's appointee.

Hedges, former deputy secretary of the Assembly's Ways & Means Committee, pitched a raise that would be phased in over four years, resulting in a salary that at the fourth year was between 95 and 100 percent of the federal salary.

Hedges said the \$203,100 salary pegged to the federal mark would put state judges in the top 5 or 6 percent of earnings in the state, "a pretty rarefied atmosphere."

Still, Hedges said he was "sympathetic" to the idea of compensation tied to a benchmark.

Something like compensation at 95 percent was "still quite generous," he said.

But James Lack, the Senate's appointee, said it

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was "incumbent on us to set the \$203,100 benchmark now," adding that he was not in favor of any sort of phase-in.

Moreover, Lack, a former state senator and Court of Claims judge, noted that when the commission convened in 2011 to break a judicial wage freeze lasting more than a decade, it heard from the governor's budget director, who testified that large, immediate raises would not be good for the state economy.

But this year, there was no submission or testimony from the executive branch. "I take that as a rather significant situation," Lack said.

He noted recent legislative developments, such as a \$900 million parks improvement program

to run through 2020 as a sign of the state's improved fiscal condition.

Though Reiter said the park improvements came from capital funds, Lack said the source did not matter, if the state's finances were in bad condition, the bill would not have made it through.

Cuomo's office did not respond to a request for comment on its position.

Office of Court Administration appointee Barry Cozier, a former justice in the Appellate Division, Second Department, noted that while the last commission sought parity between the federal and Supreme Court justice bench, the phase-in meant that by the time state salaries arrived at \$174,000, the federal salary had climbed again.

Cozier, senior counsel at LeClair-Ryan, said he thought it was "important we do not perpetuate

the same situation."

If the commission did peg Supreme Court justice salaries with federal salaries—something Cozier said he was likely to support—he said it should apply April 1, the beginning of the next fiscal year.

The commission is due to meet again either on Dec. 14 or Dec. 16, depending on scheduling matters.

Sheila Birnbaum, the commission's chair, said its members would hopefully be in a position to vote on its recommendations by the next meeting.

Discussing the open questions for the commission, Birnbaum, a partner at Quinn Emanuel Urquhart & Sullivan, said at one point in the hearing, "there'll be some convincing going on."

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