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Judiciary Seeks 'Road to Recovery' Budget

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WITH ITS lowest staffing level in a decade and the effects of five straight years of no-growth budgets taking their toll, the Judiciary on Friday submitted a "road to recovery" spending request seeking a 2.5 percent increase, with plans to create 20 new family court judgeships and commit \$15 million in additional funding for civil legal services.

"There is a point beyond which the Judiciary cannot be pushed if it is still to play its role in our constitutional system," Chief Judge Jonathan Lippman and Chief Administrative Judge A. Gail Prudenti said in the executive summary of a budget sent to Governor Andrew Cuomo. "We have reached that point."

The proposed 2014-2015 budget request seeks \$1.81 billion for general fund operations, representing an increase of \$44.2 million or 2.5 percent.

That sum, the Judiciary said, would allow the court system to maintain current staffing levels, fill a limited number of critical positions, ensure courtrooms remain open each workday until 5 p.m. and devote an additional \$15 million for civil legal services.

It would also enable the court system to cover significant expenses

over which it has little or no control, such as a \$17 million increase in support for the final phase of the statutorily required indigent criminal defense standards, \$17.5 million for mandatory raises for non-judicial employees and \$8.4 million for the third-phase of a judicial pay hike.

the budget message that the Judiciary "simply cannot, as it has for over the past [five] years, absorb these increased costs with no additional funding and still meet its constitutional mission."

According to their summary, the Judiciary had nearly \$22 million less for spending in the current

delays in processing court documents and delays in trials.

Additionally, officials said the 4:30 p.m. closing time, which was implemented to ensure that employees are out the door by 5 p.m. and not racking up overtime, has resulted in complaints from the bar and public. They said the loss of court officer positions, "while not yet a crisis," significantly "affects the timely delivery of prisoners to courtrooms and raises serious concerns about the safety in our courthouses."

The request for additional Family Court judgeships is rooted in the fact that over the past 30 years filings have increased 90 percent while the number of judicial positions has increased less than 9 percent, according to the Office of Court Administration. There have been no new Family Court positions in New York City since 1990 and the only one created anywhere in the state was added in Orange County in 2005.

"Each and every day our Family Court judges make extraordinary efforts to give each family the time and attention that these difficult cases deserve," the Judiciary said in the summary. "We have attempted to handle the heavy, and demanding, workload of this court by assigning quasi-judicial staff to hear certain types of cases. This temporary remedy » Page 2

Judiciary Budgets: 5-Year History

General Fund (\$M)

Fiscal Year	Operating Cash	Fringe Benefits	Total
2009-10	\$1,786.3	\$496.3	\$2,282.6
2010-11	\$1,787.8	\$540.1	\$2,327.9
2011-12	\$1,730.5	\$582.5	\$2,313.0
2012-13	\$1,764.6	\$544.9	\$2,309.5
2013-14	\$1,764.6	\$634.4	\$2,399.0
*2014-15	\$1,808.8	\$642.1	\$2,450.9

* requested
SOURCE: Office of Court Administration

There are no new capital projects in the budget, but the Judiciary does seek to spend \$5.1 million in bonded funds for the ongoing construction of a court officers academy in Brooklyn.

"The Judiciary budget this year is really a 'road to recovery' budget," Prudenti said in an interview. "I believe it is a solid budget."

Lippman and Prudenti said in

fiscal year than it had in 2009-10.

They said that the workforce has been reduced by more than 1,900 employees over five years, the lowest staff level in more than a decade (currently 14,529 non-judicial positions) even though the workload has increased substantially during the same period. In the budget message, the Judiciary also said the workforce reduction has led to

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is no longer sustainable: it is time to do right by the families in crisis that come to this court.”

Ronald Younkens, executive director of the OCA, said the budget figure does not include funding for the judgeships, since those positions do not yet exist and would have to be created by the Legislature.

If the positions are established, the Judiciary would need approximately \$5 million in supplemental funding to cover expenses for the first quarter of 2015, or the period between the Jan. 1, 2015 effective date and the March 31, 2015 end of the fiscal year, Younkens said.

Prudenti said the judgeship item was included in the budget to “jump start” discussions she hopes will result in more family court positions by 2015.

“We understand this is up to the Legislature as a supplemental appropriation to determine if the 20 additional Family Court judgeships are needed,” Prudenti said, adding that if the positions are created, the Legislature will determine which counties would get new judgeships. “We hope that by putting it in our budget this year, it will be on the legislative agenda.”

Civil Legal Services

The \$15 million in additional aid for civil legal services would raise the annual appropriation to \$55 million and further one of Lippman’s primary objectives, ensuring that people facing evictions, consumer debt problems, domestic violence and similar matters are represented by counsel.

Lippman has dramatically increased aid for civil legal services in recent years, more than

doubling the expenditure from \$12 million to \$25 million two years ago, adding 60 percent (from \$25 million to \$40 million) last year and proposing another 37.5 percent increase (from \$40 million to \$55 million) next year. The money is used to supplement the \$15 million in the Interest on Lawyer Accounts (IOLA) fund that is distributed to legal service providers annually.

In the executive summary, the Judiciary argues that the additional expenditure is a “sound investment” and cites a report of Lippman’s Task Force to Expand Civil Legal Services showing that every dollar spent returns \$6 to the state in reduced social services and other public expenses.

Prudenti said “the chief judge feels strongly that there is a great need for additional funding for civil legal services to ensure litigants who appear in the courts with regard to the essentials of life are represented. He is committed to what some people refer to as a ‘civil Gideon’ where everyone has legal representation.”

* Unless the Legislature rescinds the third and final phase of a judicial compensation plan, judges will receive a raise of 4.2 percent on April 1, at a cost of \$8.4 million. The judges had gone 13 years without a raise before the Legislature agreed to phase in an increase over three years.

Also included in the budget is an additional \$17 million to implement a legislatively mandated program that caps the number of cases handled by attorneys representing indigent criminal defendants. When fully implemented in April, caseloads will be limited to 400 misdemeanor or 150 felonies per attorney over a 12-month period. With the extra \$17 million, the Judiciary will spend \$57 million on the initiative, Younkens said.

* The \$1.81 billion budget figure highlighted by OCA represents what is known as the “cash funding” number, or the amount of money the courts propose to spend for the fiscal year.



Chief
Administrative Judge
A. Gail
Prudenti

It differs from the so-called “appropriation request,” which is the upper limit on available funds and not necessarily representative of what the Judiciary plans to use. The “appropriation” budget totals \$1.82 billion, representing a \$63 million, or 3.6 percent, increase.

Younkens attributed the discrepancy between the cash and appropriation budget to a technical accounting measure resulting from the Judiciary’s use of reapportioned funds to pay the first two years of the judicial salary increase.

Lippman and Prudenti highlighted the cost-saving measures implemented in recent years, ranging from expansion of e-filing to web-based training for judges and court personnel to revamping the voucher system in attorney-for-the-child matters, and insisted the Judiciary has proven itself a “faithful steward of the public fisc.”

But they said the courts cannot be “forced, for the sixth year in a row, to absorb tens of millions of dollars of new costs without increased funding.”

The Judiciary is constitutionally bound to submit its budget to the governor by Dec. 1, and the governor is required to trans-

mit it without alteration to the Legislature. While the governor cannot change the Judiciary budget before it is submitted to the Legislature, he can comment on the proposal.

Cuomo is seeking to restrict overall spending to a 2 percent increase and has directed executive branch agencies to submit no-growth budget requests. The governor typically does not comment on the Judiciary budget until his formal presentation in January, so it is uncertain how the proposal will be viewed by his administration.

Prudenti said the Judiciary is mindful of the governor’s effort to contain overall spending with a 2 percent growth limit, and suggested the court system’s request for a 2.5 percent increase is justified by the cutbacks of recent years and the need to catch up with the increasing caseloads.

“I think the other branches of government will realize that we are seeking to be a good partner,” Prudenti said. “We understand their concerns. While we are a separate branch of government, we are very sensitive to the fact that we are interdependent. What we tried to craft, in order to keep the courthouses open, in order to make sure that we fulfill our core mission, is to come as close to a 2 percent growth as we possibly can.”

The Judiciary budget is posted online at: <http://www.nycourts.gov/admin/financialops/Budgets.shtml>.

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