

MEMORANDUM

TO: Governor Jon S. Corzine
Chief Justice Stuart Rabner
Senate President Richard J. Codey
Assembly Speaker Joseph J. Roberts, Jr.
Senate Minority Leader Leonard Lance
Assembly Minority Leader Alex DeCroce

FROM: William L. Gormley, Chairman, Public Officers Salary Review
Commission

DATE: Monday, December 3, 2007

On behalf of the Public Officers Salary Review Commission and in accordance with N.J.S.A. 52:14-15.115, I hereby submit the attached report, which the Commission adopted unanimously today.

Public Officers Salary Review Commission

William L. Gormley, Chairman
Michael Critchley, Esq., Vice-Chair
James H. Coleman, Jr., Associate Justice (ret.)
Hon. Hazel Frank Gluck
Robert Muir, Jr., J.A.D. (ret.)
M. Allan Vogelson, J.S.C. (ret.)
John M. Pellecchia, Esq.

REPORT OF THE PUBLIC OFFICERS SALARY REVIEW COMMISSION

December 3, 2007

Pursuant to N.J.S.A. 52:14-15.115, the Public Officers Salary Review Commission (hereinafter “Salary Review Commission” or “Commission”) presents this report containing its findings and recommendations as a result of its review of the salaries of specified public officers.

The Salary Review Commission conducted public hearings on November 14, 2007 in Trenton and on November 19, 2007 in Newark. In addition, the Commission received numerous written submissions which were incorporated into the public record and were taken into consideration when formulating these findings and recommendations.

We note that the overwhelming majority of these submissions and the testimony received demonstrate that the static compensation of New Jersey judges has created a very tenuous situation for our Judiciary. Given this, the Commission has devoted the vast majority of this report to this segment of the public officer group.

We note that the recommendations of the 2003 Commission were not adopted and by statute this Commission will not be convened again until 2011. Although the Judiciary received a salary increase in the 2007 Appropriations Act, if the recommendations contained herein are not adopted, the public officers addressed in this report face the possibility of several more years without any salary increase.

The Commission makes the following findings:

- New Jersey’s judicial appointment process is the most rigorous in the entire country and is designed to identify the most qualified lawyers to serve as judges;
- No other state has as many levels of review before a judicial candidate can assume the bench. The Office of the Chief Counsel to the Governor is responsible for an initial screening and assessment. A seven member Judicial Advisory Panel, created by Executive Order of the Governor and comprised of former Supreme Court Justices, a former Judge, a corporate attorney and a member of the public then reviews the candidates. The State and County Bar Association then interviews candidates. If approved, the Governor decides whether to nominate the candidate.

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- Finally, the New Jersey Senate invokes its constitutional responsibility of advice and consent, by first considering the candidate in a public hearing before the Senate Judiciary Committee and then by a vote of the full Senate. Confirmation by the Senate then places the judge on the bench. Massachusetts, Rhode Island, Delaware and Vermont are among a number of states that utilize “nominating commissions,” but none rely on as many levels of review before the Governor’s appointment.
- Note that in Massachusetts and Rhode Island, judges serve until retirement without reappointment, while in New Jersey this rigorous screening process is repeated after judges serve an initial seven-year term and prior to reappointment.
- Our Judiciary is extremely productive. New Jersey ranks 3rd in the nation in rate of filings per judge while New Jersey ranks 10th in population. On average, in New Jersey there are approximately 1 million filings in our State courts per year. This translates to more than 3,000 filings per Judge per year. Additionally, the Judiciary has successfully reduced its backlog of cases by 54% since 1999;
- Judicial salaries are set by statute and at present no such statute provides for regularized increases, not even those that would permit these salaries to keep pace with the rate of inflation or cost of living;
- The federal government, and all but one other state, Oklahoma, permit judges to earn outside income in addition to their salaries. New Jersey constitutionally prohibits judges from earning outside income. It is a prohibition that cannot be changed but one that nevertheless creates the potential for greater disparity in earned income between New Jersey judges and federal judges;
- This constitutional prohibition on outside income is an important factor in our strong judiciary as it ensures that our Judges will focus their efforts on their judicial responsibilities rather than on other activities through which they can earn additional income. Therefore, while this prohibition must be continued it makes even more critical the need for regular salary increases;
- Pursuant to P.L. 2007, c. 111 effective July 1, 2007, judicial salaries are as follows: Judges of the Superior Court and Judges of the Tax Court, \$149,000; Assignment Judges of the Superior Court, \$155,076; Judge of the Superior Court who are assigned to the Appellate Division, \$158,511; Associate Justices of the Supreme Court, \$167,493; Chief Justice of the Supreme Court, \$173,569;

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- Prior to the budget language included in the Fiscal Year 2008 Appropriations Act cited above, the judiciary last received an increase in 2002 based upon recommendations made in 1999. It should be noted that although this Commission recommended an increase for Judges in its report of 2003, those recommendations were acted upon by neither the Legislature nor the Executive Branch, thereby causing Judge's salaries to further fall behind the rates of the cost of living and inflation;
- Historically, New Jersey has endeavored to have its judges paid on par with the federal bench. Federal judges receive regular increases, including cost of living raises. Today federal district court judges earn \$165,200 with annual cost of living increases while Superior Court Judges earn \$149,000;
- Even taking into account the 2007 raise recently approved by the Legislature and the Governor, New Jersey still ranks 37th among all states for judicial salaries based upon a study conducted by the National Center for State Courts adjusting for cost of living amongst all the states;
- The excellent reputation of our Judiciary serves to foster the public's respect for the rule of law and further creates a stable environment for business and industry within our State.

Other Public Officers addressed by judicial salary increase:

Traditionally, the following public officers have been compensated, by statute, on a scale relative to that of Superior Court Judges. They are:

- Administrative Law Judges, who receive between 75% - 89% based upon seniority;
- Worker's Compensation Judges, who receive between 75% - 89% based upon seniority; and
- County Surrogate, County Clerk, Register of Deeds and Mortgages and Sheriff, all of whom receive 65% of Superior Court Judge.

Based upon the written submissions reviewed, testimony received and the above findings, this Commission makes the following recommendations:

1. To ensure the continued exceptional quality of our Judiciary and retention of our experienced judges, we recommend that the salary for Judges be raised as follows: \$165,000 for Superior Court Judges; \$171,800 for Assignment Judges; \$175,600 for Appellate Division Judges; \$185,500 for Associate Justices and \$192,300 for the Chief Justice.

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2. In an effort to prevent our State Judges from falling behind the rate of inflation and cost of living, any legislation proposed to increase their salary should also include a regularized cost of living increase akin to that provided in Pennsylvania and several other states. Should the Legislature and Governor implement the salary increases recommended above, we recommend that this cost of living increase become effective one year after these other increases are implemented.
3. In keeping with the current statutory salary structure, those public officers mentioned above whose salaries are linked to that of Superior Court Judges also should be raised in accordance with their respective statutory percentages.
4. Finally, we decline to make recommendations regarding salary increases for public officers other than those addressed in this report.

Conclusion

These recommendations are intended to ensure the continued tradition of integrity and excellence that has been the hallmark of our Judiciary and which, in turn, ensures that New Jersey taxpayers are receiving the best value for the dollars it invests in the judicial system. Our Judiciary's high standard of integrity has been the result of a unique combination of factors, including our constitutional limitation on outside income as well as New Jersey's judicial appointment process, which is the most rigorous in the country. They have contributed to a strong, independent and efficient Judiciary that serves the taxpayers well.

Please be advised that the Commission does not make these recommendations lightly. We recognize the complexities and difficulties facing the Legislature and the Governor as they prepare for this year's State Budget. It is our solemn responsibility, however, to inform the Legislative and Executive Branches of the proper remuneration to be provided to the public officers identified in this Report. In fulfilling that duty, we do not purport to advise those responsible for budgetary decisions on how to achieve the salary levels recommended herein. However, the Commission must stress its strong belief that these compensation recommendations are vital to the health and well-being of our Judiciary. Accordingly, prompt action on these recommendations will promote the many important public interests that derive from a strong, efficient and independent Judiciary.