

**The 2010-2011 Budget Request of
Pennsylvania's Unified Judicial System
House and Senate Appropriations Committees
February 2010**

Chief Justice Ron Castille recently wrote Governor Rendell the following:

"I am convinced that we averted a constitutional crisis regarding funding of state courts during this fiscal year [2009-2010] only because of the Judiciary's reluctant suggestion to temporarily increase filing fees. Unfortunately, late passage of the fee proposal and some dilution via amendments of its initial provisions does not fully fund...the "essential needs" gap [in the Judiciary's] current fiscal year."

The point of the Chief Justice's letter was to note that by its very nature the fiscal circumstances of the Judicial Branch are unique, that those fiscal circumstances have not been met in the past several years – they have now compounded to unmanageable levels – and that those circumstances cannot be resolved by cutting costs. Here is why:

Pennsylvania has 1058 jurists whose positions are established in law and whose compensation is by constitutional provision mandatory to ensure that jurists' decisions are not swayed by political considerations. Over the past several years line items to fund compensation for jurists, among several other line items, have been consistently underfunded, culminating in underfunding during the current fiscal year of \$31.257m.

For the Judiciary to fund internally a shortfall of that magnitude – in any fiscal year – is not possible without gutting court-supporting staff. Financially, furloughing the entire Administrative Office of Pennsylvania Court's staff would not fill the gap. Neither would eliminating all state-funded district court staff (those in your home counties). Just as such proposals would be financially infeasible, so, too, would they be impractical, for court staffing in Pennsylvania is relatively lean.

As you know, last year the Judiciary reluctantly proposed creation of a short-term fee bill, now Act 49-2009, to stanch the current year deficit. We did so recognizing that a funding gap in the low 30 million dollars was a huge hurdle, especially in tough fiscal times and even though the gap was not of the Judiciary's creation.

Unfortunately, changes to the Judiciary's proposal and its late passage along with the entire Fiscal Year 2009-2010 state budget, render Act 49 incapable of meeting the Judiciary's structural deficit this year, let alone resolving funding issues for next year.

Specifically, annual fee revenues from Act 49 are estimated to be \$29.5m – \$1.76m short of the \$31.257m structural shortfall. Worse, fee revenue to fund the structural shortfall during the remainder of this fiscal year is projected to be only \$11.7m because of late passage of the budget and of Act 49. In fact, with fee revenues only this

month beginning to flow to the Revenue Department, no one can even be certain of that projection's accuracy.

Of course, today's hearing is intended to discuss funding for the Judiciary in Fiscal Year 2010-2011, not the current fiscal year, but understanding the current deficit is vital to understanding the Judiciary's budget proposal. The Governor's proposal for the coming year again falls far short of the Judiciary's spending needs. Structural deficits continue, and the need to help counties meet their court costs by full funding of grants to them is, we believe, minimally essential.

Thus, the total deficit for 2010-2011 is \$64.215m, consisting of the carry-forward deficit from this fiscal year of \$31.257m, plus an additional spending increase of \$32.958m. This latter figure encompasses all line items, including full funding of county court grants. The breakdown between structural deficit costs and full grant funding in the coming fiscal year is, respectively, \$28.897m and \$4.061m.

We recognize the large challenges facing you in funding state government. As this statement, our budget document, and the attached pages regarding "efficiencies" attest, we are contributing fiscal and process solutions to better government where we believe prudent and are able – and we will continue to do so. For instance, one idea we are considering is the elimination of selected judicial seats as they become vacant.

Candidly, though, we believe that the budget process as it relates to the Judicial Branch of state government is broken – an observation we make even as we respect our sister branches' constitutional roles in the budget process.

Our impression is that when budget negotiations near their completion between the Executive and Legislative branches, funding for the Judicial Branch is then taken up – seemingly as an after-thought. Our understanding is that the process then is that either of the other branches, or even one or more of the legislative caucuses, must effectively "buy" funding for the Judiciary by giving up one or more of its priorities.

To those in the past who have supported the court system's approximately one-half of one percent share of the total state budget, we are, of course, appreciative. Respectfully though, we do not believe this process, if even remotely accurate in depiction, recognizes the core role of a judicial system in American Democracy, nor is it an appropriate way to arrive at a realistic judicial funding plan.

Our goal in this hearing is to begin a meaningful dialogue that finally solves the structural issues previously described, that creates a framework going forward that provides adequate and predictable funding for Pennsylvania's courts, and that avoids the potential for future conflict.

Attachment