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TALK OF RAISES PERSISTS DESPITE TOUGH ECONOMIC CLIMATE, THOUGH IN MUTED TONES

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In 2007, State Sen. Eric Adams (D-Brooklyn) could not have been firmer in his convictions about increasing legislative salaries.

"Show me the money," he demanded of the then-GOP controlled Senate, arguing that giving lawmakers their first raise in eight years would help attract and keep the best people in Albany. But in the face of the \$15 billion deficit, even Adams has completely backed off the idea.

"It would be hypocritical for us to tell the state that we need to sacrifice, and we, as legislators, are not going to make a sacrifice," says Adams. "I would not vote for a pay raise right now."

But no raises for legislators will likely also mean no raises for state judges, many of whose own salaries have been locked at \$136,700 in the past decade. And there seems to be little hope of movement any time soon, since while the Legislature could give the judges a raise independently, they have so far insisted on tying any increase to a bump in their own checks—which is all but impossible politically in the current economic climate.

"So much in politics is timing, and the timing couldn't be worse for judicial pay raises in lieu of the budget crisis," says State Sen. John DeFrancisco (R-Onondaga), who in 2007, while chair of the Judiciary Committee, helped pass two bills that—had they been approved by the Assembly—would have expedited judicial pay raises.

But that logic does not hold to some supporters of raising judges' pay.

"I think any time an increase for judges is a 'bad' time," says George Bundy Smith, former Associate Judge of the New York Court of Appeals and current partner at Chadbourne & Parke LLP.

In the meantime, since judicial and legislative salaries were last raised, approximately 195,000 non-judicial and non-legislative state employees have received pay raises that have benefited from bargaining agreements and salary schedules.

Two recent lawsuits filed against the state, one by former Chief Judge Judith Kaye and the other by New York City Family Court Judge Susan Larabee, sought to remove legislators from deciding judicial salaries. Both suits also accused the executive and legislative branches of unconstitutionally using judicial pay to push issues not related to the judiciary, such as education tax credits and congestion pricing. The cases are still awaiting ruling, which may delay judicial pay hikes further.

In June 2008, Supreme Court Justice Edward Lehner ruled in favor of the judges in the Larabee case, saying state

government had "used the issue of judicial pay as a pawn in dealing with the unresolved political issue of legislative compensation," agreeing that the state's actions were "unconstitutional."

Gov. David Paterson (D) appealed the decision in September, arguing that the State Constitution gives the Legislature alone the ability to decide judicial wages. The case is still being heard in Appellate Court First Division. Lehrer has yet to make his decision on the matter, and a person close to the Kaye case said that he may wait to do so until the Larabee case is decided in Appellate Court.

Meanwhile, judges have been dealing with a spike in their caseloads: civil filings in New York have grown by 35 percent since 1999, while statewide filings have grown by 15 percent. In that time, because their salaries have not been recalculated to include cost-of-living expenses, the judiciary has seen the value of their salaries deflate by nearly 30 percent. Today, lawyers at any top Manhattan firm make \$43,300 more in the first year out of school than judges who have been on the bench for 30 years.

"It's difficult and demoralizing," says Chief Administrative Judge Ann Pfau. "If you look at the number of foreclosures, family court cases, the new jurisdiction—all of which is fine and we're happy to do them—there is a basic inequity when you're asking people with a certain level of experience to do more for less."

Judges are not allowed to work second jobs, save for teaching—unlike legislators, many of whom maintain second jobs that provide significant income on top of their \$79,500 base salary and the leadership stipend "lulus" that can range from \$9,000 to \$41,500.

Not that all the legislators are satisfied with the current salaries and the definitions of their jobs as part-time, especially several of those who live in New York City, where life tends to be more expensive.

"When legislators say they don't deserve a raise, I question whether they are working hard enough," said State Sen. Andrew Lanza (R-Staten Island). "This is by no means a part-time job. Just ask my wife and kids. To do it right, you have to devote yourself." Lanza recently started working for a small Staten Island law firm as his savings from his days as an accountant and a Wall Street executive began to run short.

For judges who are already dealing with lower salaries, the pain is even more acute.

"It's very difficult when you have electric and gas bills to pay and with children going to college," said Fern Fisher, the administrative judge of the Manhattan Civil Court, who said a bulk of her pay goes to her daughter's \$50,000 tuition at Boston College.

That pressure, which has driven some judges from the bench in search of private practice salaries and increased stress on may of those who have stayed, is creating problems for the judiciary, according to Fisher "It's taking a toll on the judges," she said.

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