



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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January 20, 2016

Robert F. Mujica, Jr.
Budget Director
State Capitol, Room 113
Albany, New York 12224

Judicial Conduct Budget, FY 2016-17

Dear Mr. Mujica:

Please regard this as a request for reconsideration of the Executive Budget recommendation regarding the Commission on Judicial Conduct. As you know, the Executive Budget recommended a "flat" appropriation of \$5,584,000 and rejected my modest request for an additional \$186,000 to cover contractual increases such as rent and legislatively-enacted performance advances.

I realize it would be unusual for such an increase to be implemented in the upcoming 30-day Amendments, but my disappointment in both the process and the result of the current Executive Budget, as it pertains to Judicial Conduct, compels me to try the Executive again, before resort to the Legislature.¹ I hope it was more oversight than intent for the Executive Budget to reject the modest budget request of what is arguably the state's most effective ethics-enforcement entity,² particularly in view of the Governor's public commitment to enhancing ethics in government, most recently expressed in his joint State of the State and Budget message.

¹ You may recall that in each of the past two years, where the Executive Budget also recommended a flat appropriation for Judicial Conduct, I took my case to the Legislature and won 2% increases.

² Since the Commission's creation by constitutional amendment in 1978, it has publicly disciplined 801 judges throughout New York, including 226 who were removed or permanently resigned from office.

Robert F. Mujica, Jr.

January 20, 2016

Page 2

As I have done repeatedly over the years with various Budget Directors, last May I suggested to your predecessor Mary Beth Labate, in a meeting also attended by David Lara and Anne Bink of the Division of Budget, that we discuss my proposed budget for the coming year and try to reach a consensus, rather than have DOB *sua sponte* choose an insufficient amount and have me spend three months making my case to the Legislature.³ Because there is always a sense in my discussions with DOB that such decisions are actually made “on the second floor,” I also kept the Governor’s Counsel in the loop.⁴ Unfortunately, despite my attempts to reach out, such discussions did not occur, either with DOB or the second floor.

I certainly appreciate that in the context of an overall budget package exceeding \$145 billion, the Commission’s annual funding at under \$6 million scarcely draws attention. Nevertheless, given our important mandate to police judicial ethics, and limited resources that make every additional economy a burden, I believe we deserve more collaboration than we have been getting. A flat budget is actually a cut, because meeting rising expenses on the same dollar amount requires reductions in our existing program. In the last five years, for example, the Commission’s staff has been reduced from 55 authorized FTEs to 45 actual FTEs – an 18% reduction that is roughly double the rate of staff reduction throughout the rest of state government. The burden this has imposed on our work and mission is considerable. For example, and most significantly, it takes longer than it should to discipline those judges found to have engaged in misconduct, and longer to exonerate those found not guilty of ethical lapses.

Thank you and your colleagues at DOB for whatever consideration you are able to give to my request. For your convenience, I am enclosing with this letter a copy of the budget request I submitted to DOB in October 2015, making the case for an increase of \$186,000. I remain available to discuss the matter, either in person or, if you or your associates prefer, by video or teleconference.

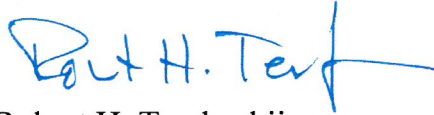
³ Since the Commission is not an Executive Branch agency, I am able to disagree publicly with the Executive Budget and seek assistance from the Legislature. This is one of many signature examples of the Commission’s independence. Leaders of all three branches appoint Commission members, but no branch dominates. The Commission’s budget is not controlled by the judiciary, which might be tempted to limit its operations with a small budget; but neither is it dictated by the Executive. Thus, as a constitutionally independent agency, we can and do appeal to the Legislature for funding necessary to carry out our mandate.

⁴ Traditionally, the Commission’s liaison to the Executive Branch has been Counsel to the Governor.

Robert F. Mujica, Jr.
January 20, 2016
Page 3

With continued appreciation for the complex burden you and your colleagues at DOB and Counsel's Office bear,

Very truly yours,



Robert H. Tembeckjian
Administrator and Counsel

Enclosure

cc: Alphonso David
Counsel to the Governor

Sandi Toll
First Assistant Counsel to the Governor

David Lara
Deputy Director, DOB

Anne Bink
Chief Budget Examiner
Public Protection Unit, DOB

By Email to All Recipients