

New York Court Watch

Cuomo's Judiciary Budget Plan Receives Mixed Reviews

Ross Todd | February 02, 2018

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New York Gov. Andrew Cuomo gives his 2018 State of the State address.

Photo Credit: The Associate Press/Hans Pennink

ALBANY — Gov. Andrew Cuomo's proposal to tie an increase in the judiciary budget to a requirement that judges keep their courtrooms open eight hours a day is receiving a mixed reception.

[Following the governor's budget address to the Legislature Tuesday](#), a spokesman for the state's unified court system told the New York Law Journal that the governor's proposal to require certification that judges are keeping their courtrooms open from 9 a.m. until 5 p.m. is not necessary.

"We appreciate the governor's comments regarding the judiciary budget, however, the governor's proposed amendment to the state judiciary law is not necessary," spokesman Lucian Chalfen said in an email on Tuesday afternoon. "Judges of the Unified Court System have difficult jobs and work tirelessly. Any issues of judges' attendance that have come to our attention are identified and promptly dealt with."

During Cuomo's budget address on Tuesday, in which he outlined his \$168.2 billion fiscal proposal, the Democratic governor proposed giving the judiciary a 2.5 percent increase on their budget, if judges can certify that courtrooms will remain open until 5 p.m. in an effort to cut backlogs.

"The backlog of cases is tremendous, especially in downstate New York. We have a chronic problem with people in Rikers Island who have been there for years who haven't had their day in court. The judiciary wants a budget increase. The people of the state of New York have the right to know that the courts are open. ... You have courthouses that are, literally, at one o'clock—the place shuts down. The judges have to certify that the courtrooms are actually operating nine to five," Cuomo said Tuesday.

The judiciary's [proposed 2.5 percent budget increase](#) is above the governor's 2 percent spending cap in a year where the state is facing a \$4.4 billion deficit. Budgets for state agencies under Cuomo's proposed budget will hold flat and state aid to municipalities will freeze. The judiciary, along with education and health care funding, are one of the few areas that go above the governor's spending cap.

Former Chief Judge Jonathan Lippman, who served in the role between February 2009 and December 2015, told the New York Law Journal Wednesday afternoon that he questioned whether certifying that the courts stay open eight hours a day was necessary.

"I never heard of this kind of proposal before. That being said, my own view is that it is really unnecessary given the terrific results coming from Chief Judge [Janet] DiFiore's Excellence initiative," said Lippman, who is of counsel in the New York office of [Latham & Watkins](#).

DiFiore's Excellence Initiative seeks to reduce chronic backlogs in the court system and reduce the time it takes to dispose of cases.

Privately, judges have grumbled about Cuomo's proposal to tie the budget boost to courts staying open, according to several sources who spoke on background. Some have questioned whether the executive and legislative branch could impose such an attendance requirement on the judiciary.

Assemblyman Jeffrey Dinowitz, chairman of the chamber's judiciary committee, questioned whether the governor's proposal could be pursued

exactly as Cuomo suggested.

"I don't know that they can do exactly what [Cuomo's] saying, but certainly judges should be working, and I'm sure most of them must. A judge should be working a full day, and I imagine most do," Dinowitz, a Bronx Democrat, said.

An increase in the judiciary's budget of 2.5 percent is an "improvement," Dinowitz said.

"It's not as much as many of us would have seen. But that's a move in the right direction."

New York State Bar Association President Sharon Stern Gerstman said she's supportive of the governor's proposed budget increase for the judiciary, even though funding was not restored to 2010 levels. Posing timekeeping requirements could be "unfair," she added.

"There are hardworking New Yorkers in every capacity in our judicial system and every branch of government, including judges, attorneys and other professionals, and we believe that it is unfair to single out judges for any timekeeping requirement. We are confident that the Chief Judge and the Chief Administrative Judge are managing their workforce effectively and that there is no need to subject them to a process that will add significant costs and administrative burden, and decrease public confidence in our system of justice," said [Stern Gerstman](#), who is of counsel at Magavern Magavern Grimm in Buffalo.

State Sen. John Bonacic, a Republican from Orange County who chairs the state Senate Judiciary Committee, said in an emailed statement that Cuomo's proposal for the judiciary to certify courthouse hours is "appropriate."

"The legislature takes an active role in the appropriation of funds for the Judiciary and oversight of the management of our court system and it is appropriate to offer suggestions on how to make it run more efficiently," Bonacic said.

Similarly, James Gardner, a law professor at the University at Buffalo School of Law who specializes in state constitutional law, said that the governor's proposal doesn't pose an issue with the separation of powers among the branches of government.

Gail Prudenti, the former chief administrative judge of the courts of New York State, lauded the governor's proposal to ensure that courts remain open.

"I applaud the Governor's efforts to insure that our courts remain open and accessible to those who need it most during these difficult times and I know our hardworking Judges will continue to do their best to meet the Governor's request," Prudenti, the dean of Hofstra Law, said in a statement.