

ADEQUATE FUNDING OF THE JUDICIARY

Recent League Activity

The League will continue to press for adequate funding for the judiciary, a separate, independent and co-equal branch of government.

Past League Activity

Because of the budget crisis in the 1991 legislative session, the governor cut the judicial budget by \$97 million in the financial plan he submitted to the Legislature in January. The Legislature restored \$20 million leaving the judiciary with a \$77 million reduction. The League joined the Coalition to Adequately Fund the Judiciary in January and worked with the coalition throughout the session urging the governor and the Legislature to approve the judicial budget as originally submitted by the chief judge.

A controversy arose between the judiciary and the executive branches over the constitutionality of the judicial budget cuts. At issue was Article VII, Sec. 1 of the New York State Constitution which requires that "itemized estimates of the financial needs...of the Judiciary, approved by the Court of Appeals and certified by the Chief Judge of the Court of Appeals, shall be transmitted to the Governor . . . for inclusion in the budget without revision but with such recommendations as he may deem proper." Although the governor submitted the judiciary's budget to the Legislature "without revision," he cut the judicial budget in his financial plan, which forms the basis for the Legislature's negotiation of a final budget.

The impact of the judicial budget cuts initially was felt in the civil area as court officials try to cope with the criminal courts and Family Court calendars. The chief judge brought suit in the state court against the governor and the Legislature on the grounds that "severe under funding" of the courts is unconstitutional. In January 1992, an agreement was reached between the governor and the chief judge whereby the courts would be protected from further cuts in the following fiscal year and receive a \$19 million increase.

In the 2007 legislative session, League lobbied vigorously in favor of Chief Judge Kaye's Judicial Pay Raise reform legislation. Our memo of support was used on the floor of the Senate by the Majority Leader to signify this as a good government reform. It became clear that the judicial pay raise, because it is by custom linked to legislative pay increases, would be held hostage to other legislative issues. Campaign finance, another good government reform, was the issue cited as the trade on judicial pay raises. The League wrote several opinion editorials on this issue and will continue our advocacy in the 2008 legislative session.

In 2010 the Court of Appeals issued an opinion in three different cases challenging the constitutionality of the legislature's failure to give judges pay raises for 11 years, holding that the failure violated the separation of powers doctrine by threatening the ability of the courts to perform their function as an independent arm of state government. The court declined to impose its own remedy and sent the cases back to the legislature for "appropriate and expeditious legislative consideration" of the issue on its merits alone.

