

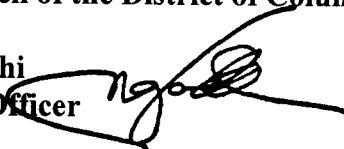
**Government of the District of Columbia
Office of the Chief Financial Officer**



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: February 1, 2010

SUBJECT: Fiscal Impact Statement – “Local Court Reform Amendment Act of 2010”

REFERENCE: DRAFT – No Bill Number, as shared with OCFO on January 21, 2010

Conclusion

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation. Implementing the proposed legislation would require at least \$90 million in FY 2010 and at least \$660 million in the FY 2010 through FY 2013 financial plan period.

Background

The proposed legislation would restore the control of the court system to the District of Columbia government.

Title I of the proposed legislation requires that the authority to nominate and propose judges to serve in the District of Columbia Courts be removed from the President of the United States and placed with the Mayor of the District of Columbia, and the authority to confirm judicial nominations be removed from the United States Senate and placed with the Council of the District of Columbia.

Enactment of this title would also increase the number of members serving on the judicial selection commission from one to two and remove the authority to appoint one member from the active judges of the court. Additionally this title would require the chief judge of the court be selected from among the judges of the court for a term of four years or until a successor is designated, limited by the chief judge’s term as a judge of a District of Columbia court.

Title II of the proposed legislation requires the restoration of judiciary functions to the government of the District of Columbia by repealing Chapter 4 of the National Capital Revitalization and Self-Government Improvement Act of 1997 ("Revitalization Act") to remove federal authority over court operations.¹

Financial Impact

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation. Implementing the proposed legislation would require \$90 million in FY 2010 and \$660 million in the FY 2010 through FY 2013 financial plan period.

Per the Revitalization Act, the District's court system is run and paid for by the federal government. In FY 2010, the federal government budgeted \$180 million to pay for the operating expenses of the District's Court System (including the Court of Appeals, Superior Court, and the D.C. Court System). Upon enactment of the proposed legislation, the District would take over the operation of these courts. Consequently, the city must include, in its budget and financial plan, the required operating expenditures for the courts.

At present, the District's budget and financial plan does not include any expenditure for the court system. The fiscal impact estimate presented in the table assumes that the required operating expenditures will be similar to what is currently spent by the federal government.

Estimated Minimum Fiscal Impact in \$ million					
	FY 2010 ^a	FY 2011	FY 2012	FY 2013	Four Year Total
Court of Appeals	\$7	\$13	\$14	\$14	\$48
Superior Court	\$54	\$111	\$115	\$118	\$398
D.C. Court System	\$29	\$60	\$62	\$63	\$214
Total Estimated Operating Expenditure	\$90	\$184	\$191	\$195	\$660

^a FY 2010 estimate assumes that the proposed legislation will be implemented by March 31, 2010.

In addition, the District would have to take over the operation, maintenance, and improvement of court buildings. Additional funds must be allocated to this end, but the required funding cannot be estimated at this time. In the federal FY 2009 budget, for example, the federal government

¹ The proposed legislation does not provide for affirmative Congressional approval required to amend the Home Rule Act. The proposed legislation materially alters the governance of the local courts; therefore, prior to adoption, consideration should be given regarding whether the proposed legislation implicates Section 602(a) of the Home Rule Act (D.C. Official Code § 1-206.02(a)), which states that "[t]he Council shall have no authority to pass any act contrary to the provisions of this chapter, except as specifically provided in this chapter, or to... (4) Enact any act, resolution, or rule with respect to any provision of Title 11 (relating to the organization and jurisdiction of the District of Columbia courts);..." In prior codified versions of the Home Rule Act, Title 11 contained Sections 431 through 434 of the Home Rule Act ("Part C. The Judiciary").

budgeted \$55 million in FY 2009, \$76 million in FY 2009, and \$70 million in FY 2010 for capital improvements. The amount allocated for day-to-day operations is not known.

Upon taking over the court system, the District would also be responsible for retirement benefits for the Court employees and would have to make annual contributions for retirement pay and post-employment benefits such as health and life insurance currently offered to D.C. employees. It is not possible to estimate the annual contribution requirements at this time. For illustrative purposes, note that the federal government has budgeted \$9 million in annual contributions for retirement benefits of judges in the D.C. court system in its FY 2010 budget.

It is also important to note that the federal government provides other judicial services to District residents per the Revitalization Act, including public defender services (with an FY 2010 budget of \$37 million), pre-trial services (FY 2010 budget of \$58 million), defender services (FY 2010 budget of \$52 million), and the Community Supervision Program (FY 2010 budget of \$108 million). In addition, District's adult felony prisoners are housed in federal prisons around the country. There is no explicit budget item in the federal budget for this activity, but the estimated cost to the federal government is around \$280 million annually. The proposed legislation leaves these functions under federal jurisdiction.