

[Print](#)[Close](#)

Fwd: RE: [vtbar_2014_2015_board_of_managers] Judiciary Budget

From: DAVID CARTER (dcarter@usa.net)
Sent: Thu 4/02/15 3:55 PM
To: Joseph Bauer (jbauer@vtlawoffices.com); Ben Joseph (benwjoseph@hotmail.com)
Cc: Vanessa Kittell (vkittell@vbklawvt.com); Larry Bruce (Larry.Bruce@state.vt.us)
1 attachment
Forwarded Message.eml (55.7 KB)

Forwarded message is attached.

--Forwarded Message Attachment--

From: DRichardson@tgrvt.com
To: vtbar_2014_2015_board_of_managers@intustalk.com
CC: bpaolini@vtbar.org; kryan@vtbar.org
Subject: RE: [vtbar_2014_2015_board_of_managers] Judiciary Budget
Date: Thu, 2 Apr 2015 19:40:31 +0000

Hi All,

In lieu of Bob's normal updates, I thought I would send around some information about where things are at on the judiciary budget and next Friday' meeting.

These are meant as more summary than explanation, but feel free to e-mail me if you have any questions. Apologies if I am repeating some information.

As you all may already know, the House Appropriations Committee passed H. 490 two weeks ago that did three things affecting our conversation: 1) it created a study group that will work this summer to look to see how systematic changes can create the savings sought by the legislature and the administration; 2) It cut \$500,000 from the judiciary's budget but restored it for FY 16 with one-time money equal to \$500,000; and 3) it implemented the proposed \$600,000 pay act cut and the \$900,000 in underfunding of existing judiciary obligations. Notwithstanding these cuts, the partial restoration of funds and the study group felt like a big lift from the house that was, as I explained at the last meeting, just ready to slash the budget and let the judiciary deal with it. These changes reflects a lot of efforts on the VBA's part and on members' part to persuade legislators of the problems.

Whether these cuts will stay in the Senate's version is less clear. Last week, I testified in Senate Judiciary, and the Committee seemed supportive of walking back these cuts. Senator Tim Ashe, in particular, was upset with the idea that the \$500,000 being called "bridge funding." As he put it, a bridge is supposed to take you across that chasm and not drop you in the middle.

The Judiciary is not happy with the budget because of the \$500,000 cut to their base budget, which without this year's one-time funding will become a hole for them next year and every years thereafter to fill or cut. In other words, the Judiciary understands that the one-time funding allows them to dodge a bullet this year, but it comes with a price tag that any budget discussion next starts with a base budget at this lower amount. That means, the Judiciary, under the House bill, has less than one-year to come up with a permanent \$500,000 cut to its budget for next year's budget process.

More importantly, the \$1.1 Million in cuts to the pay act and from the underfunding remain, which pose a serious problem for the Court beginning July 1st.

The Judiciary's remaining focus for the year is to undo the \$500,000 cut (more semantics than actual money swapping since the money is already there for FY16) and to fight to restore the \$600,000 through a mixture of fee increases and restoration of some pay act funds. If successful, that would keep the Judiciary where they are now, underfunded and relying on vacancy savings but able to fund its current operations. As I pointed out to Pat, the Chief, and Judge Grearson the problem is that now the Administration and the House are lined up behind this budget and the Judiciary will not only have to persuade the Senate to disagree these cuts but take the fight to the house and the Administration. It is a tall order.

The judiciary is supportive of the summer study/working group.

Despite opposition, the videoconferencing arraignment pilot project looks like it will be going forward. The House bill provides funding for a pilot project, and the Judiciary has begun to move forward. They have also heard the message from several corners, including the VBA, that they need to work with the various partners on this project.

The big news according to Pat is that the Administration has made it very clear that they want the long-term cuts to come from courthouse closures. Pat has stated in no uncertain terms that the Court does not support closing courthouses and will fight to keep them open, but that the Administration sees closing some courthouses as a necessary budget cut. Pat reported to me that the Administration made no bones about it, and that they would keep the budget pressure on the Judiciary until it closes courthouses. The important thing to keep in mind is that when we are talking about closing courthouses, we are also talking about laying off the court staff.

Judge Grearson is making out next year's trial court rotation schedule, and he reported that with the four current vacancies unlikely to be completely filled

by September 1st, the rotation schedule is going to have a lot of holes in it. These gaps will largely fall to the civil docket as resources will have to go to family and criminal. Even if the Governor makes new appointments, the new judges will take time to close their practices and receive training. Gearson estimates a 4 to 6 month process to put the new judges on the bench, hearing cases, after the appointments are made. On top of this, Judge Gearson indicated that there might be more vacancies coming in the late summer/early fall. So this is a problem that may get worse before it gets better.

I talked with Pat, Judge Gearson and the Chief about our meeting next week. Here is the rough agenda:

Jeff Loewer, the Court's IT person is going to give a brief presentation on the Court's strategic plan for technology. This will involve videoconferencing and case management programs.

Pat is going to present the issues in next year's trial court rotation and highlight the gaps (Judge Gearson is out of town next week).

The Court is going to talk about the menu of options they have to deal with the various budget cuts. The Court has not come to a consensus on what to do if the cuts come, and they are looking for feedback from us.

The Court also wants to talk about security. Some members of the Senate are making rumblings that the court should re-think its security and decrease it in certain courts at certain times (guess which senate committee chair had to go through a metal detector to get his passport renewed). The Court is concerned over this idea as they think there should be more, not less. I indicated that the bar would want some kind of preferred customer status to any security. I am not sure that will go anywhere, but this is an item that the Court wants to discuss and presumably have some support. At the very least, I think it is true that the emotions and tensions are much higher in courthouses than in almost any other governmental building in the state (no one storms the PSB with a gun to protest their high cable rates).

Finally, I suggested that we talk with the court about its legislative agenda for the rest of the year to the extent that we don't in the earlier conversations.

In going into next Friday's meeting, I told Pat that we work best with an open format where you and the court can talk, ask questions, and exchange ideas. Apart from Jeff Loewer's presentation, my understanding is that the rest of the meeting will be more relaxed and an opportunity to talk and ask questions.

If there is an item or issue that we should be discussing, let me know. My hope is that we can have a good, informal discussion next Friday, get a sense of where the Court is going with these issues and provide some feedback.

Best,

Dan

Daniel P. Richardson

Tarrant Gillies & Richardson

44 East State Street

P.O. Box 1440

Montpelier, Vt. 05601-1440

(802) 223-1112 ext. 105

drichardson@tgrvt.com

www.tgrvt.com