



New York City Council

Christine C. Quinn, Speaker

Finance Division

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Hearing on the Mayor's Fiscal Year 2012 Executive Budget

Law Department

June 1, 2011

The Committee on Finance

Hon. Domenic M. Recchia, Jr., Chair

The Committee on Governmental Operations

Hon. Gale A. Brewer, Chair

Andy Grossman, Deputy Director

Eisha Wright, Principal Legislative Financial Analyst

Overview

Under the direction of the corporation counsel, the agency is responsible for acting as attorney and counsel for the City, and each agency and/or individual acting on behalf of the City; conducts all necessary legal business and proceedings; institutes actions in law or equity and any proceedings provided by law in all courts; maintains, defends and establishes the rights, interests, revenues, property, privilege, franchise or demands of the City through the following divisions: appeals, contracts and real estate (leases), tax and bankruptcy, family court, administrative law, pensions, affirmative litigation, workers' compensation, torts, economic development, environmental law, municipal finance, labor and employment law, special federal litigation, commercial and real estate litigation and general litigation.

The Law Department is responsible for more than 90,000 matters annually, and provides legal advice to all City agencies.

Law Department Financial Summary						
<i>Dollars in Thousands</i>						
	2009	2010	2011		2012	Difference
	Actual	Actual	Adopted	Exec. Plan	Exec. Plan	2011–2012*
Spending						
Personal Services	\$93,695	\$100,153	\$98,530	\$96,602	\$102,113	\$3,583
Other Than Personal Services	38,510	39,621	35,506	40,565	37,921	2,415
TOTAL	\$132,205	\$139,774	\$134,036	\$137,167	\$140,034	\$5,998
Funding						
<i>City Funds</i>			\$126,819	\$126,860	\$132,903	\$6,084
<i>Other Categorical</i>			437	832	437	0
<i>Capital IFA</i>			3,335	3,335	3,335	0
<i>State</i>			0	72	0	0
<i>Federal – Other</i>			0	201	134	134
<i>Intra – City</i>			3,445	5,867	3,225	(220)
TOTAL			\$134,036	\$137,167	\$140,034	\$5,998
Positions						
Full-time Positions	1,277	1,265	1,242	1,341	1,281	39
TOTAL	1,277	1,265	1,242	1,341	1,281	39

**Difference refers to the variance between the Fiscal 2011 Adopted Budget and the Fiscal 2012 Executive Budget*

The Law Department's Fiscal 2012 Executive Expense Budget of \$140 million is approximately \$6 million more than its Fiscal 2011 Adopted Expense Budget of \$134 million. The \$6-million increase in total funds is due to a \$6.1-million increase in City-tax levy funding and a \$134,000 increase in federal funding, which is offset by a decrease of \$220,000 in Intra-City funds.

The Executive Plan increases the Law Department's Personal Services (PS) Budget for Fiscal 2012 by approximately \$3.6 million when compared to the Fiscal 2011 Adopted Budget. This increase is due to two new need funding requests to support the agency's increase of 41 authorized positions. The sum of \$492,000 is being added to support 6 positions for special counsel and experts and \$3.1 million is being added to support 35 positions for special federal litigation. The OTPS Budget is increasing by \$2.4 million primarily due to these same two actions. The sum of \$1.7 million will support special counsel and experts and \$500,000 will cover special federal litigation costs.

It should be noted that the Law Department's Fiscal 2012 Budget at the time of Fiscal 2011 Adoption was approximately \$2.5 million lower than the agency's Fiscal 2011 figure. This was the result of prior financial plan actions.

Fiscal 2012 Executive Budget Actions

- ☑ The Fiscal 2012 Executive Budget reflects a \$6-million increase in City-tax levy funds when compared to the Fiscal 2011 Adopted Budget for the Law Department. This is in stark contrast to many agencies that have seen substantial decreases in each of the last several financial plans. The Law Department has had few if any Expense Budget reductions imposed on it, as the agency has been able to receive Program to Eliminate the Gap (PEG) credit for various revenue enhancements. In addition, during the last several years the Department has had large-scale funding for various extraordinary cases placed in the Miscellaneous Budget. This budgetary practice has had the practical effect of making the Law Department's budgets and expenditures seem lower than they actually were.
- ☑ The Executive Budget recognizes that the Department will generate revenue of approximately \$1.4 million in Fiscal 2011 and \$1.9 million in Fiscal 2012 from three discrete budget actions. (see page 3 below)
- ☑ The Executive Plan removes \$2.8 million in surplus funds from the agency's Fiscal 2011 budget.

Budget Actions in the Executive Plan

Description	Fiscal 2011			Fiscal 2012		
	City	Non-City	Total	City	Non-City	Total
Agency Budget as per the February 2011 Plan	\$129,678	\$10,191	\$139,869	\$129,165	\$7,131	\$136,296
Program to Eliminate the Gap (PEGs)						
Fiscal 2011 Surplus	(\$2,800)		(\$2,800)			\$0
Total, PEGs	(\$2,800)	\$0	(\$2,800)	\$0	\$0	\$0
New Needs						
Special Federal Litigation Request	\$0		\$0	\$3,600		\$3,600
Total, New Needs	\$0	\$0	\$0	\$3,600	\$0	\$3,600
Other Adjustments						
Collective Bargaining Increases	\$2	\$0	\$2	\$2		\$2
Law Department - Austin		71	71			
Law Department - Reynolds Matter		27	27			0
Law Department - Reynolds Monitors		19	19			0
Heat, Light, and Power	(20)	0	(20)	(15)		(15)
Lease Adjustment			0	150		150
Total, Other Adjustments	(\$18)	\$116	\$98	\$138	\$0	\$138
PEG Restorations and Substitutions (PRS)						
none			\$0			
Total PEG Restorations and Substitutions (PRS)	\$0	\$0	\$0	\$0	\$0	\$0
Total, All Changes	(\$2,818)	\$116	(\$2,702)	\$3,738	\$0	\$3,738
Agency Budget as per the May 2011 Plan	\$126,860	\$10,307	\$137,167	\$132,903	\$7,131	\$140,034

Program to Eliminate the Gap (PEGs)

- ☑ **Fiscal 2011 Surplus.** The Fiscal 2012 Executive Plan includes a \$2.8-million surplus in the agency's Fiscal 2011 budget. According to the Department, "The [agency] was able to recognize Personal Services [PS] savings from cash accruals resulting from vacant positions throughout the course of the fiscal year. The Department was able to identify Other Than Personal Services [OTPS] savings as a result of delays in the completion of case-related consulting and litigation support services."

Revenue PEGs

- ☑ **Increased Revenue Collections.** The Executive Plan recognizes that the Law Department will collect additional revenue in the amount of approximately \$1.1 million in Fiscal 2011 and \$500,000 in Fiscal 2012.

The Law Department has explained this new need in the following way:

"The revenues in question belong in the doubtful claims and collection agency revenue source categories. [The] Affirmative Litigation Division oversees the activities of the Department's Collection Agency contract. Attorneys in that division also represent the City as [the] plaintiff on a wide range of issues including restitution, breach of contract and insurance. Its goal is to protect the City's interest and to advance the City's agenda by instituting claims against individuals and entities on the City's behalf. Some of the claims result in settlements and the collection of funds.

The Fiscal 2011 revenues will come from higher than expected collections by our Collection Agency vendor and reimbursement of cost for services we have rendered. After reviewing our affirmative caseload we have determined that we will collect an additional \$500,000 in FY 2012."

- ☑ **Disposition of City Property.** The Executive Plan recognizes that the Law Department will collect approximately \$178,000 in Fiscal 2011 and \$1.3 million in Fiscal 2012 in additional revenue from the sale of a City street.
- ☑ **New York Racing Association (NYRA) Signal Agreement.** The Executive Plan recognizes that the Department will generate \$100,000 in NYRA revenue for Fiscal 2011. According to the Law Department, "the NYRA Signal Agreement is a contract negotiated between the City and NYRA, whereby NYRA will pay the City to continue to broadcast racing on its Government cable channel. With the closing of NYC OTB in December 2010, the City stood to lose all remaining payments according to its cable contract with OTB.

The Executive Plan also includes revenue in the Mayoralty totaling \$410,000 for Fiscal 2011, approximately \$4 million for Fiscal 2012 and approximately \$2.7 million in Fiscal 2013 because, "the Mayor's Office facilitated the negotiation of the contract with NYRA and therefore is being credited with the bulk of the revenue. The Law Department is being credited for its work in drafting the contract."

New Needs

- ☑ **Special Federal Litigation.** The Executive Plan adds \$3.6 million in both Fiscal 2012 and Fiscal 2013 to the Department's Special Federal Litigation Division to support costs associated with defending federal civil rights cases.

The Law Department has explained this new need in the following way:

“On the PS side, [\$3.1 million] will fund 28 attorneys and 7 paralegal lines in the Special Federal Litigation Division. On the OTPS side, the \$500,000 will pay for stenographic and reproduction services, expert consultants and electronic litigation support services. The results of this initiative will be evaluated after two years. If the initiative is successful, we will seek additional funding from OMB to go beyond FY 2013.”

Appendix A: Budget Actions in the November and February Plans

Description	Fiscal 2011			Fiscal 2012		
	City	Non-City	Total	City	Non-City	Total
Agency Budget as per June 2010 Plan	\$126,819	\$7,217	\$134,036	\$124,497	\$6,997	\$131,494
Program to Eliminate the Gap (PEGs)						
none			\$0			\$0
Total, PEGs	\$0	\$0	\$0	\$0	\$0	\$0
New Needs						
Special Counsel and Experts (Feb.)	\$2,733		\$2,733	\$4,668		\$4,668
Total, New Needs	\$2,733	\$0	\$2,733	\$4,668	\$0	\$4,668
Other Adjustments						
Couch White Contract		\$200	\$200			\$0
Couch White Contract DEP (Hydr)		1,500	1,500			0
Couch White MDO Contract EDC (Hydr)		60	60			
FY11 DORIS - NYSA Grant		72	72			0
FY11 FC Division - DFP Grant		68	68			0
FY11 NYC & Company Mod.		335	335			0
Intra-City - 1004		30	30			0
Intra-City - LGRMIF		73	73			0
Intra-City - NYC Law		400	400			0
Intra-City - DEP EH&S Contract Rev. (Feb.)		103	103			0
FY11 & FY12 Intellectual Property (Feb.)		96	96		\$96	96
FY11 & FY12 VAWA Grant (Feb.)		38	38		38	38
Lease Adjustment (Feb.)	\$126		126			0
Total, Other Adjustments	\$126	\$2,974	\$3,100	\$0	\$134	\$134
PEG Restorations and Substitutions (PRS)						
none			\$0			
Total, PEG Restorations and Substitutions (PRS)	\$0	\$0	\$0	\$0	\$0	\$0
Total, Agency Budget Changes	\$2,859	\$2,974	\$5,833	\$4,668	\$134	\$4,802
Agency Budget as per the February 2011 Plan	\$129,678	\$10,191	\$139,869	\$129,165	\$7,131	\$136,296