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January 24, 2008

**Federal Bar Association
Quarterly Legislative Update – Winter, 2008**

Nominations to FBA Issues Agenda

The deadline for the nomination of additional issues for the 2008-09 FBA Government Relations Issues Agenda is **Friday, May 23**. The [Issues Agenda](#), updated annually, is FBA's legislative blueprint. It provides the focus for our FBA Government Relations program. It is a prioritized list of major areas of Congressional and/or Executive Branch activity, of impact to the federal legal system, to which FBA devotes its advocacy resources and attention. On the basis of the nominations received, the Government Relations Committee will prepare a proposed Issues Agenda for approval by the FBA Board of Directors.

Any FBA chapter, section or division, or FBA member may nominate one or more issues to the Issues Agenda. To nominate an issue, please describe the issue and its merits, what corrective action should be taken, as well as its pertinence to the FBA and its stakeholders, and send it to [Bruce Moyer, FBA Government Relations Counsel](#).

Judicial Pay

Good news. We are further ahead than we ever have been in securing a significant pay increase for the federal judiciary, one that will help to erase the erosion in judicial pay that has occurred over the past two decades due to Congressional inaction. The House Judiciary Committee passed an amended version of [H.R. 3753, the Federal Judicial Salary Restoration Act of 2007](#), by a 28-5 vote on December 12. The measure received bipartisan support. A similar bill is being crafted in the Senate. The leaders of both chambers have pledged to pass a judiciary pay bill in early 2008.

In his [annual report](#) on the state of the federal judiciary, released on New Year's Day, Chief Justice John G. Roberts Jr. urged Congress to make approval of a judicial salary increase "a first order of business" in 2008, and called a pay hike for judges "vital" and long overdue. Congressional passage of a significant pay boost for the federal judiciary also has received favorable editorial support from major metropolitan newspapers, including the [New York Times](#), [Washington Post](#) and [Los Angeles Times](#).

The bill approved by the House Judiciary Committee:

- Approves an increase of 31 percent, raising the pay of: a district court judge to \$218,000; an appeals judges to \$231,000; a Supreme Court associate justice to \$267,900; and the chief justice to \$279,900. (District judges currently earn \$165,200, the same as Members of Congress.)
- Increases senior judges' workload from three months a year to four months a year and requires 17 years of service before a judge may retire with a full pension.
- Requires a judge to lose a dollar of the judge's pension for every two dollars earned above their old salary, down to a baseline of 33 percent of their judicial salary, if the judge leaves the bench to take a higher-paying job.
- Assures to all federal judges a cost-of-living adjustment each year, equal to the provided by federal employees under the General Schedule.

A big thank-you goes out to the leaders and members of the many FBA chapters that have assisted with grass-roots support on the pay issue over the past several months, writing letters and calling their lawmakers. Their direct contacts have been very helpful and have played a positive role, complementing the communications with Congress by judges themselves and the Administrative Office of the U.S. Courts.

We will continue to provide periodic updates to you in the weeks ahead to keep you informed of breaking developments and what we would like you to do.

Court Security

In the closing days of the last session, Congress passed [H.R. 660, the "Court Security Improvement Act of 2007"](#). The President signed the measure (Public Law 110-177, 121 Stat. 2534) on January 9.

Passage of the measure came none too soon, nearly three years after the tragic murders of judge Lefkow's family in Chicago and courthouse violence in other locations around the country. Repeated partisan wrangling in the Congress had delayed action on the relatively noncontroversial issue.

During the past three years, the FBA vigorously urged Congress and federal officials to act, both in enacting tougher court security protections in law and in providing greater resources to beef up federal court security. FBA President Tom Schuck, two days after the Lefkow murders, sent letters to President Bush, the attorney general, Congressional lawmakers and others, asking them "immediately to assess and assure that funding for security requirements is adequate and that all prudent arrangements for the protection of judicial personnel, their families and our public courthouses have been made." Follow-on calls for action were repeatedly expressed by FBA presidents Robyn Spalter

and Bill LaForge, assisted in FBA's advocacy efforts by its Government Relations Committee.

Even before Congress passed the new law, it provided \$12 million in funding for security detection systems in the homes of federal judges, and the Marshals Service, with a new director, stepped up its protections of the federal judiciary. (But other gaps still remain in the protection of administrative law judges in federal agencies, many of whom are in daily contact with disgruntled plaintiffs.)

In summary, the new law:

- Prohibits for the filing (or attempts or conspiracies to file) of false liens or encumbrances against the real or personal property of any federal judge or federal officer or employee and imposes a fine and/or prison term of up to 10 years for infractions. This is intended to curtail the pernicious and burdensome practice of those harassing federal judges and federal prosecutors, especially in the western states.
- Prohibits the public disclosure of restricted personal information about a federal judge, officer or employee, witness, or juror (or immediate family members) with the intent to threaten or cause harm to such individuals, and imposes a fine and/or prison term of up to five years for violations.
- Requires the Attorney General to study and report to Congress on whether general public access to state and local records imperils the safety of the federal judiciary.
- Allows federal judges to use their courthouses as their home of record for purposes of obtaining drivers licenses and other forms of identification.
- Prohibits the possession of dangerous weapons in federal court facilities.
- Provides for continued Judicial Conference authority (until 2011) to redact sensitive information from the financial disclosure reports of federal judges. (The Judiciary had sought permanent authority.)
- Directs the U.S. Sentencing Commission to review its sentencing guidelines relating to threats against a federal official carried out over the Internet.
- Modifies venue requirements for prosecutions for retaliation against a witness to include the district in which the official proceeding or criminal conduct occurred.
- Increases maximum prison terms for: tampering with, or retaliating against, a witness, victim, or informant; voluntary and involuntary manslaughter; and assault against a federal judge, law enforcement officer, or immediate family members of such officials.

- Requires the Attorney General to report to the House and Senate Judiciary Committees on a range of measures relating to the security of assistant U.S. attorneys and other federal attorneys arising from the prosecution of terrorists and other violent criminals.

Court Funding

And finally, more good news. The federal courts fared very well in their FY 2008 funding from Congress, securing a 4.5 percent increase over last year. This provides sufficient funds to finance continuing court operations and to address workload growth, especially a rising caseload associated with immigration enforcement. In addition, the bill authorizes an FY 2008 cost-of-living adjustment for all federal judges at 2.5 percent. It also provides a \$100 hourly rate for federal defender panel attorneys. FBA had urged the Congress to take all these necessary actions.

Questions or Comments?

Contact [Bruce Moyer](#), FBA Counsel for Government Relations or [Jack Lockridge](#), FBA Executive Director.