



Government Relations Update

The Latest on Public Policy and Advocacy Developments from the Federal Bar Association

June 2023

Advocacy Update

Now that the debt ceiling crisis has been resolved, Congress has turned to the myriad of pressing legislative issues on its plate, including appropriations. This week, the Republican-led House released topline numbers for the 12 spending bills, and with the exception of defense-related and homeland security spending, all the allocations, to a greater or lesser degree, are lower than FY 2023 enacted amounts. The House plan for the Commerce, Justice and Science (CJS) bill, which funds the Department of Justice and includes an important part of Anderl Act implementation, is a total of \$58,676 million, compared to the Fiscal Year 2023 enacted amount of \$82,441 million – a 29% decrease. The House plan for the Financial Services and General Government (FSGG) bill, which includes Judiciary branch funding, is \$11,311 million, a 59% decrease from the FY 2023 enacted amount of \$27,556 million. It is important to note that this is the opening move in the appropriations process and that the final numbers are likely to be higher, though how much higher is unclear at this time. Consequently, FBA advocacy in support of Anderl Act implementation funding and overall Judiciary funding continues to be important.

Rep. Aderholt has not yet received a response from the Department of Justice's Office of Judicial Programs to his Question for the Record about the Department's plans for the grant program authorized by the Act, but we are staying in touch with Rep. Aderholt's office to help ensure this important issue is not overlooked by the Department.

Legislative Update

1. Article I Immigration Court Legislation

Unfortunately, there is no progress to report at this time. Rep. Zoe Lofgren (D-CA) and Sen. Kirsten Gillibrand (D-NY) have not found Republican cosponsors yet, and they have not introduced their bills.

During Capitol Hill Day, many FBA members were told that legislative provisions reforming immigration courts would not be likely to move through Congress unless included in a more comprehensive immigration bill. Although at this time it does not include immigration court reform, Reps. María Elvira Salazar (R-FL) and Veronica Escobar (D-TX) introduced a wide-ranging,



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bipartisan immigration reform bill in late May. We will be monitoring that bill's progress and communicating with Rep. Lofgren to see whether there is a possibility that the immigration court reform provisions could be added by amendment.

2. FY 2024 Appropriations for the Judiciary

As mentioned above, the House has made public the topline spending totals for the 12 appropriations bills. The House FSGG Subcommittee is scheduled to consider its bill, including Judiciary funding, on June 24. The House CJS Subcommittee will consider its bill, including DOJ funding, on June 28. After the Subcommittees complete their work, the full House will consider each bill. In May, the Senate Appropriations Committee announced that it plans to begin markups of bipartisan funding bills in June, but the schedule has not yet been released.

The Judiciary's request of \$9.1 billion is an 8.0 percent increase over the FY 2023 enacted appropriation of \$8.5 billion and includes \$796.0 million in mandatory appropriations. The FBA will continue to support fully funding the AO's request, as well as full funding for the Article I courts (Court of Appeals for the Armed Forces, Tax Court, and Veterans Court), and as noted above, adequate funding to implement the judicial security measures authorized in the Daniel Anderl Act. Because the debt ceiling agreement included a 1% cut in nondefense spending, we can expect at best, flat budgets, if not some cuts, but not to the extent the initial House numbers indicate.

3. Judgeships Legislation

The House and Senate Members who sponsored legislation in the last Congress to add federal judgeships still have not reintroduced their bills. Meanwhile, the FBA continues to work to build support for the effort. Recently, for example, at the request of staff for Sen. Todd Young (R-IN), former FBA President Anh Kremer facilitated a connection with a target stakeholder group, the Association of Corporate Counsel. Outreach to other key stakeholder groups, such as the Business Roundtable and Chamber of Commerce, also is pending.

As a reminder, the Judicial Conference's March 2023 report recommends adding 2 seats to the 9th Circuit Court of Appeals, 66 new District Court judgeships, converting 7 temporary District Court judgeships to permanent, and extending 2 temporary District Court judgeships for 5 more years. The legislation is likely to include the District Court increases and conversions, but not the 9th Circuit additions.

4. FBA Foundation Charter Amendments Bill

The search for a Senate Republican sponsor for the Foundation Charter Amendments bill continues. We have initiated contact with a new potential sponsor, but we have no response to report at this time.

Judiciary Updates

Seventy-six of 890 active federal judicial positions, including the United States Court of Federal Claims and the United States territorial courts, are currently vacant. Seventeen more judicial vacancies are expected through August of 2024, with one nominee named in advance.

Current Article Vacancies – As of June 15, 2023

According to the Administrative Office of the U.S. Courts

| Court | Vacancies | Nominees Pending |
|-----------------------------------|-----------|------------------|
| U.S. Supreme Court | 0 | 0 |
| Courts of Appeal | 9 | 4 |
| District Courts | 64 | 25 |
| U.S. Court of Federal Claims | 1 | 1 |
| U.S. Court of International Trade | 2 | 0 |
| Total | 76 | 30 |

There are twenty judicial vacancy emergencies, based on caseload and/or the length of the vacancy, according to the Administrative Office of the U.S. Courts, including one in the 5th Circuit.

Judicial Confirmations: The Senate has confirmed six nominees since May 15, 2023.

| Nominee | Judicial/District Court | Nomination Date |
|------------------------|-------------------------------------------|-----------------|
| Bradley N. Garcia | D.C. Circuit | May 15, 2023 |
| Jeremy C. Daniel | Northern District of IL | May 17, 2023 |
| Nancy G. Abudu | 11 th Circuit Court of Appeals | May 18, 2023 |
| Darrel James Papillion | Eastern District of LA | May 30, 2023 |
| Molly R. Silfen | Court of Claims | June 8, 2023 |
| Hernan D. Vera | Central District of CA | June 13, 2023 |

Judicial Nominations: Since May 15, President Biden has [nominated](#) 3 candidates for judicial vacancies:

| Nominee | Judicial/District Court | Nomination Date |
|--------------------|-------------------------|-----------------|
| Brandon S. Long | Eastern District of LA | June 8, 2023 |
| Jerry Edwards, Jr. | Western District of LA | June 8, 2023 |
| Philip S. Hadji | Court of Claims | June 8, 2023 |

