



ANALYSIS OF THE NEW JERSEY BUDGET

**DEPARTMENT OF
THE PUBLIC ADVOCATE**

FISCAL YEAR

2009 - 2010

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF THE PUBLIC ADVOCATE

Budget Pages..... C-7, C-16, C-28, C-30, D-297 to D-301

Fiscal Summary (\$000)

	Expended FY 2008	Adjusted Appropriation FY 2009	Recommended FY 2010	Percent Change 2009-10
State Budgeted	\$17,981	\$17,130	\$16,834	(1.7%)
Federal Funds	1,132	1,650	1,650	—
<u>Other</u>	<u>462</u>	<u>558</u>	<u>558</u>	<u>—</u>
Grand Total	\$19,575	\$19,338	\$19,042	(1.5%)

Personnel Summary - Positions By Funding Source

	Actual FY 2008	Revised FY 2009	Funded FY 2010	Percent Change 2009-10
State	153	136	135	(.7%)
Federal	2	2	2	—
<u>Other</u>	<u>38</u>	<u>33</u>	<u>33</u>	<u>—</u>
Total Positions	193	171	170	(.6%)

FY 2008 (as of December) and revised FY 2009 (as of January) personnel data reflect actual payroll counts. FY 2010 data reflect the number of positions funded.

Key Points

- The FY 2010 recommended budget for the Department of the Public Advocate from all sources totals \$19 million, 1.5 percent less than the department's FY 2009 adjusted appropriation of \$19.3 million.
- The budget would provide for 170 funded positions, one less than the number of filled positions in January 2009. These positions are allocated as follows: the Division of Mental Health Advocacy-56; Division of Citizen Relations--18; Division of Public Interest Advocacy--12; Division of Rate Counsel--32; Division of Elder Advocacy--22; Division of Advocacy for the Developmentally Disabled--1; Division of Administration-13; and Office of the Child Advocate--16.

Key Points (Cont'd)

- P.L.2005, c.155, the "Public Advocate Restoration Act of 2005," re-established within the Executive Branch the Department of the Public Advocate. The Department of the Public Advocate had been abolished in 1994 and various functions were transferred to other executive departments. The statute re-establishing the department and consolidating the State's advocacy activities within one department became effective on January 17, 2006.
- The statute organizes the department into seven divisions: Division of Administration; Division of Mental Health Advocacy; the Division of Advocacy for the Developmentally Disabled; the Division of Public Interest Advocacy; the Division of Elder Advocacy; the Division of Citizen Relations; and the Division of Rate Counsel. In addition, the Office of the Child Advocate is "in but not of" the Department of the Public Advocate.
- The Division of Citizen Relations is responsible for receiving and forwarding to appropriate agencies of the State complaints from any citizen relating to administrative action or the inaction of agencies and for investigating any complaint from any citizen relating to the administrative action or inaction of any agency. The division's recommended FY 2010 budget is \$1.4 million, the same level of funding as received in FY 2009.
- The Division of Mental Health Advocacy is designated as the State's mental health protection and advocacy agency. When the Department of the Public Advocate was abolished in 1994, the responsibilities of this division were transferred to the private entity "New Jersey Protection and Advocacy, Inc." and to the Office of the Public Defender. Under the reconstituted Department of the Public Advocate, the Division of Mental Health Advocacy is responsible for promoting, advocating, and ensuring the adequacy of the care received, and the quality of life experienced, by persons with mental illness, including patients, residents, and clients within the mental health facilities and programs operated, funded, or licensed by the State. The division is recommended to receive \$4.148 million in FY 2010, the same amount appropriated in FY 2009.
- The Division of Elder Advocacy protects the interests of the elderly in administrative and court proceedings as well as investigates and studies issues concerning the elderly. The division includes an Ombudsperson for the Institutionalized Elderly. The division's recommended FY 2010 budget is \$1.151 million, unchanged from FY 2009.
- The Division of Public Interest Advocacy reviews complaints forwarded to the Public Advocate and provides legal representation and other advocacy services when the Public Advocate deems it in the public interest to protect and advocate the rights of any group or interest. The division is recommended to receive \$1.066 million in FY 2010, the same as in FY 2009.
- The Division of Advocacy for the Developmentally Disabled provides protection and advocacy services for persons with developmental disabilities. When the Department of the Public Advocate was abolished, the responsibilities of this division were transferred to "New Jersey Protection and Advocacy, Inc." and to the Office of the Public Defender. Under the new Department of the Public Advocate, the Division of

Key Points (Cont'd)

Advocacy for the Developmentally Disabled is responsible for promoting, advocating, and ensuring the adequacy of the care received, and the quality of life experienced, by persons with developmental disabilities, including patients, residents, and clients within the developmental disabilities facilities and programs operated, funded, or licensed by the State. The division is recommended to receive \$67,000 in FY 2010.

- The Division of Rate Counsel, which is funded through assessments on public utilities, provides oversight of utility and insurance rates and charges. It is responsible for ensuring adequate representation of the interests of consumers whose interests would otherwise be inadequately represented. The division's recommended FY 2010 budget is \$5.761 million, unchanged from FY 2009.
- The Office of the Child Advocate has the authority to represent the interests of children and investigate and study issues concerning children and is responsible for ensuring that children under State supervision due to abuse or neglect are served adequately and appropriately by the State. The Office of the Child Advocate is recommended to receive \$1.351 million in FY 2010, \$296,000, or 18 percent less than the FY 2009 adjusted appropriation amount of \$1.647 million. In light of current spending levels and the likelihood of carry forward balances, the funding reduction will not compel a contraction in staff or the present scope of activities.
- Funding for Management and Administrative Services is recommended at \$1.89 million in FY 2010, the same as the FY 2009 adjusted appropriation.

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 2008	Adj. Approp. FY 2009	Recom. FY 2010	Percent Change	
				2008-10	2009-10
General Fund					
Direct State Services	\$17,981	17,130	\$16,834	(6.4%)	(1.7%)
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Capital Construction	0	0	0	0.0%	0.0%
Debt Service	0	0	0	0.0%	0.0%
Sub-Total	\$17,981	\$17,130	\$16,834	(6.4%)	(1.7%)
Property Tax Relief Fund					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Sub-Total	\$0	\$0	\$0	0.0%	0.0%
Casino Revenue Fund	\$0	\$0	\$0	0.0%	0.0%
Casino Control Fund	\$0	\$0	\$0	0.0%	0.0%
State Total	\$17,981	\$17,130	\$16,834	(6.4%)	(1.7%)
Federal Funds	\$1,132	\$1,650	\$1,650	45.8%	0.0%
Other Funds	\$462	\$558	\$558	20.8%	0.0%
Grand Total	\$19,575	\$19,338	\$19,042	(2.7%)	(1.5%)

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2008	Revised FY 2009	Funded FY 2010	Percent Change	
				2008-10	2009-10
State	153	136	135	(11.8%)	(0.7%)
Federal	2	2	2	0.0%	0.0%
All Other	38	33	33	(13.2%)	0.0%
Total Positions	193	171	170	(11.9%)	(0.6%)

FY 2008 (as of December) and revised FY 2009 (as of January) personnel data reflect actual payroll counts. FY 2010 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	38%	40%	40%	---	---
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Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2009</u>	<u>Recomm.</u> <u>FY 2010</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
Child Advocate	\$1,647	\$1,351	(\$ 296)	(18.0%)	D-301

The FY 2010 reduction in the Child Advocate account reflects the elimination of funded vacancies. The Office of the Child Advocate, an office "in but not of" the Department of the Public Advocate, spent \$2 million in FY 2008 and carried forward \$2.1 million into FY 2009. The Budget In Brief indicates that among the reductions taken by the Executive to address the FY 2009 deficit, was \$1.169 million from the Office of the Child Advocate (Budget in Brief Appendix II, Page 16). Recommended budget language would permit the Office of the Child Advocate to carry forward unexpended balances into FY 2010.

Language Provisions

There are no significant changes to language provisions within the Department of the Public Advocate's FY 2010 budget recommendation.

Discussion Points

1. The Governor's budget incorporates an estimated \$5.183 billion over two fiscal years in federal stimulus funding provided by the American Recovery and Reinvestment Act (ARRA) of 2009. According to a table on page 42 of the Governor's abbreviated budget, the State will use \$3.074 billion (\$854 million in FY 2009 and \$2.220 billion in FY 2010) from ARRA for budget relief. In addition to these funds which will offset revenue shortfalls, \$2.109 billion will be used for new or expanded programs or initiatives. The ARRA allocates funds to states both by formula and by competitive awards. Most executive departments anticipate stimulus funding in either FY 2009, FY 2010 or both.

- **Question:** Please itemize the federal stimulus funding, other than portions of the \$3.074 billion allocated for budget relief, included in the department's budget, by fiscal year and federal program, setting forth program goals and eligible uses together with the amount for state administrative expenses and the amount for allocation to local public and private recipients, respectively. Please identify intended and actual recipients and the process by which the department determines recipients and funding awards. Are there ARRA funds that flow through your department for which the State has no discretion? Please also set forth the timetable for obtaining federal approval of funding, obligation and allocation of funding to recipients, and use by recipients. Could any of this funding be used to offset other State appropriations, and if so, what programs and in what amount? What additional positions, if any, have been and will be hired with these funds? If this money is being used for new or expanded activities, will the new or expanded activities be continued in FY 2011? If so, how will they be funded?

- **Question:** In addition to funding incorporated in the FY 2010 budget, what specific competitive grant opportunities has the department identified that it is eligible to pursue, has applied for, and has been awarded, respectively?

2. Over the past several years, the overall staffing level in the Executive branch has been reduced through restrictions on hiring and an early retirement program. The FY 2010 budget proposal envisions continuation of the hiring restrictions coupled with possible furloughs or further reductions in positions.

- **Question:** How has the reduction in staffing affected your department? What strategies has the department employed to deal with staff reductions? What projects, work products or functions has the department discontinued or deferred because of staffing levels? Will the department be able to accommodate furloughs in FY 2010 without increasing spending for overtime?

3. The FY 2009 appropriations act anticipated that \$25 million in procurement savings would be achieved by executive departments. A chart on page 75 of the Budget in Brief categorizes those savings and indicates they will continue into FY 2010. The FY 2010 budget includes another \$25 million from procurement savings (Budget in Brief, Appendix I, page 8).

- **Question:** Please indicate the FY 2009 amount of procurement savings achieved by your department, by the categories set forth in the referenced table, and the sources of those savings by department program. What is the annual amount of these savings as continued into FY 2010? How have these reductions affected the

Discussion Points (Cont'd)

department? What projects, work products or functions has the department discontinued or deferred in order to achieve these savings?

4. According to the Public Advocate, "New Jersey ratepayers are paying exorbitant costs for energy supplies while deregulation of generation has led to record profits for generating companies and has reduced the incentive to build new generation plants. Rate Counsel has been actively participating in the BGS Auction proceedings before the Board to advocate for New Jersey ratepayers to ease the burden of energy costs and combat unjust and unfair rates. Rate Counsel has argued for more transparency in the procurement process to ensure fair dealing from the bidders." (Public Advocate 2008 Annual Report, page. 60)

● **Question: How has the increased cost of gas and oil products affected the Ratepayer Advocate in its monitoring of the home heating industry? What actions have been taken by the Division of Rate Counsel to advocate for New Jersey ratepayers and to assure the imposition of fair energy rates?**

5. News reports indicate that, as a result of lax lending practices and the proliferation of adjustable rate mortgages that have ratcheted up the mortgage payments of individuals who have taken out these mortgages, a large number of individuals nationwide are faced with foreclosure on their homes. In addition to a statement released by the Public Advocate on February 10, 2009, and posted on the department's website, the Public Advocate stated:

"In New Jersey, foreclosures have more than doubled in the last three years from a total of 23,044 in 2006, to 34,457 in 2007 and 47,989 in 2008. It is estimated that foreclosures could increase to as high as 60,000 this year, according to figures compiled by the NJ Administrative Office of the Courts . . . tenants who rent properties that are subject to foreclosure are being kicked out of their homes when the bank takes over the property. . . . This practice is almost always illegal in New Jersey."

● **Question: What steps has the Public Advocate taken to protect the rights of tenants turned from their homes as a result of foreclosure on their rented properties? How is the Department of the Public Advocate coordinating its actions in this regard with other State agencies, such as the Department of Banking and Insurance, Division of Consumer Affairs in the Department of Law and Public Safety and the Department of Community Affairs?**

6. Based on information from advocates, the Public Advocate has become aware that staff at some State institutions may be filing criminal charges and using psychotropic drugs inappropriately as ways to control the behaviors of disabled residents. The Public Advocate is currently examining these concerns. (Public Advocate 2008 Annual Report, page 25)

● **Question: What is the status of the Public Advocate's investigation into these allegations? What recommendations, if any, does the Public Advocate have to alleviate the problem?**

Discussion Points (Cont'd)

7. The waiting list of individuals who are seeking residential and other community services climbed to more than 8,000 in January. Of these individuals, 4,843 are considered "priority" because their needs are so serious, and the large majority of these people are living at home with older parents. The department is working in partnership with The Arc of New Jersey to investigate waiting list issues and develop recommendations and strategies for addressing this significant problem. This work includes extensive outreach to meet with individuals and their families who have spent years on the waiting list with no clear information about when they can expect to be offered the services they need. (Public Advocate 2008 Annual Report, page. 26)

- **Question:** What is the status of the Public Advocate's investigation into the issue of large number of individuals in need of residential and other community services languishing on waiting lists for such services for, in some cases, years? What conclusions and recommendations has the Public Advocate formed as a result of this investigation?

8. In 2007, the department conducted research regarding the potential for New Jersey to obtain Medicaid support for community services for those who do not quite qualify for Medicaid but who would qualify if their significant medical expenses were excluded from their income. Currently, these individuals can only qualify for Medicaid if they agree to enter a nursing home. The department's study examined ways to ensure these individuals could receive supportive services in their own home or assisted living facilities so they do not need to enter a nursing home. (Public Advocate 2008 Annual Report, page. 33)

- **Question:** Please provide an update of the Public Advocate's examination of this issue. What steps has the Public Advocate taken to address this situation?

9. The department has undertaken a comprehensive review of the contracts between the counties and Sequoia, the primary voting machine vendor in New Jersey. Sequoia threatened to sue county election officials for violation of their contract if they turned over their machines for independent review following glitches on primary Election Day in February 2008. The Department obtained a copy of the contract in question and found troubling provisions that might hobble elections officials both in seeking independent review of problematic machines and in obtaining appropriate remedies for machine failures. (Public Advocate 2008 Annual Report, page. 43)

- **Question:** What is the status of the Public Advocate's review into this matter? If appropriate, please share any preliminary findings or recommendations.

10. During FY 2009 budget process, the Public Advocate testified that the department had conducted a variety of investigations, including lead poisoning, eminent domain, residential health care facilities and the New Jersey motor voter law.

- **Question:** What are the major research projects underway or planned by the Department of the Public Advocate during the next 12 months?

Discussion Points (Cont'd)

11. In order to save money, or to obtain expertise that may not be available within the State workforce, various State departments contract with private vendors to provide State services.

- **Question:** Does the Department of the Public Advocate use private contractors to perform any statutory, regulatory or other functions of the department? If so, what are these functions? What is the estimated or actual costs for any such contracts for FY 2008, FY 2009 and FY 2010? How has the use of private contractors increased since the implementation of the Early Retirement Incentive program? How does the department retain an oversight function over these private vendors?

12. The Office of the Child Advocate, an office "in but not of," the Department of the Public Advocate, is recommended to receive \$1.351 million in FY 2010, a decrease of \$296,000 from the FY 2009 adjusted appropriation of \$1.647 million. The office spent \$2 million in FY 2008 and carried forward \$2.1 million into FY 2009. The Budget In Brief indicates that among the reductions taken by the Executive to address the FY 2009 deficit, was \$1.163 million from the Office of the Child Advocate (Budget in Brief Appendix II, Page 16). As a result, the office has total available funding of \$2.584 million in FY 2009. Recommended budget language would permit the Office of the Child Advocate to carry forward unexpended balances into FY 2010.

- **Question:** What is the estimated carry forward for the Office of the Child Advocate in FY 2010? Does the Department of the Public Advocate anticipate the appointment of a permanent Child Advocate to replace the Public Advocate who has been serving in that position under an acting capacity? Since the office has been in operation for three full fiscal years and startup costs are no longer required, please explain the need for carry forward language for FY 2010.

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Individuals wishing information and committee schedules on the FY 2010 budget are encouraged to contact:

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