

SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA

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February 27, 2012

Honorable Roman W. Prezioso  
Senate Finance Committee Chair  
State Capitol, 465M  
1900 Kanawha Blvd., E.  
Charleston, WV 25305

Honorable Harry Keith White  
House Finance Committee Chair  
State Capitol, 462M  
1900 Kanawha Blvd., E.  
Charleston, WV 25305

Dear Chairmen Prezioso and White:

With surpluses in the state budget during the last several years, responsible managers of the state's funds have looked into ways to use surplus money to cut the long-term liabilities of several state obligations -- primarily various state employee pension funds and their related costs. In 2005, for example, Governor Joe Manchin made some one-time additional payments of hundreds of millions of dollars into a couple of the state's pension funds in order to drive down the total unfunded liabilities in those funds. None of that additional money was appropriated for the Judicial Retirement System (JRS). Indeed, unlike any other state employees, the judges themselves were asked to contribute additional money to the pension system in order to help erase the unfunded liability with an increase of their contribution to 10.5% of their salaries.

The Court, following the lead of the Governor and the Legislature, also contributed more to the Judicial Retirement System than the minimum amount ultimately certified by the actuarial report each January. The Court used the preliminary numbers provided by the actuary during the summers when the Court's appropriation requests were prepared and approved by the Justices, and did not reduce the payments when the January reports were issued, instead paying the additional amounts in order to erase the unfunded liability as soon as reasonably possible.

Numerous factors comprise the financial health of any pension fund -- the contributions, the projected salaries of the recipients, and the investment income of the fund. Of course, the investment income cannot be predicted with absolute certainty. The main reason that the Judicial Retirement System is now so overly funded is due to the last two extraordinary years of investments which reaped over double the seven percent annual return prognosticated by the actuary.

Page Two  
LETTER: Chairmen Prezioso and White  
February 27, 2012

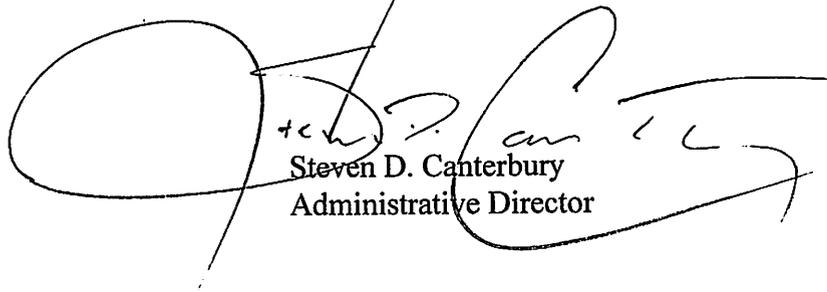
After reviewing the last several years of the payments to the Judicial Retirement System fund coupled with the results of the investments and learning that the system is now funded by over 130%, I understand that during FY 2011 and the current FY 2012, it was not necessary for me to direct the contribution of more than the minimum payment denoted in January by the actuary's report to deal with the former unfunded liability. The unfunded liability in the Judicial Retirement System no longer exists. Since that money is also already appropriated, the only way to return the \$1,714,000 to the general fund for the legislature to appropriate elsewhere is to reduce the Court's current appropriation request by that amount (from Activity 130).

As you know, the Court has been looking for ways to cut the its budget. Indeed, Chief Justice Menis Ketchum made a point of mentioning his goal of reducing the budget in his presentations to each finance committee earlier this session. Thus, the Court's administrative staff have been finding ways to economize and reduce costs. **Therefore, we are reducing our appropriation request by not only \$1,714,000 but also by the additional \$539,761 that was indicated in my letter to you of February 22, 2012. Thus, the total reduction is \$2,253,761.**

We hope that this clears up any confusion or misgivings about the Court's intentions regarding the Judicial Retirement System and the Court's goal of eliminating that fund's unfunded liability. If you have any questions or further concerns, please don't hesitate to call.

Thank you.

Sincerely,



Steven D. Canterbury  
Administrative Director

SDC/mg

cc: Chief Justice Menis E. Ketchum  
Michael Proops, Director of Financial Management  
Michael Cook, Senior Budget and Policy Analyst, West Virginia Senate Committee on Finance  
William R. Laird, V, Budget Analyst, House Committee on Finance