



ANALYSIS OF THE NEW JERSEY BUDGET

**DEPARTMENT OF
THE PUBLIC ADVOCATE**

FISCAL YEAR

2008 - 2009

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF THE PUBLIC ADVOCATE

Budget Pages..... C-10, C-19, C-26, C-29, C-31, D-319
to D-324, H-69, H-70

Fiscal Summary (\$000)

	Expended FY 2007	Adjusted. Appropriation FY 2008	Recommended FY 2009	Percent Change 2008-09
State Budgeted	\$15,493	\$20,357	\$17,466	(14.2%)
Federal Funds	994	1,650	1,650	—
<u>Other</u>	<u>317</u>	<u>1,533</u>	<u>558</u>	<u>(63.6%)</u>
Grand Total	\$16,804	\$23,540	\$19,674	(16.4%)

Personnel Summary - Positions By Funding Source

	Actual FY 2007	Revised FY 2008	Funded FY 2009	Percent Change 2008-09
State	113	149	149	—
Federal	2	2	2	—
<u>Other</u>	<u>40</u>	<u>37</u>	<u>37</u>	—
Total Positions	155	188	188	—

FY 2007 (as of December) and revised FY 2008 (as of January) personnel data reflect actual payroll counts. FY 2009 data reflect the number of positions funded

Key Points

- The FY 2009 recommended budget for the Department of the Public Advocate totals \$17.5 million, 14.2 percent less than the department's FY 2008 adjusted appropriation of \$20.4 million.
- The budget would provide for 188 funded positions, equal to the number of filled positions in January 2008. These positions are allocated as follows: the Division of Mental Health Advocacy-51; Division of Citizen Relations-22; Division of Public Interest Advocacy-16; Division of Rate Counsel-35; Division of Elder Advocacy-25; Division of Advocacy for the Developmentally Disabled-3; Division of Administration-12; and Office of the Child Advocate-24.

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 is recommended to receive \$1.705 million in FY 2009, \$350,000 or 17 percent less than the FY 2008 adjusted appropriation of \$2.055 million. The reduction eliminates funding for vacant positions (\$125,000) and professional and other services (\$225,000) to reflect the current level of expenditures. It is expected that \$50,000 of the reduction will be offset by dispute mediation services revenue.
- 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 \$3.393 million in FY 2009, \$635,000 or 15.8 percent less than the FY 2008 appropriation of \$4.028 million. Reductions in salary funding (\$385,000) will result in a smaller staff complement—51 compared to 55 in FY 2008—and other reductions will curtail funding for professional and expert services.
- 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 is recommended to receive \$1.357 million in FY 2009, \$85,000 or 5.9 percent less than the FY 2008 adjusted appropriation of \$1.442 million, with reductions primarily targeting funding for vacant positions.
- 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 \$1.27 million in FY 2009, \$300,000 or 19.1 percent less than the FY 2008 adjusted appropriation of \$1.57

Key Points (Cont'd)

million. The entire reduction affects Services Other Than Personal funding where there are substantial unexpended balances.

- 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 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 \$149,000 in FY 2009, 50.2 percent, or \$150,000 less than the FY 2008 adjusted appropriation of \$299,000. The reduction eliminates salary funding for vacant positions.
- The Division of Rate Counsel, which is funded through assessments on public utilities, provides oversight of utility and insurance rates and charges. It is charged with the responsibility of ensuring adequate representation of the interests of consumers whose interests would otherwise be inadequately represented. The division is recommended to receive \$5.67 million in FY 2009, \$700,000 or 11 percent less than the FY 2008 adjusted appropriation of \$6.37 million. Most of the reduction affects salary funding, but due to the presence of vacant positions and the expectation of carry forward balances, no decrease in staffing is projected.
- 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 \$2.268 million in FY 2009, \$319,000, or 12.3 percent less than the FY 2008 adjusted appropriation amount of \$2.587 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 \$1.646 million in FY 2009, a reduction of 17.6 percent or \$352,000 under the FY 2008 adjusted appropriation of \$1.998 million. The entire reduction affects funding for non-salary operating resources. It is expected that \$194,000 will be recovered from the Division of Rate Counsel and its charges to regulated entities, presumably for central administrative costs that support the work of that division.

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 2007	Adj. Approp. FY 2008	Recom. FY 2009	Percent Change	
				2007-09	2008-09
General Fund					
Direct State Services	\$15,493	\$20,357	\$17,466	12.7%	(14.2%)
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	\$15,493	\$20,357	\$17,466	12.7%	(14.2%)
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	\$0	\$0	\$0	0.0%	0.0%
Federal Funds	\$994	\$1,650	\$1,650	66.0%	0.0%
Other Funds	\$317	\$1,533	\$558	76.0%	(63.6%)
Grand Total	\$1,311	\$3,183	\$2,208	68.4%	(30.6%)

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2007	Revised FY 2008	Funded FY 2009	Percent Change	
				2007-09	2008-09
State	113	149	149	31.9%	0.0%
Federal	2	2	2	0.0%	0.0%
All Other	40	37	37	(7.5%)	0.0%
Total Positions	155	188	188	21.3%	0.0%

FY 2007 (as of December) and revised FY 2008 (as of January) personnel data reflect actual payroll counts. FY 2009 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent

Not Supplied

Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp. FY 2008</u>	<u>Recomm. FY 2009</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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DIRECT STATE SERVICES

Salaries and Wages	\$11,966	\$10,631	(\$1,335)	(11.2%)	D-324
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The recommended reduction in FY 2009 Salaries and Wages affects various divisions as follows: Citizen Relations, \$125,000; Mental Health Advocacy, \$385,000; Elder Advocacy, \$75,000; Advocacy for the Developmentally Disabled, \$150,000; and Rate Counsel, \$600,000. These changes are intended to eliminate funding mostly for vacant positions, but in the case of Mental Health Advocacy a reduction in current staffing, from 55 to 51, is expected. It is also anticipated that \$50,000 of the reduction to the Division of Citizen Relations will be offset by revenue from dispute mediation services.

Services Other Than Personal	\$3,771	\$2,684	(\$1,087)	(28.8%)	D-324
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The recommendation reduction in funding for Services Other Than Personal affects various divisions as follows: Citizen Relations, \$225,000; Mental Health Advocacy, \$100,000; Elder Advocacy, \$10,000; Public interest Advocacy, \$300,000; Rate Counsel, \$100,000; and Administration, \$352,000. Reimbursements for services from the Division of Rate Counsel totaling \$194,000 are anticipated to partially offset the reduction to the Division of Administration. According to information provided by the Office of Management and Budget, to the extent that FY 2009 funding comprises a decrease below current expense levels in any division, it is expected that reliance on consultant and expert services will be reduced.

SPECIAL PURPOSE**Representation of Civilly Committed Sexual Offenders**

Sexual Offenders	\$1,000	\$850	(\$150)	(15.0%)	D-324
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The FY 2009 recommendation is commensurate with FY 2007 and FY 2008 projected spending levels for this account. The reduction reflects the elimination of funding for two vacant positions.

Child Advocate	\$2,587	\$2,268	(\$319)	(12.3%)	D-324
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The FY 2009 reduction in the Child Advocate account reflects the elimination of funding for one vacant position, as well as a reduction in non-salary resources to eliminate funding that has been unspent annually since FY 2006. The office carried forward \$1.9 million from FY 2007 into FY 2008. Recommended budget language would permit the Office of the Child Advocate to carry forward unexpended balances into FY 2009. As of April 25, 2008, the office had an uncommitted balance of \$2.8 million in its account.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2008</u>	<u>Recomm.</u> <u>FY 2009</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
ALL OTHER FUNDS					
Rate Counsel	\$1,124	\$149	(\$975)	(86.7%)	D-324

The FY 2009 recommendation reflects the current spending level for the Division of Rate Counsel. The division has authority to review certain insurance rate increases. The Department of Banking and Insurance assesses the industry for these costs and reimburses the division. The FY 2008 budget significantly overestimated the level of resources the division would devote to insurance rate matters.

Language Provisions

2008 Appropriations Handbook

2009 Budget Recommendations

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The unexpended balances at the end of the preceding fiscal year are appropriated subject to the approval of the Director of the Division of Budget and Accounting. No comparable language.

Explanation

P.L.2005, c.155 re-established the Department of the Public Advocate within the Executive branch, effective January 17, 2006. FY 2007 was the first full fiscal year during which the department was operational. Carry forward language was included in the FY 2007 and FY 2008 budgets to allow the department to complete the startup of its programs. Unexpended balances of \$4.4 million, exclusive of balances in the Office of the Child Advocate, were carried forward into FY 2009. This language is not required in FY 2009. The FY 2008 second quarter spending plan suggests balances of \$1.7 million that would lapse to surplus due to this language deletion.

The FY 2009 budget also recommends that the Office of the Child Advocate and the Division of Rate Counsel carry forward unexpended balances into FY 2009.

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No comparable language.

Receipts in excess of the amount anticipated for the Office of Dispute Settlement are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

The recommended language would appropriate revenue in excess of the amount anticipated from the Office of Dispute Settlement's mediation services in FY 2009. The FY 2009 budget anticipates that the Office of Dispute Settlement will collect \$100,000 in FY 2008 and \$50,000 in FY 2009, estimates which support excess receipts of \$50,000 and make up for a reduction in salary funding for the Division of Citizen Relations.

Discussion Points

Department of the Public Advocate

1. The FY 2009 budget recommendation reduces the number of State employees through an early retirement initiative and layoffs. The Governor has further proposed that the ability to hire employees to fill these positions be limited to 10 percent of the positions vacated. The impact these personnel actions may have on the Department of the Public Advocate's programs and services is not clear.

- **Question:** How many employees are eligible for the early retirement initiative or may be laid off, by division? To the extent that new employees cannot be hired, what services or programs will be reduced or eliminated? How will the reductions affect the department's operations?

2. Evaluation data on Budget Page D-323 indicate that the Division of Mental Health Advocacy anticipates the addition of 380 cases requiring the department to represent civilly committed sexual offenders, 10 more cases than the number added in FY 2008. The FY 2009 Budget recommends that funding for the representation of civilly committed sexual offenders be reduced from \$1 million to \$850,000, a \$150,000 or 15 percent reduction.

- **Question:** What is the rationale for placing this program within the Department of the Public Advocate when the Office of the Public Defender is responsible for representing defendants in criminal cases? What impact will the proposed reduction in funding have on the department's ability to handle the increase in the number of cases?

3. Since the re-establishment of the Department of the Public Advocate in FY 2006, budget evaluation data has not included statistics on the number of minority individuals employed by the department. This is the only department for which this information is not included in the budget documents.

- **Question:** Please provide the committee with the number of male, female and total minorities employed by the Department of the Public Advocate. Why has this information not been included in the Budget Recommendation?

4. Since its re-establishment in FY 2006, the Department of the Public Advocate received carry forward language allowing it to maintain funds not spent in previous fiscal years. In addition to the department's FY 2008 adjusted appropriation of \$20.357 million, the department carried forward \$7.3 million into FY 2008. Excluding the budgets of the Rate Counsel, which is funded through industry assessments, and the Office of the Child Advocate, which is "in but not of" the department, the department's remaining divisions were appropriated \$11.396 million and carried forward \$3.322 million, bring the total funds available to the department at \$14.718 million. As of March 31, 2009, \$7.217 million had been spent. While the Division of Rate Counsel and the Office of the Child Advocate are recommended to receive carry forward language in FY 2009, no carry forward language is recommended for the remainder of the department in FY 2009.

- **Question:** What is the estimated lapse balance in each of the department's divisions for FY 2008?

Discussion Points (Cont'd)

5. The New Jersey State Office of Dispute Settlement provides mediation and other neutral dispute resolution services to the public and private sectors. The FY 2008 revenues for Office of Dispute Settlement Mediation totaled \$44,000 in FY 2007 and are anticipated to total \$100,000 in FY 2008. Anticipated revenues for FY 2009 are estimated at \$50,000 (Budget pg. C-10). In response to a question posed by OLS, OMB noted that the Salaries and Wages account is being reduced as a result of additional fees anticipated from increased mediation services provided by the Office of Dispute Settlement. However, anticipated revenues for this program for FY 2009 are estimated at \$50,000 (Budget page C-10), \$50,000 less than the amount anticipate for FY 2008.

- **Question:** What services are provided by the Office of Dispute Settlement and what are the fees charged for these services? What portion of this fee revenue will be used to offset reductions in the Salaries and Wages line? Why have the office's revenues doubled in FY 2008? Please explain why these same revenues have been reduced by half in FY 2009.

6. The Division of Rate Counsel, is funded through assessments on public utilities and 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 in matters within the jurisdiction of the Division. The FY 2008 revenues for Division of Rate Counsel totaled \$7.29 million in FY 2007, and \$7.45 million in FY 2008. Anticipated revenues for FY 2009 are estimated at \$6.75 million (Budget page C-10). Rate Counsel Insurance revenue totaled \$32,000 in FY 2007, \$1.12 million in FY 2008, and are anticipated to total \$149,000 in FY 2009. (Budget page C-19)

- **Question:** Please provide an explanation of the fluctuations in the Division of Rate Counsel's revenues.

7. The State Auditor recently released a report on the former Division of the Ratepayer Advocacy (now the Division of Rate Counsel). In that report, it raised issues concerning assessments on the public utility industry, personal services contracts and cash receipts.

- **Question:** How has the division responded to the State Auditor's recommendation that sums assessed to the public utility industry not exceed costs required for the operation of the division and any overassessments be credited in subsequent periods? What actions have been taken to assure that the division comply with Treasury Circular Letter No. 98-14-OMB for all contracts with independent contractors? Has the division complied with the recommendation that all receipts be deposited daily, including overpayments and that refunds be issued when necessary? Has the division implemented a complete log of incoming checks and reconciled it to daily deposits as recommended?

Discussion Points (Cont'd)

Office of the Child Advocate

1. The Office of the Child Advocate, an office "in but not of", the Department of the Public Advocate, is recommended to receive \$2.268 million in FY 2009, a decrease of \$319,000 from the FY 2008 adjusted appropriation of \$2.587 million. This reduction reflects the elimination of funding for one vacant position and a reduction in one-time non-salary expenses. The office carried forward \$1.9 million from FY 2007 into FY 2008 giving the office total available funding of \$4.5 million. Recommended budget language would permit the Office of the Child Advocate to carry forward unexpended balances into FY 2009. As of March 31, 2008, the office had an uncommitted balance of funding available for expenditure totaling \$2.95 million in its account.

- **Question:** What is the estimated carry forward for the Office of the Child Advocate in FY 2009? Since the office has been in operation two full fiscal years, and start up costs are no longer required, please explain the need for such a large carry forward amount.

2. The FY 2009 budget recommendation reduces the number of State employees through an early retirement initiative and layoffs. The Governor has further proposed that the ability to hire employees to fill these positions be limited to 10 percent of the positions vacated. The impact these personnel actions may have on the Office of the Child Advocate's programs and services is not clear.

- **Question:** How many employees are eligible for the early retirement initiative or may be laid off? To the extent that new employees cannot be hired, what services or programs will be reduced or eliminated? How will the reductions affect the office's operations?

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Individuals wishing information and committee schedules on the FY 2009 budget are encouraged to contact:

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