

## IN THE COURT OF APPEALS OF MARYLAND

### ADMINISTRATIVE ORDER PERTAINING TO TEMPORARY SALARY REDUCTION, FURLOUGH, REDUCTION IN SERVICE AND REDUCTION IN SUBSIDY PLAN FOR JUDICIAL BRANCH EMPLOYEES

WHEREAS, The State of Maryland continues to experience budgetary problems of unprecedented proportions; and

WHEREAS, The state of the economy, recently enacted legislation, notably that relating to foreclosure actions, and ever expanding need for court intervention in matters of social dysfunction, i.e. to address chemical dependence and family violence, have had a profound effect on the Judicial Branch, making judicial operations in these difficult times particularly critical; and

WHEREAS, In December 2008, and again in the late summer of 2009, both the Executive Branch, by Executive Orders 01.01.2008.20 and 01.01.2009.11, and the Judicial Branch, by Judicial Branch Administrative Orders of December 18, 2008 and September 1, 2009, adopted furlough and salary reduction plans; and

WHEREAS, On May 21, 2010, Governor O'Malley issued Executive Order 01.01.2010.11, "Fiscal Year 2011 State Employees' Furlough and Temporary Salary Reduction Plan," detailing the continuing, urgent need to reduce State budget expenditures through a combination of a temporary reduction in salaries, furloughs, and service reduction days; and

WHEREAS, Neither Executive Order 01.01.2010.11 nor the authority it cites, Chapter 62 of the 1992 Laws of Maryland, applies to the Judicial Branch; and

WHEREAS, Section 18 of the Budget Bill for Fiscal Year 2011, Chapter 482 of the Laws of Maryland, directs that the funding for regular and contractual salaries in the Judicial Branch be reduced to reflect furlough and temporary salary reduction savings in Fiscal Year 2011; and

WHEREAS, The budget actions of the General Assembly compels all State-funded employees of the Judicial Branch, regular, temporary, and contractual, to participate in a plan for temporary salary reduction, furlough and service reduction, and further necessitates that court positions supported through Judicial Branch subsidies undergo equivalent reductions.

NOW, THEREFORE, I, Robert M. Bell, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 15<sup>th</sup> day of June, 2010, effective June 30, 2010:

1. Definitions.

In this Order, the terms shall have the following meanings:

- A. “Salary” means gross annual unreduced salary or salaries as of July 1, 2010, not including overtime, acting capacity, or shift differentials, except that with respect to the determination of overtime, cash salary means gross annual unreduced salary.
- B. “Temporary salary reduction” means an across-the-board adjustment to affected rates of pay for a specified period of time.
- C. “Furlough” means the placement of an employee in a temporary non-duty, non-pay status for budget-required reasons.
- D. “Service reduction day” means a day when the Judicial Branch reduces routine operations and covered employees, except 24/7 employees, receive paid administrative leave.

- E. “Judicial Branch subsidy” means on-going State funding approved by the Chief Judge of the Court of Appeals to provide full or partial financial support for positions within a Circuit Court.
- F. “Judicial Branch grant” means an award of State funding made by the Chief Judge of the Court of Appeals as a result of a formal process of application and review that involves specific terms and conditions agreed to by the respective grantees.
- G. “24/7 Employees” means those employees who work on a shift schedule providing services as part of a 24/7 operation.

2. Scope.

Savings shall be achieved through a combination of a temporary reduction in salaries, furloughs, service reduction days, and a reduction in Judicial Branch subsidies. State-funded employees in the Judicial Branch of Government, in regular, temporary, or contractual positions, including law clerks, Masters, and all court employees or appointees supported in part or in full through Judicial Branch subsidies and who are paid by the Central Payroll Bureau of the State Comptroller shall participate in this Plan. Except as specifically provided, employees in 24/7 operations are subject to this Order. Employees whose salaries are supported through the award of Judicial Branch grants are not subject to this Order.

3. Temporary Salary Reductions.

- A. An employee subject to this Order who earns a salary of \$40,000 or more, including employees of 24/7 operations, shall have a temporary salary reduction equivalent to five (5) days of pay that shall be apportioned across the pay periods of Fiscal Year 2011.
- B. An employee subject to this Order who earns a salary of less than \$40,000 shall have a temporary salary reduction equivalent to three (3) days of pay that shall be apportioned across the pay periods of Fiscal Year 2011.
- C. An employee whose salary is supported by Judicial Branch subsidy shall have that subsidy reduced equivalently.

4. Furloughs.

- A. An employee who works in a 24/7 capacity shall not be required to take furlough hours.
- B. An employee earning less than \$40,000 shall not be required to take furlough hours.
- C. An employee earning between \$40,000 and \$49,999 shall be required to take twenty-four (24) furlough hours.
- D. An employee earning between \$50,000 and \$99,999 shall be required to take thirty-two (32) furlough hours.
- E. An employee earning \$100,000 or more shall be required to take forty (40) furlough hours.

- F. An employee shall not work during designated furlough hours except that, in the event of an emergency, the administrative official may revoke furlough hours, pay the employee for those hours, and require the employee to designate new furlough hours.
- G. An employee subject to being furloughed shall select his or her own furlough hours, subject to supervisory approval. An employee shall not be required to take furlough hours in lieu of taking a leave of absence covered by the Family and Medical Leave Act.
- H. In no instance, without prior written approval of the employee's administrative official or in exigent circumstances as certified by the administrative official, shall compensatory leave or overtime off-set the reduction of pay resulting from furlough hours.
- I. For all purposes other than salary or wages, an employee on furlough hours shall be deemed to be on paid leave.
- J. A furlough may be taken on an employee's regularly scheduled workday in increments as small as four (4) hours.
- K. An employee shall take no more than eight (8) furlough hours during any work week.
- L. If an employee has not taken all required furlough hours during the fiscal year, the employee's pay shall be reduced by an amount that reflects the untaken furlough hours and the employee forfeits the right to take unpaid leave that was not taken during the fiscal year.

5. Service Reduction.

The Service Reduction Plan under this Order shall provide:

- A. Except as provided in subsection C, the Judicial Branch shall close on December 23, 2010, and December 30, 2010, and employees shall receive paid administrative leave for those designated service reduction days.
- B. In addition to the two (2) designated service reduction days in subsection A above:
  - (1) An employee earning \$40,000 or more shall receive three (3) paid days of administrative leave to be used on or before June 30, 2011.
  - (2) An employee earning less than \$40,000 shall receive one (1) paid day of administrative leave to be used on or before June 30, 2011.
- C. All 24/7 Judiciary employees who are scheduled to work on December 23, 2010, and/or December 30, 2010, shall report for their respective assignments. Employees who work in a 24/7 capacity are not eligible to receive additional administrative leave.
- D. If a day is not declared to be a service reduction day for judicial operations under this Order, the Judicial Branch shall continue its normal operations, notwithstanding the fact that the day has been declared to be a service reduction day under Executive Order 01.01.2010.11. Persons with business before a court shall not be excused because of the Executive Order.
- E. Employees in the Judicial Branch, even if they are not paid from the State Judicial Branch budget, shall not be excused from attendance,

notwithstanding any policy adopted by a local subdivision to impose service reductions in that subdivision.

6. Fiscal Year 2012 Administrative Leave.

Consistent with Executive Order 01.01.2010.11, beginning in Fiscal Year 2012, employees, except those in 24/7 operations, earning less than \$40,000 per year, shall be permitted two (2) administrative leave days. Employees earning between \$40,000 and \$49,999, and employees of 24/7 operations earning less than \$40,000, shall be permitted three (3) administrative leave days. Employees earning between \$50,000 and \$99,999, except employees of 24/7 operations, shall be permitted four (4) administrative leave days. Employees earning \$100,000 or more, and employees of 24/7 operations earning \$40,000 or more, shall be permitted five (5) administrative leave days. Use of administrative leave shall require prior supervisory approval. Employees shall not be entitled to compensation for any unused administrative leave. The administrative leave must be taken on or before June 30, 2012.

7. Retroactive Overtime Calculation

It is the intent of this Order to provide employees with conditions of employment that are consistent with conditions that apply to Executive Branch employees, even when there is no legal requirement to do so. Consistent with section 39 of Chapter 484 of the 2010 legislative session and Executive Order 01.01.2010.11, the calculation of the rate of overtime payment for current employees who were subject to a temporary salary reduction in Fiscal Years 2010 or 2011 shall be based on an employee's unreduced salary, and this policy shall be applied retroactively

to September 23, 2009, and shall affect the overtime compensation of current employees covered by this Order from that date.

8. General Provisions.

- A. Judicial Branch subsidies supporting in full or in part court positions shall be reduced by sums pursuant to Sections 3 and 4 of this Order that would reflect the actions taken with respect to equivalent State-funded positions paid by the Central Payroll Bureau.
- B. This Order shall not apply to those employees supported by grants awarded by the Judicial Branch.
- C. Pursuant to the Constitution of Maryland, this Administrative Order shall not apply to the salaries of judges (including recalled judges) of the Court of Appeals, Court of Special Appeals, Circuit Courts, the District Court, Orphans' Court, and to elected Clerks of the Circuit Courts.
- D. The State Court Administrator shall take all actions necessary to implement this Order for employees of the Court of Appeals, Court of Special Appeals, Circuit Court Clerks' Offices, Administrative Office of the Courts, Rules Committee, State Board of Law Examiners, Mediation and Conflict Resolution Office, State Law Library, and all other court-related agencies.
- E. The County Administrative Judge of each of the Circuit Courts shall take all actions necessary to implement this Order for employees and appointees in their respective courts who are subject to this Order.

- F. The Chief Judge of the District Court shall take all actions necessary to implement this Order for employees of the District Court who are subject to this Order.
- G. The Chief Judge of each Orphans' Court shall take all actions necessary to implement this Order for employees of the Orphans' Court who are subject to this Order.

/s/ Robert M. Bell

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Robert M. Bell  
Chief Judge of the Court of Appeals

Filed: June 15, 2010

/s/ Bessie M. Decker

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Bessie M. Decker  
Clerk  
Court of Appeals