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A Fair Shake for Legal Aid

Congress begins to see the value of helping the underprivileged get attorneys.

Monday, July 13, 2009

FOR THE past 13 years, the Legal Services Corp. has had its hands tied while trying to fulfill its mission of representing poor people in civil matters. Legal aid lawyers, for example, have been prohibited from using federal and even privately procured or state and local funds to initiate class actions; they have also been barred from seeking attorney's fees even when they prevail in court -- a benefit available to other lawyers in many civil rights or consumer protection matters. What's worse, legal aid clinics have been grossly underfunded, a result of cutbacks after the 1994 Republican congressional victories.

This year, even lawmakers who once looked askance at legal aid programs as either a waste of money or a waste of time are rethinking their positions, in large part because more and more constituents need legal guidance to secure such things as unemployment benefits or to maneuver through foreclosure proceedings. It is unfortunate that it took a deep economic recession to highlight the importance of legal aid, but it is gratifying to see -- finally -- an appropriate legislative response.

Senate appropriators agreed two weeks ago to lift almost all restrictions on how legal aid offices may use non-federal funds; they also have given legal aid lawyers the right to seek reimbursement of attorney's fees in litigation underwritten with non-federal money. Sen. Barbara A. Mikulski (D-Md.), chairwoman of the subcommittee that oversees legal aid funding, deserves credit for these latest developments, which won bipartisan approval from committee members. The full Senate is expected to vote on the bill before the August recess; the Senate must reconcile its bill with one passed by the House this year.

The Senate effort is preferable to the House version because it goes further in freeing up legal aid lawyers, but it is not perfect. Legal aid lawyers may not seek fees in cases funded with federal dollars -- a nonsensical restriction that prevents legal aid clinics from generating more of their own revenue. The bill also would prohibit legal aid lawyers from using even non-federal funds to represent clients in abortion- or prison-related matters.

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Senate lawmakers have thus far also not been as generous as their House counterparts in setting the LSC's budget for fiscal 2010. Senators anted up \$400 million -- \$40 million less than the House and \$35 million less than requested by President Obama. The Senate should move closer to the House number, given the tremendous need for these services and the fact that even the \$440 million would essentially only restore LSC's funding to what it was a decade ago.



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