

Center for Judicial Accountability

From: Center for Judicial Accountability <elena@judgewatch.org>
Sent: Friday, August 23, 2013 12:32 PM
To: 'Michael Gormley'
Cc: 'Michael Virtanen'
Subject: Achieving BOTH a Properly Functioning Legislature & the Public Trust Act (Program Bill #3) -- the Sine Qua Non for "Government Working" & "Working for the People"
Attachments: 6-29-13-article-ap-end-of-session.pdf

Dear Mike,

Attached is the article I referred to when I called. Did you write it – or was it Mike Virtanen?

As you requested, I will call you back on Monday at about 1 pm to discuss with you CJA's August 21st letter to the Governor. Here's the link to our "Latest News" webpage that posts the letter, as well as the audio of Susan Arbetter's Capitol Pressroom interview of me about it. <http://www.judgewatch.org/web-pages/cja/latest-news.htm> .

Once you look at the letter – and its webpage substantiating evidence – you will see what a HUGELY IMPORTANT story it is!!!

Thanks.

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PostStar.com

REVIEW?

Governor, Legislature used message of necessity to speed end of session



JUNE 29, 2013 1:47 PM • ASSOCIATED PRESS

ALBANY -- Gov. Andrew Cuomo and the Legislature used an emergency provision in the constitution that allowed them to skirt the required three days' review of bills and push through two big measures at the end of this year's session despite promises not to employ the much-criticized tactic.

The emergency he and lawmakers used to justify it: They didn't want to stick around

Albany.

The mostly overlooked message of necessity orders on June 20 and June 21 were for amended versions of a casino expansion bill and another to enact a tax-free incentive to attract employers. Cuomo said the changes negotiated behind closed doors were only minor technical fixes, and he notes that the vast majority of each bill was the same as when the measure was introduced days before.

The orders state the changes "could not otherwise be addressed before the adjournment of the Legislature." The second message of necessity, for the casino bill, was a day after the scheduled end of the 2013 session.

"The two messages mock the constitution," said Robert Schulz, a Queensbury resident who has sued governments more than 100 times to enforce what he considers violations of the state and U.S. constitutions. "Regardless of the level of significance of the individual changes, the bills as finally approved by the Legislature were not on their desks for three days prior to final approval and are therefore unconstitutional, null and void."

Schulz, who isn't suing this time, said he found many substantive policy changes in the amendments that changed percentages in funding formulas.

Earlier, leaders were being pressured by advocates and some lawmakers to extend the session on other major — and politically thorny — issues. Some advocates wanted the leaders to reconcile a last-minute block of nine major women's rights initiatives and a bill to create public financing of campaigns, which came up just one vote short.

Issuing the messages of necessity cut off that pressure.

"If you want to change the culture of Albany, you never do this unless it's an emergency," said Bill Samuels, founder of the New Roosevelts government reform group. "The minute

you slip back into it, even for a minor reason, you signaled that it is still fine to pass legislation without any review by the public.”

Cuomo used messages of necessity in his early budgets to legalize gay marriage and pass gun control laws that are still drawing opposition. But his office notes he uses messages of necessity far less than previous governors and ordered it just five times last year, compared to 29 his first year.

Cuomo spokesman Rich Azzopardi said Cuomo’s record speaks for itself. He wouldn’t comment on specific changes.

An extended session would have been disrupted. Cuomo barnstormed the state immediately after the session presenting his casino law, tax-free law and other accomplishments while legislators returned to their districts in preparation for the 2014 elections.

The changes in last week’s amendments appear relatively minor but not insignificant.

In the casino bill, a late addition appears to ensure two Catskill casinos won’t be located at the site of a storied old Catskills resort. The addition also appears to limit the former Concord resort in Sullivan County to one casino.

The change in the tax-free program sets a threshold for companies that fail to meet job promises. If a company fulfills 75 percent or more of its job promise, measured in annual reviews, it will get the same percentage of a tax break. But if a company makes less of its job promise, it will get no tax break.