

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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April 28, 2017

TO: Senate Records Access Officer/Secretary of the Senate Francis Patience
ATT: Colleen Glavin, Senate Freedom of Information Attorney

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: Clarifying the Senate's response to CJA's March 24, 2017 FOIL/records request:
"March 13, 2017 'amending' of Governor Cuomo's budget bills for fiscal year 2017-2018"

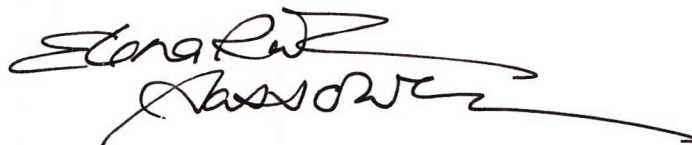
I understand that you have replaced James Curran as the Senate's Freedom of Information Attorney.

Enclosed is my already-written letter of today's date to Mr. Curran requesting clarification of what he told me, by phone, on April 4th, in response to my April 4th letter to Secretary of the Senate Patience concerning his March 31st e-mail response to the March 24th FOIL request I had filed for records pertaining to the "March 13, 2017 'amending' of Governor Cuomo's budget bills for fiscal year 2017-2018".

For your convenience, the full exchange of correspondence is enclosed.

Your expeditious clarification would be greatly appreciated.

Thank you.



Enclosures

Ex 8-d

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ATT: James Curran, Senate Freedom of Information Attorney

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: Your April 4, 2017 phone call clarification

Thank you for your April 4, 2017 phone call to me on behalf of Secretary of the Senate Patience, responding to my request of that date for clarification of your March 31, 2017 e-mail regarding CJA's March 24, 2017 FOIL request for records pertaining to the "amending" of eight of Governor Cuomo's budget bills for fiscal year 2017-2018 on March 13, 2017.

I understood you to have confirmed precisely what I surmised by my April 4, 2017 request for clarification, *to wit*, that none of the 3,871 pages that you had offered me at a cost of \$967.75 – pertaining to the eight budget bills, purportedly amended on March 13, 2017, were for:

- (1) records showing the 'non-sponsor' who introduced the amendments
- (3) records showing the date and time of the Senate Finance Committee meetings at which the motions to amend each of the eight budget bills was on its agenda – and the notice thereof furnished to Senate Finance Committee members and the public, required by Senate Rule VIII, §2...;
- (4) records of the Senate Finance Committee meetings at which the motions to amend each of the eight budget bills was deliberated and voted upon, including the number of senators present and the number of senators who had submitted voting sheets – and the vote on the motions to amend, including the votes of each member, such as required by Senate Rule VIII, §2.

As I recollect, you clarified that these are the "additional records", which "if the records even exist, are not subject to disclosure pursuant to Senate Rules".

I find it hard to believe that these "additional records", if they "even exist" would not be "subject to disclosure pursuant to Senate Rules" – and you have not specified which Senate rule would so-exempt them. Please, therefore, specify the Senate rule to which you are referring, as I see nothing in Senate Rule XV, "Freedom of Information", that would be applicable, especially its §1(a):

“Publication of records relating to Senate legislative and administrative records. Recognizing that legislative records available by request under the "freedom of information law" are of important public interest, the Senate shall make available through a searchable and sortable database on the Senate website: records of committees, agendas, votes, minutes, reports, attendance, fiscal notes, and records of the chamber including, active lists, votes, transcripts, calendars, the Senate payroll report and expenditure reports.”

Indeed, any Senate Rule that would bar the requested records would be unconstitutional, violating Article III, §10 of the New York State Constitution, which reads, in pertinent part:

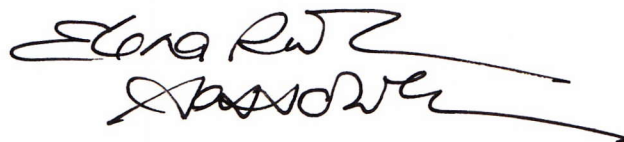
“Each house of the legislature shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy....”

As to what the proffered 3,871 pages consist of, I understood you to say that these are, as my April 4th clarification request surmised, responsive to #2 of my FOIL request for:

“records showing what specific changes the amendment made, as for instance, the ‘detail sheets’ and ‘amended memorandum”, required by Senate Rule VII, §4(b)...”

Before making arrangements to inspect and copy these 3,871 pages, pursuant to Senate Rule XV, §§1(b) and (c), please confirm that they are the “detail sheets” and “amended memorand[a]” – and not simply the Senate’s eight “amended” budget bills of March 13, 2017 from which the “specific changes” can only be discerned from line-by-line comparison with the Governor’s eight bills that they “amended”.

Thank you.

A handwritten signature in black ink, appearing to read "Elena Ruiz", with a long horizontal flourish extending to the right.