

SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

----- X
CENTER FOR JUDICIAL ACCOUNTABILITY, INC.
and ELENA RUTH SASSOWER, individually and
as Director of the Center for Judicial Accountability, Inc.,
acting on their own behalf and on behalf of the People
of the State of New York & the Public Interest,

Index # 5122-16
RJI #01-16-122174

**JUDICIAL SUPOENA
DUCES TECUM**

Plaintiffs,

-against-

ANDREW M. CUOMO, in his official capacity as Governor
of the State of New York, JOHN J. FLANAGAN in his official
capacity as Temporary Senate President, THE NEW YORK
STATE SENATE, CARL E. HEASTIE, in his official capacity
as Assembly Speaker, THE NEW YORK STATE ASSEMBLY,
ERIC T. SCHNEIDERMAN, in his official capacity as Attorney
General of the State of New York, THOMAS P. DiNAPOLI,
in his official capacity as Comptroller of the State of New York,
and JANET M. DiFIORE, in her official capacity as Chief Judge of the
State of New York and chief judicial officer of the Unified Court System,

Defendants.

-----X
The People of the State of New York

TO: New York State Assembly Records Access Officer Robin Marilla

WE COMMAND YOU, that all business and excuses being laid aside, you furnish to this
Court, sitting at 16 Eagle Street, Albany New York, 12207, true copies of the records in the
Assembly's possession, custody, and control responsive to plaintiffs' attached three FOIL/records
requests dated March 24, 2017, March 24, 2017, and March 27, 2017, as immediately as possible for
purposes of the Court's inspection and evidentiary hearing thereon.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

WITNESS, Honorable Denise A. Hartman, one of the Acting Justices of said Court, at 16 Eagle Street, Albany, New York 12207, the _____ day of _____, 2017

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: mail@judgewatch.org
Website: www.judgewatch.org

March 24, 2017

TO: Assembly Records Access Officer Robin Marilla

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

RE: FOIL/RECORDS REQUEST: March 13, 2017 "amending" of Governor Cuomo's budget bills for fiscal year 2017-2018

Reference is made to Governor Cuomo's budget bills for fiscal year 2017-2018. Assembly Rule III, §2(g), states:

"When a bill is submitted or proposed by the Governor by authority of Article VII of the Constitution, it shall become, for all legislative purposes, a legislative bill, and upon receipt thereof by the Assembly it shall be endorsed 'Budget Bill' and be given a number by the Index Clerk, and shall be referred to the Committee on Ways and Means and be printed...."

On January 23, 2017, the Governor's budget bills, to which were assigned numbers #A.3000 – S.3009, were each referred to the Assembly Ways and Means Committee.

The Assembly's webpages for these ten budget bills reflect that on March 13, 2017 eight were amended, but not reported out of committee. They were the following three "appropriations bills":

- (1) State Operations Budget Bill #A.3000-A
- (2) Aid to Localities Budget Bill #A.3003-A
- (3) Capital Projects Budget Bill #A.3004-A

and the following five "Article VII bills" –

- (4) Public Protection and General Government Budget Bill #A.3005-A
- (5) Education, Labor and Family Assistance Budget Bill #A.3006-A
- (6) Health and Mental Hygiene Budget Bill #A.3007
- (7) Transportation, Economic Development and Environmental Conservation Budget Bill #A.3008-A
- (8) Revenue Bill #S.3009-A.

EX 2-A

With respect to each of these eight “amended” budget bills, request is made, pursuant to Assembly Rule VIII “Public Access to Records”, for:

- (1) records showing the “non-sponsor” who introduced the amendment, since it obviously was not the Governor;
- (2) records showing what specific changes the amendment made, as for instance, the “detail sheets” and “amended memorandum”, required by Assembly Rule III, §6:

“Amendments.

- a. No amendment to a bill may be offered unless the member proposing the amendment delivers three copies of the bill with the proposed amendment correctly marked thereon and six copies of the detailed description of such amendment to the Clerk of the Assembly.”

- (3) records showing the date and time of the Assembly Ways and Means Committee meeting at which the motion to amend was on its agenda – and the notice thereof furnished to Assembly Ways and Means members and the public, required by Assembly Rule IV, §2

“Meetings of standing committees.

- a. Meetings of standing committees. Standing committees shall hold meetings at a regular weekly time and day as scheduled by the committee chairperson in consultation with the committee coordinators, as designated by the Speaker, and such set time shall be posted on the Assembly committee board and Assembly Internet site. The weekly committee schedule shall be available the preceding Thursday, as provided for in subdivision b of this section. ...
- b. Each chairperson of a standing committee shall, by the Thursday of the week preceding, furnish to the Speaker, the Majority and Minority Leaders, and make available in written or electronic format to each member of such committee, a copy of the agenda of all meetings scheduled for the following week, together with a copy of the introducer's memorandum for each bill listed on such agenda. Further, each chairperson shall furnish to the Speaker, the Majority and Minority Leaders and to the ranking minority member of such committee, a list of all bills referred to such committee to date together with the above agenda and memoranda. In

addition, copies of such agenda shall be made available not later than such Thursday to representatives of the news media and to the general public by the filing thereof with the Legislative Library and the Assembly Public Information Office, and shall be made available on the Assembly Internet site and the Legislative Retrieval System....

- c. The chairperson of a standing committee may call a special meeting or add or delete items on the agenda of a regular meeting by giving twenty-four hour notice of the agenda of such special meeting or such additions or deletions in the same manner and to the same extent as notice of agenda for regular meetings, provided, however, that such notice shall not be required if a message of necessity has been received from the governor in connection with the bill under consideration or the ranking minority member of the committee consents thereto.”

(4) records of the Assembly Ways and Means Committee meeting at which the motion to amend was deliberated and voted upon, including the number of assembly members present – and the vote on the motion to amend, including the vote of each member, such as required by Assembly Rule IV, §2

- “d. All standing committee meetings shall be open to representatives of the news media and general public...No bill shall be voted upon at such executive session. No committee shall vote to report any bill unless a majority of all the members thereof is actually present. The affirmative vote of a majority of all the members appointed to a standing committee shall be necessary to every report. The negative vote of such a majority shall be necessary to defeat a bill in committee. No proxy vote shall be valid.
- e. At the conclusion of a committee meeting the committee clerk of such committee shall deliver to the Office of Journal Operations a roll call on each of the bills considered by the committee and on each vote to hold an executive session indicating the attendance of the members and the ayes and nays. Such roll call shall be reproduced not later than 24 hours after transmittal to such Office and shall be made available for inspection by the general public and representatives of the news media in the Assembly Public Information Office, the Assembly Internet site and the Legislative Retrieval System.

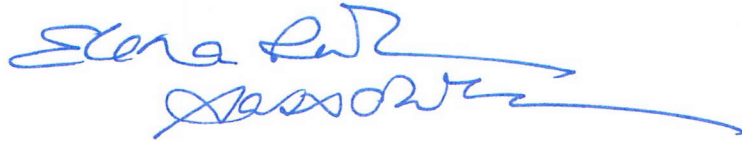
...

- g. The audio and/or video broadcast of committee meetings shall be made available on the Assembly Internet site when practicable, and shall be subject to the same requirements as apply to televised proceedings of Assembly sessions pursuant to Rule X.

Suffice to say, that had the Assembly Ways and Means Committee voted the “amended” bill out of committee, Assembly Rule IV, §6, entitled “Reports”, would have been applicable:

“f. All budget appropriation bills reported favorably or for consideration, if reported with amendments, shall be immediately reprinted, and the amendments proposed by the committee shall be underscored in their proper place except in cases where the committee recommends eliminating certain words or figures, in which cases such words or figures shall be printed enclosed in black-faced brackets.”

Thank you.



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March 27, 2017

TO: Assembly Records Access Officer Robin Marilla

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

RE: FOIL/RECORDS REQUEST: March 20, 2017 "amending" of Governor Cuomo's Debt Service Budget Bill #A.3002 for fiscal year 2017-2018

Reference is made to Governor Cuomo's debt service budget bill for fiscal year 2017-2018. Assembly Rule III, §2(g), states:

"When a bill is submitted or proposed by the Governor by authority of Article VII of the Constitution, it shall become, for all legislative purposes, a legislative bill, and upon receipt thereof by the Assembly it shall be endorsed 'Budget Bill' and be given a number by the Index Clerk, and shall be referred to the Committee on Ways and Means and be printed...."

On January 23, 2017, the debit service budget bill, to which was assigned number #A.3002, was referred to the Assembly Ways and Means Committee. The Assembly's webpage reflects the following "Actions":

01/23/2017	referred to ways and means
03/20/2017	amend and recommit to ways and means
03/20/2017	print number 3002a
03/22/2017	reported referred to rules
03/22/2017	reported
03/23/2017	rules report cal. 31
03/23/2017	ordered to third reading rules cal. 31
03/23/2017	ordered to third reading rules cal. 31
03/23/2017	passed assembly
03/23/2017	delivered to Senate
03/23/2017	REFERRED TO FINANCE

EX 2-B

With respect to Debt Service Budget Bill #A.3002-A, request is made, pursuant to Assembly Rule VIII "Public Access to Records", for:

- (1) records showing the "non-sponsor" who introduced the amendment, since it obviously was not the Governor;
- (2) records showing what specific changes the amendment made, as for instance, the "detail sheets" and "amended memorandum", required by Assembly Rule III, §6:

"Amendments.

- a. No amendment to a bill may be offered unless the member proposing the amendment delivers three copies of the bill with the proposed amendment correctly marked thereon and six copies of the detailed description of such amendment to the Clerk of the Assembly."

- (3) records showing the date and time of the Assembly Ways and Means Committee meeting at which the motion to amend was on its agenda – and the notice thereof furnished to Assembly Ways and Means members and the public, required by Assembly Rule IV, §2

"Meetings of standing committees.

- a. Meetings of standing committees. Standing committees shall hold meetings at a regular weekly time and day as scheduled by the committee chairperson in consultation with the committee coordinators, as designated by the Speaker, and such set time shall be posted on the Assembly committee board and Assembly Internet site. The weekly committee schedule shall be available the preceding Thursday, as provided for in subdivision b of this section. ...
- b. Each chairperson of a standing committee shall, by the Thursday of the week preceding, furnish to the Speaker, the Majority and Minority Leaders, and make available in written or electronic format to each member of such committee, a copy of the agenda of all meetings scheduled for the following week, together with a copy of the introducer's memorandum for each bill listed on such agenda. Further, each chairperson shall furnish to the Speaker, the Majority and Minority Leaders and to the ranking minority member of such committee, a list of all bills referred to such committee to date together with the above agenda and memoranda. In

addition, copies of such agenda shall be made available not later than such Thursday to representatives of the news media and to the general public by the filing thereof with the Legislative Library and the Assembly Public Information Office, and shall be made available on the Assembly Internet site and the Legislative Retrieval System....

- c. The chairperson of a standing committee may call a special meeting or add or delete items on the agenda of a regular meeting by giving twenty-four hour notice of the agenda of such special meeting or such additions or deletions in the same manner and to the same extent as notice of agenda for regular meetings, provided, however, that such notice shall not be required if a message of necessity has been received from the governor in connection with the bill under consideration or the ranking minority member of the committee consents thereto.”

(4) records of the Assembly Ways and Means Committee meeting at which the motion to amend was deliberated and voted upon, including the number of assembly members present – and the vote on the motion to amend, including the vote of each member, such as required by Assembly Rule IV, §2

- “d. All standing committee meetings shall be open to representatives of the news media and general public... No bill shall be voted upon at such executive session. No committee shall vote to report any bill unless a majority of all the members thereof is actually present. The affirmative vote of a majority of all the members appointed to a standing committee shall be necessary to every report. The negative vote of such a majority shall be necessary to defeat a bill in committee. No proxy vote shall be valid.
- e. At the conclusion of a committee meeting the committee clerk of such committee shall deliver to the Office of Journal Operations a roll call on each of the bills considered by the committee and on each vote to hold an executive session indicating the attendance of the members and the ayes and nays. Such roll call shall be reproduced not later than 24 hours after transmittal to such Office and shall be made available for inspection by the general public and representatives of the news media in the Assembly Public Information Office, the Assembly Internet site and the Legislative Retrieval System.

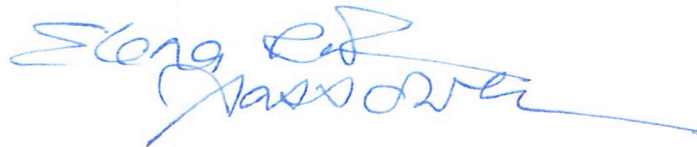
...

- g. The audio and/or video broadcast of committee meetings shall be made available on the Assembly Internet site when practicable, and shall be subject to the same requirements as apply to televised proceedings of Assembly sessions pursuant to Rule X.

Finally, since the "amended" bill was purportedly "reported" out of the Ways and Means Committee on March 22, 2017, please furnish a copy of the "immediately reprinted" "amended" bill, with the changes "underscored in their proper place" or "enclosed in black-faced brackets", as required by Assembly Rule IV, §6(f):

"All budget appropriation bills reported favorably or for consideration, if reported with amendments, shall be immediately reprinted, and the amendments proposed by the committee shall be underscored in their proper place except in cases where the committee recommends eliminating certain words or figures, in which cases such words or figures shall be printed enclosed in black-faced brackets."

Thank you.



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March 24, 2017

TO: Assembly Records Access Officer Robin Marilla

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

RE: FOIL/RECORDS REQUEST: March 11, 2016 "amending" of Governor Cuomo's budget bills for fiscal year 2016-2017

Reference is made to Governor Cuomo's budget bills for fiscal year 2016-2017. Assembly Rule III, §2(g), states:

"When a bill is submitted or proposed by the Governor by authority of Article VII of the Constitution, it shall become, for all legislative purposes, a legislative bill, and upon receipt thereof by the Assembly it shall be endorsed 'Budget Bill' and be given a number by the Index Clerk, and shall be referred to the Committee on Ways and Means and be printed...."

On January 14, 2016, the Governor's budget bills, to which were assigned numbers #A.9000 – A.9009, were each referred to the Assembly Ways and Means Committee.

The Assembly's webpages for these ten budget bills reflect that on March 11, 2016 eight were amended, but not reported out of committee. They were the following three "appropriations bills":

- (1) State Operations Budget Bill #A.9000-A
- (2) Aid to Localities Budget Bill #A.9003-A
- (3) Capital Projects Budget Bill #A.9004-A

and the following five "Article VII bills" –

- (4) Public Protection and General Government Budget Bill #A.9005-A
- (5) Education, Labor and Family Assistance Budget Bill #A.9006-A
- (6) Health and Mental Hygiene Budget Bill #A.9007
- (7) Transportation, Economic Development and Environmental Conservation Budget Bill #A.9008-A
- (8) Revenue Bill #S.9009-A.

EX 3-B

With respect to each of these eight “amended” budget bills, request is made, pursuant to Assembly Rule VIII “Public Access to Records”, for:

- (1) records showing the “non-sponsor” who introduced the amendment, since it obviously was not the Governor;
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...

- g. The audio and/or video broadcast of committee meetings shall be made available on the Assembly Internet site when practicable, and shall be subject to the same requirements as apply to televised proceedings of Assembly sessions pursuant to Rule X.

Suffice to say, that had the Assembly Ways and Means Committee voted the "amended" bill out of committee, Assembly Rule IV, §6, entitled "Reports", would have been applicable:

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Thank you.

