

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

December 10, 2018

TO: Assembly Records Access Officer Robin Marilla

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

RE: FOIL/RECORDS REQUEST: Records showing when, where, and how the Assembly “amended” Governor Cuomo’s budget bills for fiscal year 2018-2019

Reference is made to Governor Cuomo’s budget bills for fiscal year 2018-2019.

Assembly Rule III, §2 entitled “Introduction”, states:

“g. 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 18, 2018, the Governor’s budget bills, to which were assigned numbers #A.9500 – A.9511, were each referred to the Assembly Ways and Means Committee.

The Assembly’s webpages for these twelve budget bills reflect that three were never amended:

- Legislative/Judiciary Budget Bill #A.9501
- Debt Service Bill #A.9502
- Good Government & Ethics Reform #A.9510.

On February 16, 2018, eight bills were amended by Governor Cuomo, as part of his “30-day amendments”:

- State Operations Budget Bill #A.9500-A
- Aid to Localities Budget Bill #A.9503-A
- Capital Projects Budget Bill #A.9504-A
- Public Protection and General Government Budget Bill #A.9505-A
- Education, Labor & Family Assistance #A.9506A
- Health and Mental Hygiene Budget Bill #A.9507-A

- Trans. & Econ. Development and Envir. Conservation Budget Bill #A.9508-A
- Revenue Bill #A.9509-A.

On March 12, 2018, six bills were “amended” to become:

- State Operations Budget Bill #A.9500-B
- Aid to Localities Budget Bill #A.9503-B
- Capital Projects Budget Bill #A.9504-B
- Education, Labor and Family Assistance Budget Bill #A.9506-A
- Health and Mental Hygiene Budget Bill #A.9507-B
- Revenue Bill #A.9509-B.

On March 13, 2018, two were “amended” to become:

- Public Protection and General Government Budget Bill #A.9505-B
- Trans. & Econ. Development and Envir. Conservation Budget Bill #A.9508-B

Then, on March 14, 2018, Public Protection and Government Budget Bill #A.9505-B was further “amended” to become #A.9505-C.

With respect to each of the budget bills “amended” on March 12, 13, and 14, 2018, 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 detailed description of such amendment”, required by Assembly Rule III, §6, entitled “Amendments”, whose subsection a states:

“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.”¹ (underlining added).

¹ Also see subsection d:

“If a motion to amend prevails, the Clerk of the Assembly shall distribute copies of the bill with the amendment correctly marked thereon together with copies of the detailed description of the amendment to the appropriate Assembly offices for purposes of renumbering and printing the bill as amended.” (underlining added).

(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, entitled “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.”
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(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, “Meetings of standing committees”:

- “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.
...

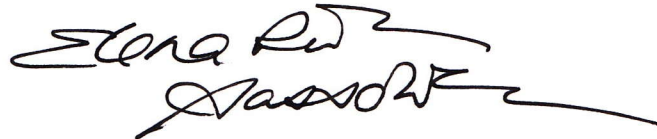
- g. The audio and/or video broadcast of committee meetings shall be made available on the Assembly Internet site when practicable, and shall be subject to the same requirements as apply to televised proceedings of Assembly sessions pursuant to Rule X.”

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.

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