

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Sunday, March 24, 2013 2:10 PM
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Subject: AGAIN: Why You Must Reject S.2601 -- Judiciary Appropriations Bill
Attachments: 3-24-13-ltr-to-senators.pdf

WHY YOU MUST REJECT S.2601 – JUDICIARY APPROPRIATIONS BILL

TO: ALL SENATORS

Attached is CJA's March 24th letter to you, superseding what was sent three hours ago, as it makes substantive changes to Question #4, including, as follows:

"CJA requests that if you have not already viewed the video of Ms. Sassower's ten-minute testimony at the February 6th budget hearing that you immediately do so – and that the substantiating documentation she handed up at the hearing be brought to the floor of the Senate for inspection by the Senators.

Examine the Opposition Report, whose Executive Summary, also handed up, identifies the following statutory violations, particularized by the Opposition Report:

...

Examine, too, the verified complaint based on the Opposition Report, whose second, third and fourth causes of action detail the unconstitutionality, statutory violations, and fraud of the Commission on Judicial Compensation's Report. ^[fn3]

Any member of this body who would be heard on behalf of the judicial salary increase must be required to respond to the particularized facts and law presented by CJA's Opposition Report and the verified complaint based thereon, as they are devastating and dispositive. Indeed, it is the duty of each member to review the Opposition Report and verified complaint so as to verify this, as likewise, that funding of the judicial salary increases recommended by the Commission on Judicial Compensation is 'nothing short of grand larceny of the public fisc', as Ms. Sassower described it in a particularized March 11, 2013 letter (at p. 3), sent to all legislators.

Consistent therewith, this Legislature must, as Ms. Sassower stated at the February 6th hearing, override the second phase of the judicial salary increase which will otherwise take effect automatically on April 1, 2013 – as well as the third phase, which will otherwise take effect automatically on April 1, 2014. In support thereof and to secure the voiding of the first phase that took effect on April 1, 2012 and to recover the more than \$27.7 million dollars of public monies expended on the first phase, which, unless voided, will be an annually recurring expense, in perpetuity, findings of fact and conclusions of law must be made with respect to CJA's October 27, 2011 Opposition Report. This must be done forthwith by the Senate and Assembly Judiciary Committees in belated discharge of their oversight function pursuant to Senate Rule VIII, §4(c)^[1] and Assembly Rule IV, §1(d)^[2].

Suffice to say that in the nearly 19 months since the Commission's August 29, 2011 Report, neither the Senate nor Assembly Judiciary Committees have held any hearings on the Report or otherwise purported to review it to determine whether – as §1(h) of Chapter 567 of the Laws of 2010 explicitly provides – its judicial salary increase determinations should be 'modified or abrogated by statute prior to April first of the year as to which their determination applies.'"

The new footnote 3, which is VERY IMPORTANT, reads:

"Particularly essential is examination of ¶¶145-154 of the complaint's second cause of action, challenging the constitutionality of Chapter 567 of the Laws of 2010, *as written*, based on its delegation of 'Legislative Power Without Safeguarding Provisions and Guidance'. This, because the Legislature is poised to enact in "Part X" of appropriations bill S.2605-C, now S.2605-D, as 'necessary to implement the public protection-general government budget for the 2013-2014 state fiscal year', legislation creating 'a commission on managerial or confidential state employee compensation to examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits for managerial or confidential state employees' – whose language and provisions are, in material respects, *verbatim* identical to the constitutionally-infirm language and provisions of Chapter 567 of the Laws of 2010"

This superseding letter is already posted on our website. Here's the direct link: <http://www.judgewatch.org/web-pages/judicial-compensation/legislative-oversight-judicial-raises.htm>.

Once again, we take the opportunity to request that Senate Judiciary Committee Chairman DeFrancisco – and Ranking Member Krueger – ensure that the documentary proof handed up at the February 6th budget hearing, in support of our opposition testimony, is brought to the floor of the Senate.

Thank you & apologies for any inconvenience,

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-455-4373

[1]

Senate Rule VIII, §4(c) states:

“Committee oversight function. Each standing committee is required to conduct oversight of the administration of laws and programs by agencies within its jurisdiction.”

[2]

Assembly Rule IV, §1(d) states:

“...Each standing committee shall, furthermore, devote substantial efforts to the oversight and analysis of the activities, including but not limited to the implementation and administration of programs, of departments, agencies, divisions, authorities, boards, commissions, public benefit corporations and other entities within its jurisdiction.”