

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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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 #: 904235-22

Petitioners/Plaintiffs,

**CPLR §2214(c) NOTICE
of Papers to be Furnished
to the Court**

-against-

NEW YORK STATE JOINT COMMISSION ON PUBLIC ETHICS,
LEGISLATIVE ETHICS COMMISSION,
NEW YORK STATE INSPECTOR GENERAL,

KATHY HOCHUL, in her official capacity as
GOVERNOR OF THE STATE OF NEW YORK,

ANDREA STEWART-COUSINS, in her official capacity as
TEMPORARY SENATE PRESIDENT, & the NEW YORK STATE SENATE,

CARL HEASTIE, in his official capacity as
ASSEMBLY SPEAKER, & the NEW YORK STATE ASSEMBLY,

LETITIA JAMES, in her official capacity as
ATTORNEY GENERAL OF THE STATE OF NEW YORK,

THOMAS DiNAPOLI, in his official capacity as
COMPTROLLER OF THE STATE OF NEW YORK,

Respondents/Defendants.
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S I R S:

PLEASE TAKE NOTICE that upon the hearing of petitioners/plaintiffs' June 23, 2022 notice of petition for a TRO, preliminary injunction, transfer/removal to federal court, mandamus, declaratory & other relief in the above-entitled Article 78 proceeding/declaratory judgment action/citizen taxpayer action, you are hereby given notice, pursuant to [CPLR §2214\(c\)](#), to furnish:

(1) all records of **findings of fact and conclusions of law** made with respect to petitioners’ March 18, 2020 letter to then Governor Cuomo ([Ex A-5 to petition](#)), simultaneously furnished to the Legislature and Budget Director Mujica – identified at ¶82 of the June 6, 2022 verified petition as “the starting point for the declaration that Part QQ [of Education, Labor, Housing and Family Assistance Budget Bill #S.8006-C/A.9006-C – the ‘ethics commission reform act of 2022’] was unconstitutionally enacted”;

(2) all records of **findings of fact and conclusions of law** made with respect to petitioners’ January 22, 2022 written statement in support of oral testimony ([Exhibit A-2 to petition](#)), January 25, 2022 written oral testimony ([Exhibit A-3 to petition](#)), and March 25, 2022 e-mail to 41 legislators – including to Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie ([Exhibit A-4 to petition](#)) – identifying petitioners’ March 18, 2020 letter and specifying other constitutional, statutory, and legislative rule violations pertaining to the FY2022-23 state budget;

(3) all records of **discussions** of the aforesaid March 18, 2020 letter ([Ex A-5 to petition](#)), January 22, 2022 written statement in support of oral testimony ([Exhibit A-2 to petition](#)), January 25, 2022 written oral testimony ([Exhibit A-3 to petition](#)), and March 25, 2022 e-mail to 41 legislators Heastie ([Exhibit A-4 to petition](#)): (a) in any legislative committee meetings; (b) in any of the closed-door Senate and Assembly majority and minority party conferences;

(4) certified paper copies or electronic copies of Governor Hochul’s “FY2023 Executive Budget Legislation”, such as posted on her [Division of the Budget website](#), consisting of:

(i) the Governor’s five “[FY 2023 Appropriations Bills](#)”, introduced on January 18, 2022:

- [State Operations Bill #S.8000/A.9000](#)
- [Legislature and Judiciary Bill #S.8001/A.9001](#)
- [State Debt Service Bill #S.8002/A.9002](#)
- [Aid to Localities Bill #S.8003/A.9003](#)
- [Capital Projects Bill #S.8004/A.9004](#)

(ii) the Governor’s five “[FY Article VII Bills](#)”, posted as draft bills, requiring Senate & Assembly sponsors

- [Education, Labor and Family Assistance \(ELFA\) Bill & Memorandum in Support](#)
- [Health and Mental Hygiene \(HMH\) Bill & Memorandum in Support](#)
- [Public Protection and General Government \(PPGG\) Bill & Memorandum in Support](#)

- [Transportation, Economic Development and Environmental Conservation \(TED\) Bill & Memorandum in Support](#)
 - [Revenue \(REV\) Bill & Memorandum in Support](#)
- (iii) the Governor’s “[Freestanding Article VII Legislation](#)”, posted as draft resolutions, requiring Senate & Assembly sponsors:
- [Private Sector Employment for Incarcerated Individuals Continuing Resolution & Memorandum in Support](#)
 - [Two-Year Term Limits on Statewide Elected Officials & Memorandum in Support](#)
- (iv) the Governor’s “30-Day Amendments” – consisting of a “Narrative” and “Amendments” for each bill except for two “appropriations bills”: Legislative/Judiciary and Debt Service;
- (5) certified paper copies or electronic copies from the Senate and Assembly websites of Governor Hochul’s “FY2023 Executive Budget Legislation”, reflecting the history of each bill from introduction through passage:

“APPROPRIATIONS BILLS”

State Operations Budget Bill

[S.8000 – Senate webpage](#)

[A.9000 – Senate webpage](#) [A.9000 – Assembly webpage](#)

Legislative/Judiciary Budget Bill

[S.8001 – Senate webpage](#)

[A.9001 – Senate webpage](#) [A.9001 – Assembly webpage](#)

State Debt Budget Bill

[S.8002 – Senate webpage](#)

[A.9002 – Senate webpage](#) [A.9002 – Assembly webpage](#)

Aid to Localities Budget Bill

[S.8003 – Senate webpage](#)

[A.9003 – Senate webpage](#) [A.9003 – Assembly webpage](#)

Capital Projects Budget Bill

[S.8004 – Senate webpage](#)

[A.9004 – Senate webpage](#) [A.9004 – Assembly webpage](#)

“ARTICLE VII BILLS”

Public Protection & General Government Budget Bill

[S.8005 – Senate webpage](#)

[A.9005 – Senate webpage](#) [A.9005 – Assembly webpage](#)

Education, Labor, Housing & Family Assistance Budget Bill

[S.8006 – Senate webpage](#)

[A.9006 – Senate webpage](#) [A.9006 – Assembly webpage](#)

Health & Mental Hygiene Budget Bill

[S.8007 – Senate webpage](#)

[A.9007 – Senate webpage](#) [A.9007 – Assembly webpage](#)

Transportation, Economic Development, & Environmental Conservation Budget Bill

[S.8008 – Senate webpage](#)

[A.9008 – Senate webpage](#) [A.9008 – Assembly webpage](#)

Revenue Budget Bill

[S.8009 – Senate webpage](#)

[A.9009 – Senate webpage](#) [A.9009 – Assembly webpage](#)

(6) all records reflecting how Governor Hochul’s five so-called “FY 2023 Article VII Bills”, requiring Senate and Assembly sponsors – and so-posted on her [Division of the Budget webpage](#) of her “FY2023 Executive Budget Legislation” as proposed bills, with supporting memoranda – became actual bills purported to have been “submitted by the Governor pursuant to article seven of the Constitution”, bearing combined Senate-Assembly bill numbers S.8005/A.9005 to S.8009/A.9009 and a January 19, 2022 date of introduction;¹

(7) all records pertaining to the formulation of Governor Hochul’s Part Z of her “[Public Protection and General Government Article VII Legislation](#)” and [supporting memorandum](#), thereafter becoming Part Z of her “[Public Protection and General Government](#)” Budget Bill [S.8005/A.9005](#) – including its deviation from the [original formulation announced on January 5, 2022 with her “State of the State” address](#) as creating an ethics commission to replace JCOPE, consisting of “a rotating board of five members made up of the 15 state-accredited law school deans or their designees”;

(8) all records reflecting how, following Governor Hochul’s 30-day amendments on February 22, 2022, amending three of her appropriation bills (excepting Legislative/Judiciary & Debt Service) and amending all five of her purported “FY 2023 Article VII Bills” – resulting in those eight bills having an “-A” suffix – the Senate and Assembly each “amended” them three weeks later on [days when neither house was in session](#):

¹ Compare the Governor’s [Division of the Budget webpage](#) of her “FY2023 Executive Budget Legislation” with the Assembly webpage for the “[2022-2023 Executive Proposal](#)”.

- (i) On Saturday, March 12, 2022, when the Assembly “amended” all eight of the Governor’s aforesaid bills resulting in Assembly bills each bearing a “-B” suffix;
- (ii) On Sunday, March 13, 2022, when the Senate “amended” all eight of the Governor’s aforesaid bills resulting in Senate bills each bearing a “-B” suffix;

Specifically, who introduced each of the multitude of changes that produced these “amended” bills? At what committee meetings were they discussed and voted on? How many legislators voted on each of these changes and the ultimate “-B” bills? Who were they – and what were their votes? Why are none of these records posted on the Senate and Assembly websites?

(9) all records reflecting the introducer, discussion, and votes in the Senate of the amendment that eliminated the Part Z “Independent Ethics Reform Act” from [S.8005-A/A.9005-A](#), resulting in an “amended” [S.8005-B](#) where Part Z was “intentionally omitted”;

(10) all records reflecting the introducer, discussion, and votes in the Assembly of the amendment that eliminated the Part Z “Independent Ethics Reform Act” from [S.8005-A/A.9005-A](#), resulting in an “amended” [A.9005-B](#) where Part Z was “intentionally omitted”;

(11) a certified paper copy or electronic copy from the Senate’s website of [Resolution S-2081](#), introduced by Senate Majority Leader Stewart-Cousins on Sunday, March 13, 2022 – and any records of the time it was introduced and whether referred to any committee;

(12) All records substantiating the text of [Senate Resolution S-2081](#), reading:

“RESOLUTION in response to the 2022-2023 Executive Budget submission (Legislative Bills S.8000-A, S.8001, S.8002, S.8003-A, S.8004-A, S.8005-A, S.8006-A, S.8007-A, S.8008-A, S.8009-A) to be adopted as legislation expressing the position of the New York State Senate relating to the 2022-2023 New York State Budget

WHEREAS, It is the intent of the Senate to effectuate the timely passage of a State Budget; and

WHEREAS, It is the intent of the Senate to engage in the Budget Conference Committee process, which promotes increased participation by the members of the Legislature and the public; and

WHEREAS, Article VII of the New York State Constitution provides the framework under which the New York State Budget is submitted, amended and enacted. The New York State Courts have limited the Legislature in how it may change the appropriations bills submitted by the Governor. The Legislature can delete or reduce items of appropriation contained in the several appropriation bills submitted by the Governor in conjunction with the Executive Budget, and it can add additional items of appropriation to those bills provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose; and

WHEREAS, An extensive study and review of the Governor’s 2022-2023 Executive Budget submission has revealed that the construction of the budget bills submitted to the Legislature by the Governor constrains the Legislature in its ability to fully effectuate its intent in amending the Governor’s budget submission; and

WHEREAS, The Senate has amended the Governor’s 2022-2023 Executive Budget submission to the fullest extent possible within the authority provided to it pursuant to Section 4 of Article VII of the New York State Constitution; and

WHEREAS, The Senate, in addition to the Governor’s 2022-2023 Executive submission bills as amended by the Senate in the above referenced legislative bills, does hereby provide its recommendations as to provisions in the Governor’s 2022-2023 Executive Budget submission which reflect those items the Senate is constrained from effectuating as amendments to the 2022-2023 Executive Budget appended hereto; and

WHEREAS, It is the intent of the Senate that upon the passage of the Governor’s 2022-2023 Executive Budget submission as amended by the Senate, the incorporated Report on the Amended Executive Budget may provide a basis for both houses of the Legislature to convene Committees on Conference pursuant to Joint Rule III of the Senate and Assembly for the purpose of reconciling any differences between the amendments to the Governor’s budget as proposed by each house of the Legislature; now, therefore, be it

RESOLVED, That the above referenced legislative bills (Legislative Bills S.8000-B, S.8001, S.8002, S.8003-B, S.8004-B, S.8005-B, S.8006-B, S.8007-B, S.8008-B, S.8009-B) be and are incorporated as part of this resolution and are hereby adopted as the New York State Senate’s budget proposal for the 2022-2023 New York State Budget.”;

(13) all records establishing whether each of the positions/changes identified by the accompanying “REPORT ON THE AMENDED EXECUTIVE BUDGET” was already embodied in the Senate’s above “-B” “amended” budget bills;

(14) all records substantiating the assertion in the Senate’s “REPORT ON THE AMENDED EXECUTIVE BUDGET”, accompanying Temporary Senate President Stewart-Cousins Resolution S-2081:

“The Senate understands the Governor’s responsibility to ensure that New York’s budget is fiscally sound, but it is equally important to ensure that the constitutional limits on the Executive’s powers are not exceeded. Failure to ensure reasonable limits on Executive authority would signal an irreversible abrogation of the Legislature’s constitutionally guaranteed legislative responsibility.”

(15) a certified paper copy or electronic copy from the Assembly’s website of [Resolution A-E00644](#), introduced by Assembly Speaker Heastie on Saturday, March 12, 2022 – and any records of the time it was introduced and whether referred to any committee;

(16) all records substantiating the text of [Assembly Resolution A-E00644](#), reading:

“in response to the 2022-023 Executive Budget submission (Bill Nos. A.9000-A, A.9001, A.9002, A.9003-A, A.9004-A, A.9005-A, A.9006-A, A.9007-A, A.9008-A, and A.9009-A) to be adopted as legislation expressing the position of the New York State Assembly relating to the 2022-2023 New York State Budget

WHEREAS, Article 7 of the constitution requires the Governor to submit an executive budget containing a plan of expenditures to be made before the close of the ensuing fiscal year and recommendations as to proposed legislation; and

WHEREAS, At the time of submitting the budget to the legislature the Governor is required to submit a bill or bills containing all the proposed appropriations and reappropriations included in the budget and the proposed legislation, if any recommended therein; and

WHEREAS, No provision may be embraced in any appropriation bill submitted by the Governor unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation to such appropriation; and

WHEREAS, Upon submission, pursuant to Joint Rule III, the Senate finance committee and the Assembly ways and means committee undertake an analysis and public review of all the provisions of the budget; and

WHEREAS, After study and deliberation, each committee makes recommendations in the form of bills and resolutions as to the contents thereof and such other items of appropriation deemed necessary and desirable for the operation of the government in the ensuing year; and

WHEREAS, All such fiscal committees' recommendations, when arrived at, are then to be placed before the members of the Legislature, individually and collectively, in their respective houses for their consideration and approval; and

WHEREAS, Each house thereupon considers and adopts legislation in bill format expressing its positions on the budget for the ensuing fiscal year; and

WHEREAS, Upon adoption thereof, a Conference Committee on the Budget, authorized by concurrent resolution of the Senate and Assembly pursuant to Joint Rule III, and such subcommittees thereof as may be deemed necessary are appointed by the Speaker of the Assembly and Temporary Preside of the Senate, respectively, will engage in negotiations designed to reach an accord on the contents of the budget for the ensuing fiscal year; and

WHEREAS, In order to commence a Legislative process of budget negotiations designed to reach a timely accord on the contents of the budget for the ensuing fiscal year, it is necessary that budget proposals be adopted by each house of the Legislature; be it now, therefore,

RESOLVED, That, this resolution, together with the New York State Assembly proposals for Executive budget resubmission contained in Assembly Bill Nos. A.9000-B, A.9001, A.9002, A.9003-B, A.9004-B, A.9005-B, A.9006-B, A.9007-B, A.9008-B, and A.9009-B, which are incorporated as if fully set forth in this resolution, herein constitute the legislation which expresses the budget proposals of the Assembly for the 2022-2023 New York State Budget.”

(17) all records pertaining to why the Senate and Assembly did not promulgate the budget schedule, required by their Joint Rule III within 10 days of the Governor’s submission of her budget² – referred to by both Senate and Assembly resolutions.

(18) the joint certificate establishing the Joint Budget Conference Committee, referred to by Assembly Speaker Heastie at [the first and only meeting of the Joint Budget Conference Committee on March 14, 2022](#);

(19) all records pertaining to why neither the Joint Budget Conference Committee, nor its subcommittees produced any reports;

(20) all records pertaining to the “ethics commission reform act of 2022” and its insertion as Part QQ into what became Education, Labor, Housing and Family Assistance Budget Bill [S.8006-C/A.9006-C](#) that emerged from the behind-closed-doors “three people in a room” budget “negotiations” following the first and only March 14, 2022 meeting of the Joint Budget Conference Committee and the first and only March 15, 2022 meetings of each of the ten budget conference subcommittees;

² Joint Rule III reads:

“Section 1. Budget Consideration Schedule. In accordance with section 54-a of the Legislative Law, within ten days of the submission of the budget by the Governor pursuant to article VII of the Constitution, the Temporary President of the Senate and the Speaker of the Assembly shall promulgate a schedule of dates for considering and acting upon such submission. Such schedule shall include the dates for those actions required to be taken by the legislature pursuant to section 53 of the Legislative Law, dates for the convening of a joint budget conference committee or committees as provided herein, and a date by which such committee or committees shall issue a final report or reports.

§2. Joint Budget Conference Committee. In accordance with section 54-a of the Legislative Law, within ten days the submission of the budget by the Governor pursuant to Article VII of the Constitution, the Temporary President of the Senate and the Speaker of the Assembly shall jointly establish a Joint Budget Conference Committee and, as they deem necessary, any number of subcommittees subordinate to such Joint Budget Conference Committee, to consider and reconcile such budget resolutions or bills passed by, or as may be passed by, the Senate and Assembly. Such Joint Budget Conference Committee shall be constituted and conducted as prescribed in Joint Rule II and shall file its written report in accord with the schedule established pursuant to section 1 of this rule.”

(21) all records reflecting who made the determination and on what basis for adding \$2,467,286 for “Personal service-regular” plus inserting \$2,000,000 for a “Commission on Long Island Power Authority” – these constituting the changes to §1 of [Legislative/Judiciary Budget Bill S.8001/A.9001](#) by the “three people in a room”, which popped out from their behind closed doors as [S.8001-A/A.9001-A](#);

(22) all records pertaining to the insertion into what became Public Protection and General Government Budget Bill [S.8005-C/A.9005-C](#) of a Part JJ to enact the “Legislative Commission on the future of Long Island Power Authority” (a new [Legislative Law §83-N](#) – part of Legislative Law Article 5-A “Legislative Commissions”);

(23) Governor Hochul’s message of necessity for the two April 4, 2022 “extender” bills for emergency budget appropriations, introduced “at request of the Governor” by Senate Finance Committee Chair Krueger and Assembly Ways and Means Chair Weinstein, [S.8715](#) and [A.9766](#) – and, thereafter, the Governor’s messages of necessity for all nine of the “three people in a room”- “amended” FY2022-23 budget bills;

(24) all records of the discussions in the Senate and Assembly majority and minority party conferences on the FY2022-23 budget bills that emerged “amended” from the behind-closed doors of the “three people in a room”, prior to the Senate and Assembly votes;

(25) reports on the FY2022-23 “three people in a room”-“amended” budget bills that were furnished legislators before they voted, as Legislative Law §54 requires³.

³ [Legislative Law §54, entitled “Report on the budget”](#), reads, as follows, at its ¶¶2(b) and (c):

“(b) Before voting upon an appropriation bill submitted by the governor and related legislation, as amended, in accordance with article seven of the constitution, each house shall place on the desks of its members a report relating to each such bill and, preceding final action on all such appropriation bills and legislation, members shall be so provided with a comprehensive, cumulative report relating to all such bills and legislation.

(c) The reports prepared by each house shall include for the general fund a summary of proposed legislative revisions to the executive budget for the ensuing fiscal year, and shall separately identify and present all legislative additions, reestimates and other revisions that increase or decrease disbursements, and separately identify and present all legislative reestimates and other revisions that increase or decrease available resources. Such report shall, where practicable, display and separately identify and present all legislative additions, reestimates, and other revisions that increase or decrease state funds and all funds spending, including an estimate of the impact of the proposed revisions on local governments and the state workforce.”

PLEASE ADDITIONALLY TAKE NOTICE that your failure to make such production will entitle petitioners the granting of the relief sought by their June 23, 2022 notice of petition, starting the requested TRO, preliminary injunction, and declaration that Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – is unconstitutional, unlawful, and void as it was enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw.⁴

Dated: June 28, 2022
White Plains, New York

Yours, etc.



ELENA RUTH SASSOWER,
individual petitioner/plaintiff *pro se*
individually & as Director of the Center for Judicial
Accountability, Inc., and on behalf of the People of
the State of New York & the Public Interest
10 Stewart Place, Apt. 2D-E
White Plains, New York 10603
914-421-1200
elena@judgewatch.org

TO: New York State Joint Commission on Public Ethics (JCOPE)
Legislative Ethics Commission (LEC)
New York State Inspector General (NYS-IG)
Governor Kathy Hochul
Temporary Senate President Andrea Stewart-Cousins & Senate
Assembly Speaker Carl Heastie & Assembly
Attorney General Letitia James
Comptroller Thomas DiNapoli

⁴ See, *inter alia*, New York State Bankers Association, Inc. et al. v. Wetzler, as Commissioner of the Department of Taxation and Finance of the State of New York, 81 NY2d 98, 102 (1993) “The question concerns not what was enacted or its effect on the budgetary process, but whether there was authority to enact the provision at all. Our precedents clearly compel the conclusion that the controversy is justiciable...”