

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

February 6, 2017

TO: Senate Majority Coalition Leader John Flanagan
Assembly Speaker Carl Heastie
Senate Minority Leader Andrea Stewart-Cousins
Assembly Minority Leader Brian Kolb

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
Constituents of Senator Stewart-Cousins (35th Senate District)
& of Assemblyman David Buchwald (93rd Assembly District)

RE: (1) Where are your appointments to the Commission on Government Administration and to the Commission on State-Local Relations, required by Legislative Law Article 5-A?;
(2) When will you be responding to my requests for a meeting for purposes of preventing a repeat of the constitutional, statutory, and legislative rule violations chronicled by the September 2, 2016 verified complaint in CJA's citizen-taxpayer action?

On Friday, February 3, 2017, at a local budget hearing sponsored by the Westchester legislative delegation, I asked Assemblyman Thomas Abinanti whether – as reflected by the Assembly website – he is chair of the Legislature's Commission on Government Administration. He confirmed that he is – and then, in response to my inquiry about the Commission's other members, stated they have not yet been appointed.

Legislative Law Article 5-A (§§82, 83) establishes 13 legislative commissions. Among them are the Commission on Government Administration (§83-c) and the Commission on State-Local Relations (§83-h), each of which was to have ten members, appointed as follows:

“...three members of the senate shall be appointed by the temporary president of the senate; three members of the assembly shall be appointed by the speaker of the assembly; two members of the senate shall be appointed by the minority leader of the senate; and two members of the assembly shall be appointed by the minority leader of the assembly. From among the members so appointed, a chairman and a vice chairman shall be designated by the joint action of the temporary president of the senate and the speaker of the assembly....” (Legislative Law §83-c(1); §83-h(3)).

 EC-1

Consequently – and with all deference to Assemblyman Abinanti – he cannot lawfully chair the Commission on Government Administration – as Legislative Law §83-c(1) expressly requires that you first appoint all ten members, which – according to Assemblyman Abinanti – you have not yet done.

Please, therefore, immediately rectify your violations of Legislative Law §83-c(1) by making your ten appointments to the Commission on Government Administration and designating its chair and vice-chair from among them. Likewise, please immediately rectify your violations of Legislative Law §83-h(3) pertaining to the Commission on Local-State Relations, which apparently now has neither a chair nor members.

Both Commissions have time-sensitive work to do that is all the more exigent because key standing committees of the Legislature are NOT discharging their oversight responsibilities. This was the subject of my extensive testimony at the Legislature’s January 30th budget hearing on “Local Government Officials/General Government”. The committees I named as derelict with respect to oversight of the Judiciary, of its chief monitor – the Commission on Judicial Conduct – of judicial compensation, of district attorneys, of district attorney compensation, and of state aid to the counties for district attorney salaries – were:

- the Senate Judiciary Committee;
- the Assembly Judiciary Committee;
- the Senate Codes Committee;
- the Assembly Codes Committee;
- the Senate Committee on Local Government; and
- the Assembly Committee on Local Governments.

In addition to these six standing committees are four more I might have also identified, by name:

- the Senate Committee on Crime Victims, Crime, and Correction;
- the Senate Committee on Investigations and Government Operations;
- the Assembly Committee on Governmental Operations; and
- the Assembly Committee on Oversight, Analysis, and Investigation.

Then, of course – and but for the fact that I was testifying before the chairs and ranking members of the Senate Finance Committee and the Assembly Ways and Means Committee who bear greatest culpability for the mountain of constitutional, statutory, and legislative rule violations that have created the HUGE slush fund that is the state budget – I would have also specified those two committees, the largest of the Senate and Assembly, whose nonfeasance and misfeasance with respect to oversight is evident from the budget hearings, as, likewise, from their incompetent, substandard, and intentionally misleading “White Book”, “Blue Book”, “Yellow Book” and “Green Book” purported “analyses” of the budget.

In the event you have not personally viewed the VIDEO of my January 30th testimony at the budget hearing on “Local Government Officials/General Government” and the VIDEO of my testimony the following day at the January 31st budget hearing on “Public Protection”, I ask that you do so IMMEDIATELY, in further support of my January 9th written requests to meet with you, to which I also testified. The VIDEOS and my meeting requests are all posted on CJA’s website, www.judgewidth.org, accessible *via* the prominent homepage link “2017 Legislative Session”.

Likewise, if you have not yet personally examined the September 2, 2016 verified complaint in CJA’s citizen-taxpayer action and the record thereon – about which I also testified – you must do so IMMEDIATELY. It, too, is readily accessible from CJA’s website, including *via* the prominent homepage link: “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt Budget ‘Process’ and Unconstitutional ‘Three Men in a Room’ Governance”.

The first cause of action of the verified complaint, detailing the unconstitutionality of the legislative budget, *as written and as applied*, presents multiple paragraphs relating to the Commission on Government Administration, the Commission on State-Local Relations, and other legislative commissions and standing committees. Chief among these paragraphs are the following:

“28. ...the Legislature’s proposed budget, *on its face*, is not ‘itemized estimates of the financial needs of the legislature’ ... its section entitled Senate and Assembly Joint Entities’ (...) omits most of the joint commissions that the Legislature is required to establish and fund pursuant to Legislative Law, Article 5-A (§§82, 83). Among these, the Legislative Commission on State-Local Relations and the Legislative Commission on Government Administration. Additionally, the Administrative Regulations Review Commission, required to be established and funded pursuant to Legislative Law, Article 5-B (§§86-88) is omitted.

29. Upon information and belief, the Legislature’s joint entities, mandated by Legislative Law Articles 5-A and 5-B, to the extent they exist, have only appointed chairs, collecting stipends. They have no funding, or virtually none – a fact concealed by the legislative budget’s violation of the Article VII, §1 requirement of ‘itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house’.

30. The consequence of the Legislature’s facial violation of Article VII, §1 by its budget is the unconstitutionality of that budget, *as applied*. Without funding, the joint legislative commissions are not functioning – and cannot function – as Legislative Law Article 5-A and 5-B intended them to^{fn2}. They are sham, just as the Legislature’s standing committees, which, excepting the Senate Finance

^{fn2} Likewise not functioning, for lack of funding, is another commission established by the Legislative Law: the Law Revision Commission, established by Legislative Law Article 4-A.”

Committee and Assembly Ways and Means Committee, have no appreciable funding.

31. As illustrative, neither the Legislative Commission on State-Local Relations, nor the Legislative Commission on Government Administration, nor any of the Legislature's standing committees, such as the Senate Committee on Local Government, the Assembly Committee on Local Governments, the Senate Judiciary Committee, or the Assembly Judiciary Committee have engaged in any oversight of the statutory link between judicial salaries and district attorney salaries, established more than 40 years ago by Judiciary Law §183-a, or of the related provisions of County Law §§700.10 and 700.11 pertaining to district attorney salaries and state aid to the counties for those salaries, or of the outpouring of state dollars to the counties, *via* the budget, for district attorney salary reimbursement that violates these express statutory provisions.

32. Nor are these legislative committees and commissions – or the Senate Finance Committee and Assembly Ways and Means Committee – remotely responsive and responsible, upon being given notice of their duty to protect the counties and the state from the costs of district attorney salary increases having absolutely no basis other than Judiciary Law §183-a and whose consequence is to compound the theft of taxpayer monies resulting from the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 report. The legislative defendants are perfectly willing to countenance and continue a run-away 'gravy train' of district attorney salary increases that are the by-product of the statutorily-violative, fraudulent, and unconstitutional December 24, 2015 report...."

It was last June, in the wake of multiple Senate and Assembly bills aimed at giving the counties \$1,600,000 in additional aid for district attorney salaries for fiscal year 2016-2017 that I first tried to contact the Legislature's Commission on State-Local Relations and Commission on Government Administration, *via* the chairs identified by the Assembly's website as Assemblyman Sean Ryan and Assemblyman Brian Kavanagh, respectively. The experience compelled me to file a June 9, 2016 FOIL/records request with the Senate and Assembly in an effort to ascertain if these two important statutory commissions in fact exist and are operational. A copy of the FOIL/records request and the Senate and Assembly responses are enclosed.

Suffice to say that when I testified at the January 30th and 31st budget hearings in Albany – and on February 3rd, when I testified before Assemblyman J. Gary Pretlow, Assemblyman Steven Otis, and Assemblywoman Sandy Galef at the local budget hearing in Westchester – I brought with me the June 9, 2016 FOIL/records request and the Senate and Assembly responses, as well as many additional FOIL/records requests I had filed for documents relating to other government operations – the responses to which further evidenced the utter nonfeasance of Senate and Assembly committees in discharging basic oversight responsibilities, including where statutorily-contemplated.

I look forward to your scheduling meetings at which we can sit down and discuss the situation – and as soon as possible. I would be pleased to meet with you either individually or together – and to include the chairs and ranking members of the 12 Senate and Assembly standing committees hereinabove identified, as well as the chairs and vice-chairs of the Commission on Government Administration and Commission on State-Local Relations – and, additionally, the co-chairs of the Administrative Regulations Review Commission, established pursuant to Legislative Law Article 5-B (§§86-88).

Thank you.



Enclosure: CJA's June 8, 2016 FOIL/records request & Senate and Assembly responses

cc: Senate Majority Coalition/Independent Democratic Conference Leader Jeffrey Klein

Senate Judiciary Committee

Chair: Senator John Bonacic

Ranking Member: Senator Brad Hoylman

Assembly Judiciary Committee

Chair: Assemblywoman Helene Weinstein

Ranking Member: Assemblyman Michael Montesano

Senate Codes Committee

Chair: Senator Andrew Lanza

Co-Chair: Senator Diane Savino

Ranking Member: Senator Daniel Squadron

Assembly Codes Committee

Chair: Assemblyman Joseph Lentol

Ranking Member: Assemblyman Al Graf

Senate Committee on Local Government

Chair: Senator Kathleen Marchione

Ranking Member: Senator Todd Kaminsky

Assembly Committee on Local Governments

Chair: Assemblyman William Magnarelli

Ranking Member: Assemblyman Christopher Friend

Senate Committee on Crime Victims, Crime, and Correction

Chair: Senator Patrick Gallivan

Ranking Member: Senator Jamaal Bailey

Senate Committee on Investigations and Government Operations

Chair: Senator Terrence Murphy

Ranking Member: Senator Brad Hoylman

Assembly Committee on Governmental Operations

Chair: Assemblywoman Crystal Peoples-Stokes

Ranking Member: Assemblyman Mark Johns

Assembly Committee on Oversight, Analysis, and Investigation

Chair: Assemblyman Matthew Titone

Ranking Member: Assemblyman Joseph Errigo

Senate Finance Committee

Chair: Senator Catharine Young

Vice-Chair: Senator Diane Savino

Ranking Member: Senator Liz Krueger

Assembly Ways & Means Committee

Chair: Assemblyman Herman Farrell, Jr.

Ranking Member: Assemblyman Bob Oaks

Assemblyman Thomas Abinanti – chair/Commission on Government Administration

Assemblyman Sean Ryan – former chair/Commission on State-Local Relations

Assemblyman Brian Kavanagh – former chair/Commission on Government Administration

Senator Chris Jacobs – co-chair/Administrative Regulations Review Commission

Assemblywoman Aravella Simotas – co-chair/Administrative Regulations Review Commission

Assemblyman J. Gary Pretlow (member/Codes Committee; Ways & Means Committee)

Assemblyman Steven Otis (member/Committee on Local Governments)

Assemblywoman Sandy Galef (member/Committee on Governmental Operations)

Assemblyman David Buchwald (member/Judiciary Committee;

Committee on Local Governments;

Committee on Governmental Operations)

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Post Office Box 8101
White Plains, New York 10602

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

June 9, 2016

TO: Secretary of the Senate Francis Patience
Assembly Records Access Officer Robin Marilla

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

RE: RECORDS REQUEST: Legislative Commission on State-Local Relations and
Legislative Commission on Government Administration

Legislative Law, Article 5-A (§§82, 83), entitled “Legislative commissions”, establishes 12 legislative commissions – which are to be repealed/sunset on June 30, 2017. Among these are the “Legislative commission on state-local relations” (Legislative Law §83-h) and the “Legislative commission on public management systems”, which also goes by the name “legislative commission on government administration” (Legislative Law §83-c).

Each of these two commissions is to have ten members appointed as follows:

“three members of the senate shall be appointed by the temporary president of the senate; three members of the assembly shall be appointed by the speaker of the assembly; two members of the senate shall be appointed by the minority leader of the senate; and two members of the assembly shall be appointed by the minority leader of the assembly. From among the members so appointed, a chairman and a vice chairman shall be designated by the joint action of the temporary president of the senate and the speaker of the assembly. Any vacancy that occurs in the commission or in the chairmanship or vice chairmanship shall be filled in the same manner in which the original appointment or designation was made.” (Legislative Law §83-h(3); §83-c(1)).

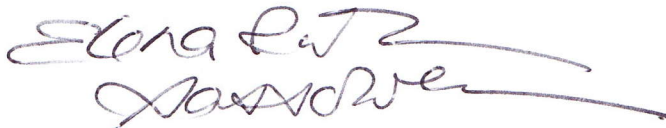
Legislative Law §82 provides:

“Expenditures made from appropriations and reappropriations to the legislature for services and expenses of shared legislative commissions, task forces and councils, including, but not limited to those set forth in this article and article five-B of this chapter, shall be paid upon the approval of the temporary president of the senate and the speaker of the assembly, unless otherwise specified by law. Such expenditures shall be payable after audit by and on the warrant of the comptroller upon vouchers certified by the temporary president of the senate or his or her designee and the speaker of the assembly or his or her designee.”

Pursuant to Senate Rule XV, "Freedom of Information", and Assembly Rule VIII, "Public Access to Records", request is made for:

- (1) records identifying the members of these two legislative commissions since 2000 – including the dates each member was appointed and by which legislative leader – and the designation of their chairs and vice chairs and the dates thereof;
- (2) records pertaining to appropriations and reappropriations for each of these two legislative commissions since 2007;
- (3) records of activity by these two legislative commissions beyond what is reflected on the Assembly webpage of "Updates" for each:
<http://nyassembly.gov/comm/?sec=post&id=54>
<http://nyassembly.gov/comm/?sec=post&id=49> – printouts of which are attached, together with printouts of the Assembly webpages of the current memberships, identifying only their Assembly chairs:
<http://nyassembly.gov/comm/?sec=mem&id=54>
<http://nyassembly.gov/comm/?sec=mem&id=49>.¹

Thank you.



Enclosures

¹ The Senate webpage entitled, "Senators, Committees, and Other Legislative Groups" <https://www.nysenate.gov/senators-committees>, lists neither legislative commission – and no results are found using the Senate website's search feature.

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- [Gordon Named Chair of Legislative Commission on State-Local Relations](#) - June 23, 2009
- [The Legal Framework for Providing Local Government Services](#) - January 8, 2008
- [Notice of Public Hearing - Invasive Species and Pathogens](#) - August 24, 2007
- [Catalog of State and Federal Programs Aiding New York's Local Governments - 2007 Edition](#) - July 27, 2007
- [Catalog of State and Federal Programs Aiding New York's Local Governments - 2005 Edition](#) - May 27, 2005
- [Catalog of State and Federal Programs Aiding New York](#) - November 20, 2003
- [Catalog of State and Federal Programs Aiding New York](#) - June 29, 2001

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- [Notice of Roundtable -- Waste Reduction, Food Donation, and Materials Recovery at State and Local Government Food Service Operations](#) - November 6, 2014
- [Notice of Public Hearing - Adopting environmentally friendly policies at State Authorities and Agencies](#) - May 10, 2013
- [Legislative Update from the NYS Assembly Commission on Government Administration - Summer 2012](#) - August 3, 2012
- [Public Hearing Summary](#) - June 11, 2012
- [Second Look Project](#) - June 11, 2012
- [Notice of Public Hearing - The State's Information Technology Infrastructure](#) - May 7, 2012
- [Over the Backyard Fence: A Round Table Discussion on State Structures and Innovations](#) - September 19, 2011
- [Mission Statement of the Commission on Government Administration](#) - April 1, 2011
- [Legislative Update from the NYS Assembly Commission on Government Administration - Summer 2010](#) - June 10, 2010
- [Legislative Update from the NYS Assembly Commission on Government Administration](#) - August 23, 2006
- [Legislative Update from the NYS Assembly Commission on Government Administration](#) - December 30, 2005
- [Notice of Public Hearing - Examination of the Procurement Stewardship Act and Procurement Issues](#) - August 16, 2005
- [Legislative Update from the NYS Assembly Commission on Government Administration](#) - January 14, 2005
- [First Responders: A Last Priority? - The Status of New York State's Preparedness](#) - April 26, 2004
- [Legislative Update from the Commission on Government Administration](#) - December 24, 2002
- [Legislative Update from the NYS Assembly Commission on Government Administration](#) - February 20, 2002

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State-Local Relations Members

Chair

- [Sean Ryan](#)

Members

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Chair

- [Brian Kavanagh](#)

Members

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Elena Sassower

From: Senate Foil <foil@nysenate.gov>
Sent: Thursday, June 16, 2016 12:13 PM
To: Center for Judicial Accountability; cja@judgewatch.org
Subject: Records Request/Response: Legislative Commission on State-Local Relations & Legislative Commission on Gov't Administration
Attachments: Rules and Regulations March 2013.pdf

June 16, 2016

Ms. Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
Post Office Box 8101
White Plains, NY 10602
cja@judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated June 9, 2016 pursuant to the Freedom of Information Law.

You are requesting miscellaneous information relating to the Legislative Commission on State-Local Relations and Legislative Commission on Government Administration.

We are currently working on your request and expect to be able to respond in the near future.

I have attached a copy of the Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Francis W. Patience
Secretary of the Senate

(See attached file: Rules and Regulations March 2013.pdf)

From: "Center for Judicial Accountability" <elena@judgewatch.org>
To: "Senate Foil" <foil@nysenate.gov>,
<marillr@assembly.state.ny.us>
Date: 06/09/2016 09:55 AM
Subject: Records Request: Legislative Commission on State-Local Relations & Legislative Commission on Gov't Administration

Elena Sassower

From: Senate Foil <foil@nysenate.gov>
Sent: Wednesday, June 22, 2016 9:52 AM
To: Center for Judicial Accountability
Subject: Freedom of Information Request/Response: Legislative Commission on State-Local Relations & Legislative Commission on Gov't Administration
Attachments: Rules and Regulations March 2013.pdf

June 22, 2016

Ms. Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
Post Office Box 8101
White Plains, NY 10602
cja@judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated June 9, 2016 pursuant to the Freedom of Information Law.

You are requesting miscellaneous information relating to the Legislative Commission on State-Local Relations and Legislative Commission on Government Administration.

Please be advised after a search by numerous New York State Senate offices there are no documents / records responsive to your request.

I have attached a copy of the Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Francis W. Patience
Secretary of the Senate

(See attached file: Rules and Regulations March 2013.pdf)

From: "Center for Judicial Accountability" <elena@judgewatch.org>
To: "Senate Foil" <foil@nysenate.gov>,
<marillr@assembly.state.ny.us>
Date: 06/09/2016 09:55 AM
Subject: Records Request: Legislative Commission on State-Local Relations & Legislative Commission on Gov't Administration



**THE ASSEMBLY
STATE OF NEW YORK
ALBANY**

Public Information Office
Robin Marilla
Records Access Officer

Room 202
Legislative Office
Building
Albany, New York 12248
(518) 455-4218

June 29, 2016

Dear Ms. Sassower:

In your recent correspondence dated June 9, 2016, you requested the following records in relation to the Legislative Commission on State-Local Relations and the Legislative Commission on Government Administration:

1. Records identifying the members of these commissions since 2000 – including the dates each member was appointed and by which legislative leader – and the designation of their chairs and vice chairs and the dates thereof. While I was unable to locate a list of members of these commissions, I am attaching a list of the Members of the Assembly who were appointed as chairs of these commissions.
2. Records pertaining to appropriations for each of these two legislative commissions since 2007. Please be advised that the Legislative Budget is available for public inspection and copying.
3. Records of activity by these commissions beyond what is reflected on the Assembly web page of “updates” for each commission. Please be aware that the only records of activity by these commissions that are available for public inspection and copying are posted on the Assembly website in the locations you referenced. Please note, however, that a Notice of a Roundtable, dated September 22, 2015, was recently posted on the website under the heading, “Updates from the Commission on State-Local Relations.”

If I can be of any further assistance, please feel free to contact me.

Sincerely,
Robin L. Marilla

Government Administration/Public Management Systems

2001-02 : Jeffrey Dinowitz
2003-04 : David Koon

2005-08 : Joan Millman
2009-10 : Adam Clayton Powell
2011-12 : George Latimer
2013- : Brian Kavanagh

State-Local Relations

2001-02 : Sam Colman
2005-08 : Darrel Aubertine
2009-10 : Tim Gordon