

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Friday, January 20, 2017 12:23 PM
To: 'PeopleC@nyassembly.gov'; 'johnsm@nyassembly.gov'
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Subject: Request for Your Personal Review, a Meeting, & Action by the Committee on Governmental Operations: Citizen-Taxpayer Action establishing the unconstitutionality & unlawfulness of the Budget & Commission on Legislative, Judicial & Executive Compensation
Attachments: 4-1-15-assembly-floor-colloquy.pdf

**TO: Assembly Committee on Governmental Operations Chair Crystal Peoples-Stokes
Assembly Committee on Governmental Operations Ranking Member Mark Johns**

This follows up my yesterday's phone conversations with your staff – alerting them to the Center for Judicial Accountability's unfolding citizen-taxpayer action challenging a multitude of constitutional, statutory, and legislative rule violations pertaining to the Legislative budget, the Judiciary budget, and the Executive budget. It is directly relevant to the oversight responsibilities of the Assembly Committee on Governmental Operations – and to the role the Committee should be playing, but does not, in fashioning the Legislature's budget. I have requested that each of you PERSONALLY review the lawsuit so that you can each recognize the necessity of placing it on the Committee's agenda for discussion by the members – and vote on appropriate action. Indeed, action by the Committee – and by each of the Committee's members, individually -- is urgent, lest ALL the violations the September 2, 2016 verified complaint chronicles with respect to the Legislative budget, Judiciary Budget, and the Executive budget for fiscal year 2016-2017 be repeated for fiscal year 2017-2018. Already the violations have been substantially replicated.

There is yet another reason why the September 2, 2016 verified complaint is important for your review – and for discussion and vote by the Committee's members. Its sixth cause of action (¶¶59-68) – challenging the constitutionality of the budget legislation that established the Commission on Legislative, Judicial, and Executive Compensation – is based, in the first instance on the extraordinary, if not unprecedented, sponsors' memo to Assembly Bill A.7997, which laid out six respects, based on the New York State Constitution, why the "force of law" provision for the Commission's salary raise recommendations is unconstitutional – and, by its timing for legislative and executive salary raise recommendations, after election day, is "a devious and underhanded means of [legislators] obtaining a salary increase without accepting any responsibility therefor." This, in addition to the memo's pointing out that the Commission statute – Chapter 60, Part E, of the Laws of 2015 – was unrelated to any budget appropriation and, therefore, an unconstitutional rider, violating Article VII, §6 of the state Constitution. Yet, notwithstanding this – and the fact that A.7997, upon introduction on June 3, 2015, was committed to the Assembly Committee on Governmental Operations and then again on January 6, 2016 and the fact that three of its five sponsors were Committee members – its principal sponsor Andrew Goodell, the Committee's then ranking member, Janet Duprey, and the Committee's now ranking member Johns – A.7997 never made it to the Committee agenda for discussion by Committee members.

This sixth cause of action, challenging Chapter 60, Part E, of the Laws of 2015, as *written* and the unconstitutional and fraudulent manner in which it was introduced and enacted in less than a day is the SOLE cause of action that a corrupt December 21, 2016 Albany Supreme Court decision preserved when it threw out the verified complaint's nine other causes of action – giving defendants 30 days from the date of the decision to answer. Today is that 30th day – and the Senate and Assembly, among the other public officer defendants, must now confront the devastating A.7997 sponsors' memo – and the other dispositive grounds of unconstitutionality and fraud laid out in the sixth cause of action's five separate subsections.

The record of the unfolding citizen-taxpayer action – and of CJA’s predecessor citizen-taxpayer action on which it rests – is accessible from CJA’s website, www.judgewatch.org, via the prominent homepage link “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt Budget ‘Process’ and Unconstitutional ‘Three Men in a Room’ Governance”. In addition to the sponsors’ memo to A.7997, which is part of the lawsuit record – CJA’s website also posts the Assembly video of the candid statements of Assemblymen Goodell and Johns and their colloquy with Assembly Ways and Means Chair Denny Farrell – presided over by Assembly Speaker Carl Heastie, in the wee morning hours of April 1, 2015, on the Assembly floor in opposing the Commission statute being enacted in the budget. Here is the video, directly – http://nystateassembly.granicus.com/MediaPlayer.php?view_id=6&clip_id=2240 (at 1:02 hours) and attached is my transcription thereof. The sponsors’ memo to A.7997, which failed to impel Committee action – but which has fortified the citizen-taxpayer action -- is here:

http://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A07997&term=2015&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y&LFIN=Y&Chamber%26nbspVideo=Y. And here, directly, is CJA’s webpage for the September 2, 2016 verified complaint: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/9-2-16-osc-verified-complaint.htm>.

I am requesting to meet with each of you, preferably together, so that we can directly discuss the serious and substantial issues presented by the citizen-taxpayer action, including its challenge to behind-closed-doors, three-men-in-a-room budget deal-making and behind-closed-doors party conferences – all of which are within the jurisdiction of the Assembly Committee on Governmental Operations. My own Assembly member – Assemblyman David Buchwald – is a Committee member, with a Harvard law degree and degree from Harvard’s Kennedy School of Government. As such -- and by copy of this e-mail to him -- I request that he confirm for you that the state of the record before Albany Supreme Court when it rendered the December 21, 2016 decision was one of summary judgment for plaintiffs on all 10 causes of action. To that end, Assemblyman Goodell – a magna cum laude graduate of Cornell Law School -- and Committee member Assemblyman Kieran Lalor, also a lawyer – should likewise lend their legal skills to confirm for you the state of the record – and by this e-mail to them, I am also requesting that they do so.

Thank you.

Elena Sassower, Director
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