

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Wednesday, December 5, 2018 5:31 PM
To: 'Compensation Committee'
Subject: Assembly Speaker Heastie's fraudulent, deceitful presentation in support of legislative pay raises -- as established by EVIDENCE

TO: The New York State Compensation Committee

Thank you for posting, yesterday night, Assembly Speaker Heastie's written "remarks", which he read at the November 30, 2018 hearing. However, you have not posted the two letters he submitted to the Committee, which his "remarks" identify that he was summarizing. These are his "2016 letter in support of a salary adjustment as well as a new updated letter". Kindly post them, as well.

I believe I have the 2016 letter – if that is Assembly Speaker Heastie's October 5, 2016 letter to the Commission on Legislative, Judicial and Executive Compensation, posted on that Commission's website, here: <http://nyscommissiononcompensation.org/Submissions-legislative.shtml>. However, I don't have his "new updated letter". Please furnish it to me, as immediately as possible.

Meanwhile, in further substantiation of my assertions at the hearing that Assembly Speaker Heastie had "testified without evidence" – and that his "self-serving-claims" about "how hard-working, how responsive the Senate and the Assembly are, is fraud, is deceit", rebutted" by CJA's second citizen-taxpayer action, to which he is a named defendant, as well as by the other evidence I handed up -- below is my FOIL/Records request to the Assembly, of today's date, pertaining to the "13 joint legislative commissions" to which he referred in testifying. The evidence about these legislative commissions, reflected by the links on the Assembly's own website, substantiates ¶¶28-33 of CJA's September 2, 2016 verified complaint in the second citizen-taxpayer action [R.100-102]. For your convenience, these paragraphs read:

“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 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 'grave train' of district attorney salary increases that are the by-product of the statutorily-violative, fraudulent, and unconstitutional December 24, 2015 report.

33. As stated by ¶194 of the verified complaint (Exhibit B) – and reiterated by ¶315 of the verified second supplemental complaint (Exhibit C):

'In every respect, defendants SENATE and ASSEMBLY have fallen beneath a constitutionally acceptable threshold of functioning – and it appears the reason is not limited to Senate and Assembly rules that vest in the Temporary Senate President and Speaker strangulating powers, the subject of the Brennan Center's 2004, 2006, and 2008 reports on the Legislature. Rather, it is because – without warrant of the Constitution, statute, or Senate and Assembly rules, as here demonstrated, the Temporary Senate President and Speaker have seized control of the Legislature's own budget, throwing asunder the constitutional command: *'itemized estimate of the financial needs of the legislature, certified by the presiding officer of each house'.*" (italics, underlining and capitalization in the original).

More to follow.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>

Sent: Wednesday, December 5, 2018 3:53 PM

To: 'Robin Marilla' <marillar@nyassembly.gov>

Subject: FOIL/Records Access -- The 13 "Legislative Commissions" Enumerated by the Assembly's Website

TO: Assembly Records Access Officer Robin Marilla

Pursuant to Assembly Rule VIII "Public Access to Records", request is made for records reflecting the membership of the 13 "Legislative Commissions", enumerated on the Assembly's webpage of "Committees, Commissions & Task Forces": <https://nyassembly.gov/comm/>. In the order in which they appear, they are:

- (1) Legislative Commission on Administrative Regulations Review, whose homepage: <https://nyassembly.gov/comm/?id=44>, reflects no members other than its chair, Assemblyman Dan Quart – and no activity since a Dec. 2015 hearing;
- (2) Legislative Commission on Council on Health Care Financing, whose homepage: <https://nyassembly.gov/comm/?id=45> reflects no members, including no chair – and no activity whatever;
- (3) Legislative Commission on Critical Transportation Choices, whose homepage: <https://nyassembly.gov/comm/?id=46> reflects no members other than its chair, Assemblyman David Gantt – and no activity whatever;
- (4) Legislative Commission on Governmental Administration, whose homepage: <https://nyassembly.gov/comm/?id=49> reflects no members other than its chair, Assemblyman Thomas Abinanti – and no activity for more than five years (May 2013);
- (5) Legislative Commission on Legislative Ethics, whose homepage: <https://nyassembly.gov/comm/?id=48> reflects no members other than its chair, Assemblywoman Avarella Simotas – and no activity whatever;
- (6) Legislative Commission on Rural Resources, whose homepage: <https://nyassembly.gov/comm/?id=47> reflects that its chair is Assemblyman Angelo Santabarbara and two members, Assemblywomen Barbara Lifton and Carrie Woerner – and no activity for more than eight years (summer 2012);
- (7) Legislative Commission on Science and Technology, whose homepage: <https://nyassembly.gov/comm/?id=51>, reflects no members other than its chair, Assemblyman Sean Ryan – and no activity for more than four years (April 2014);
- (8) Legislative Commission on Skills Development and Career Education, whose homepage: <https://nyassembly.gov/comm/?id=52> reflects no members other than its chair, Assemblyman Harry Bronson – and no activity since an October 2017 posting of a legislative report;
- (9) Legislative Commission on Solid Waste Management, whose homepage: <https://nyassembly.gov/comm/?id=53> reflects no members, including no chair – and no activity since a Feb. 2016 hearing;
- (10) Legislative Commission on State-Local Relations, whose homepage: <https://nyassembly.gov/comm/?id=54&sec=hearings>, reflects no members other than its chair, Assemblyman Victor Pichardo – and no activity since a Nov. 2016 posting of a notice of roundtable;

- (11) Legislative Commission on Tax Study, whose homepage: <https://nyassembly.gov/comm/?id=55> reflects no members, including no chair – and no activity whatever;
- (12) Legislative Commission on Toxic Substances and Hazardous Wastes, whose homepage: <https://nyassembly.gov/comm/?id=56> reflects no members other than its chair, Assemblywoman Christine Pellegrino – and no activity since a Jan. 2018 posted notice of hearing;
- (13) Legislative Commission on Water Resource Needs of New York State, whose homepage: <https://nyassembly.gov/comm/?id=57> reflects no members, including no chair – and no activity for more than five years (Oct. 2013).

Thank you.

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^{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.”