

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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October 7, 2016

TO: Governor Cuomo's Public Information Officer Mongthu Zago
Secretary of the Senate Francis Patience
Assembly Records Access Officer Robin Marilla

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

RE: FOIL/RECORDS REQUEST: the chapter amendment to the 2016-17 State Budget referred-to by Resolutions #382-2016 and #381-2016 of the Lewis County Board of Legislators, adopted October 4, 2016

Enclosed is a copy of the Lewis County Board of Legislators' Resolution #382-2016, which it adopted on October 4, 2016. It states that "The Governor must immediately sign a chapter amendment to the 2016-17 State Budget that would require the state to pay the costs of mandated district attorney salary increases" (at p. 1) and "act on the chapter amendment before him..." (at p. 2).

Also enclosed is a copy of the Lewis County Board of Legislators' companion Resolution #381-2016. It states that "The Governor has been presented with a chapter amendment to the 2016-17 State Budget that...requires the State to reimburse the counties for the pay increase for full time DAs effective April 1, 2016, and further requires the State to pay the costs of any mandated increases in DA salaries in the future" (at p. 1) and that it had been "(forwarded to his office for action)" (at p. 2).

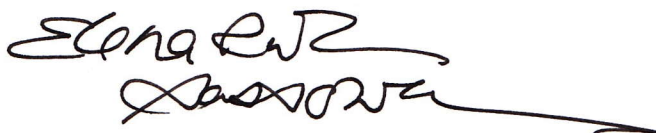
Pursuant to Public Officers Law, Article VI [Freedom of Information Law (F.O.I.L.)], Senate Rule XV ["Freedom of Information"], and Assembly Rule VIII ["Public Access to Records"], this is to request:

- (1) a copy of the referred-to chapter amendment to the 2016-17 State Budget;
- (2) records showing who "forwarded" it to the Governor, when it was forwarded, and such transmittal materials as accompanied it;
- (3) records pertaining to its introduction into the Senate and Assembly, if it was introduced.

Thank you.

Enclosures (2)

cc: Senator Joseph Griffo
Assemblyman Kenneth Blankenbush



RESOLUTION NO. 382 - 2016

**RESOLUTION CALLING ON THE STATE LEGISLATURE AND GOVERNOR TO
PASS A CHAPTER AMENDMENT TO THE 2016-17 STATE BUDGET TO REQUIRE
THE STATE TO PAY THE COSTS OF THE STATE MANDATED DISTRICT
ATTORNEY PAY INCREASE**

Introduced by Legislator Michael A. Tabolt, Chairman of the Lewis County Board of Legislators.

WHEREAS, on December 24, 2015, the New York State Commission on Legislative, Judicial, and Executive Compensation voted to recommend increases to the salaries of state judges in 2016 and 2018. The recommended increase placed Supreme Court judges' salaries at \$193,000 in 2016 and \$203,000 in 2018, and placed County Court judges' salaries at 95% of a Supreme Court Judge's salary. Without objection by the State, the recommendations became law on April 1, 2016; and

WHEREAS, State Judiciary law 183-a links judicial salaries with county district attorneys' (DA) salaries. For Lewis County, the full time DA salary must be equal to the County Court Judge's salary. Under the April 1, 2016 increase in the County Court Judge's salary to \$183,350, the County is required to pay an increase in salary for the DA from \$152,500 to \$183,350; an increase of \$30,850; and

WHEREAS, for over 50 years, the State has paid for every mandated DA salary increase through the State Budget. On April 1, 2016 the State adopted a budget and failed to include the approximately \$1.6 million cost to counties to fund the DA salary increases, once again shifting another unfunded, mandated cost to the counties; and

WHEREAS, this additional unfunded mandate cost was not allocated by the County in its 2016 budget, and will negatively impact the County's allowable tax cap growth under the state-imposed 2% property tax cap in its 2017 budget and the years thereafter, if not addressed by the Governor; and

WHEREAS, with this unfunded mandate, together with the expansion of eligible persons for legal services mandated by the State, Lewis County is already over its imposed tax cap which may cause additional taxes payable by the residents of the County; and

WHEREAS, this continued habit by the State to pass along *unfunded mandated* costs to the Counties, and in particular, its refusal to pay for DA raises as it has for over 50 years, is unconscionable. The Governor must immediately sign a chapter amendment to the 2016-17 State Budget that would require the state to pay the costs of mandated district attorney pay increases.

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section 1. That the Lewis County Board of Legislators again records its opposition to the State's 2016-17 State Budget which raised the salary of county elected full-time DAs effective April 1, 2016 and failed to fund the increase, thereby passing another unfunded state mandate onto the local counties and taxpayers for a cost the State has historically and always funded.

Section 2. The Lewis County Board of Legislators calls upon the Governor to act on the chapter amendment before him and abide by his promise not to pass along unfunded mandates to the counties; a chapter amendment to the 2016-17 State Budget that requires the State to reimburse the County for the pay increase for full time DAs effective April 1, 2016, and requires the State to pay the costs of this mandated increase in DA salaries going forward.

Section 3. That the Clerk is hereby directed to forward a certified copy of this resolution to Governor Andrew M. Cuomo, NYS Senator Joseph Griffo, NYS Assemblyman Kenneth Blankenbush, John F. Flanagan, Temporary President of the NYS Senate, and Carl E. Heastie, Speaker of the NYS Assembly.

Section 4. That the within resolution shall take effect immediately.

Moved by Legislator _____, seconded by Legislator _____,
and adopted.

RESOLUTION NO. 381 - 2016

**RESOLUTION INCREASING DISTRICT ATTORNEY SALARY PURSUANT TO 2016
NEW YORK STATE BUDGET MANDATE AND JUDICIARY LAW**

Introduced by Legislator Jerry King, Chairman of the Courts and Law Enforcement Committee.

WHEREAS, on December 24, 2015, the New York State Commission on Legislative, Judicial, and Executive Compensation voted to recommend increases to the salaries of state judges in 2016 and 2018. The recommended increase placed Supreme Court judges' salaries at \$193,000 in 2016 and \$203,000 in 2018, and placed County Court judges' salaries at 95% of a Supreme Court Judge's salary (\$183,350 in 2016 and \$192,850 in 2018); and

WHEREAS, State Judiciary Law 183-a links judicial salaries with full time county district attorneys' (DA) salaries. In Lewis County, the full time DA salary must be equal to the County Court Judge's salary; and

WHEREAS, on April 1, 2016, the State adopted a budget to include judicial salary increases recommended by the NYS Commission without addressing the effect of said increase for DA's upon the counties. This means the County is required to pay an increase in salary for the DA from \$152,500 to \$183,350 - an increase of \$30,850; and

WHEREAS, for over 50 years the State paid for every mandated DA salary increase through the State Budget. On April 1, 2016 the State adopted a budget and failed to include the approximately \$1.6 million cost to counties to fund the DA salary increases, once again shifting another unfunded mandated cost to the counties; and

WHEREAS, this additional unfunded mandated cost was not allocated by the County in its 2016 budget, and will negatively impact the County's allowable tax cap growth under the state-imposed 2% property tax cap in 2017 and the years to follow; and

WHEREAS, with this unfunded mandate, together with the expansion of eligible persons for legal services mandated by the State, Lewis County will be forced to spend all of its tax cap on these additional unfunded State costs; and

WHEREAS, the Board of Legislators recorded its opposition to the State's 2016 budget which included this unfunded mandate of a raise in the salary of the full-time DA, and renews its opposition to this mandatory salary increase burden upon the County. The Governor has been presented with a chapter amendment to the 2016-17 State Budget that would rectify this unfair directive and burden on the county; the amendment requires the State to reimburse the counties for the pay increase for full time DAs effective April 1, 2016, and further requires the State to pay the costs of any mandated increases in DA salaries in the future. The Governor can act upon his promise not to subject the counties to any unfunded mandates by signing this chapter amendment and thereby follow what the State has done in the prior 50 years - to pay for any increase to DA salaries; and

WHEREAS, the Board of Legislators opposes this unfunded mandate, and by the Governor's failure to properly act to rectify this matter, the Board is faced with an untenable situation to abide by the current obligations under State Judiciary Law §183-a until amended by the Governor and State Legislature.

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section 1. That the Lewis County Board of Legislators hereby again records its disappointment with the Governor in passing another unfunded state mandate onto the local counties and taxpayers for the costs of the full time DA salary increases effective April 1, 2016; a cost the State has always paid and funded for over fifty (50) years. The Governor can rectify this matter by signing the chapter amendment (which has been forwarded to his office for action), which sets forth an amendment to the 2016-17 State Budget to require the State to pay the costs of mandated District Attorney pay increases as set forth in Judiciary Law § 183-a and which requires the State to reimburse the counties for any amounts it pays under the law effective and retroactive to April 1, 2016.

Section 2. That the Lewis County Board of Legislators hereby authorizes the State mandated increase in the Lewis County District Attorney's annual salary, retroactive to April 1, 2016, from \$152,500.00 to \$183,350.00; an increase of \$30,850.00, and directs that the Chairman of the Board of Legislators take any and all continued action for reimbursement from the State for this unfunded, mandated increase payment.

Section 3. That the Lewis County Board of Legislators directs the Treasurer to adjust the payroll and pay said increase from the contingency fund.

Section 4. That the within resolution shall take effect immediately.

Moved by Legislator _____, seconded by Legislator _____, and adopted.