

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

March 24, 2017

TO: Senate Records Access Officer/Secretary of the Senate Francis Patience

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

RE: FOIL/RECORDS REQUEST: March 12, 2016 “amending” of Governor Cuomo’s budget bills for fiscal year 2016-2017

Reference is made to Governor Cuomo’s budget bills for fiscal year 2016-2017. Senate Rule VII, §6, states:

“When a bill is submitted or proposed by the Governor by authority of Article VII of the Constitution, it shall become, for all legislative purposes, a legislative bill, and upon receipt thereof by the Senate it shall be endorsed ‘Budget Bill’ and be given a number by the Secretary and shall be referred to the Finance Committee. Budget bills may be reported from the Finance Committee direct to the third reading calendar.”

On January 14, 2016, the Governor’s budget bills, to which you assigned numbers #S.6400 – S.6409, were each referred to the Senate Finance Committee.

The webpages for these ten budget bills reflect that on March 12, 2016 eight were amended, but not reported out of committee. They were the following three “appropriations bills”:

- (1) State Operations Budget Bill #S.6400-A
- (2) Aid to Localities Budget Bill #S.6403-A
- (3) Capital Projects Budget Bill #S.6404-A

and the following five “Article VII bills” –

- (4) Public Protection and General Government Budget Bill #S.6405-A
- (5) Education, Labor and Family Assistance Budget Bill #S.6406-A
- (6) Health and Mental Hygiene Budget Bill #S.6407-A
- (7) Transportation, Economic Development and Environmental Conservation Budget Bill #S.6408-A
- (8) Revenue Bill #S.6409-A.

With respect to each of these eight “amended” budget bills, request is made, pursuant to Senate Rule XV “Freedom of Information”, for:

- (1) records showing the “non-sponsor” who introduced the amendment, since it obviously was not the Governor;
- (2) records showing what specific changes the amendment made, as for instance, the “detail sheets” and “amended memorandum”, required by Senate Rule VII, §4(b):

“...When amendments are offered to a printed bill, the proposed changes, indicating page and line numbers, shall be listed on four detail sheets and the same changes shall be incorporated and marked on two copies of the bill; provided, however, that no amendment shall be allowed to any bill which is not germane to the original object or purpose thereof. Furthermore, when a printed bill is amended the accompanying introducer’s memorandum, required pursuant to section one of this Rule, shall also be amended to reflect any changes...”

- (3) records showing the date and time of the Senate Finance Committee meeting at which the motion to amend was on its agenda – and the notice thereof furnished to Senate Finance Committee members and the public, required by Senate Rule VIII, §2:

“ a. (1) Standing committees shall hold regular meetings at such time and on such day as scheduled by the Majority Coalition Leaders in joint consultation with the chair and such schedule shall be published one week in advance of the date of such meeting and shall be posted on the Senate committee board and website.... Each chair of a standing committee shall to the extent practicable, no later than 5 p.m. the Thursday preceding the regular meeting, furnish to the Majority Coalition Leaders, and publish the agenda together with the introducer’s memorandum for each bill listed on such agenda for such regular meeting. In addition, copies of such agenda for such regular meeting shall be made available to representatives of the news media and to the general public. However, in case of necessity, the chair with consent of the ranking Democratic Conference member may add no more than four items on the agenda or delete items on the agenda up to 24 hours in advance of the scheduled meeting and members shall be notified of such additions or deletions. ...

(2) Standing committees may hold special meetings in case of necessity upon the call of the chair when the announcement is made from the floor during session, or the ranking Democratic Conference

member of the committee consents thereto, or upon the call of a majority of all the members thereof, entry of which fact shall be made on the records of the committee and announced by the Secretary of the Senate.”

- (4) records of the Senate Finance Committee meeting at which the motion to amend was deliberated and voted upon, including the number of senators present and the number of senators who had submitted voting sheets – and the vote on the motion to amend, including the vote of each member, such as required by Senate Rule VIII, §2:

“a.(1) ...The attendance of the members of the committee shall be recorded at each meeting, and a copy of such report shall be filed with the Journal Clerk of the Senate and made available to the public. ...

...

(3) All meetings of committees shall be open to authorized representatives of the news media and the general public as observers.

(4) All meetings of committees shall be recorded by video and to the extent practicable webcast live. Video of all committee meetings shall be made available on the Senate website.

...

b. (1) Minutes shall be taken at all open meetings of committees which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

...

(3) Minutes of meetings of all committees shall be available to the public in accordance with the provisions of Article six of the Public Officers Law, ‘the freedom of information law’, and at such time and place as prescribed by the Temporary President jointly with the leader of the Independent Democratic Conference, provided, however, that minutes for executive session meetings shall be available to the public within one week from the date of such executive session.”

Suffice to say, that had the Senate Finance Committee voted the “amended” bill out of committee, Senate Rule VIII, §6, entitled “Reports”, would have been applicable:

“a. No committee shall vote to report a bill or other matter unless a majority of all the members thereof vote in favor of such report. Each report of a committee upon a bill shall have the vote of each Senator attached thereto and such report and vote shall be available for public

inspection. A member's vote on any matter before the committee shall be entered by the member on a signed official voting sheet delivered to the Committee Chair.

Any standing committee having secondary subject matter jurisdiction over a bill may request the chair of the committee having primary subject matter jurisdiction over said bill (which is the committee to which the said bill has been referred by the Majority Coalition Leaders pursuant to Rule VII) to commit the bill to the committee with secondary subject matter jurisdiction either when the bill is still in the primary committee or after it has been reported to the calendar. If the chair of the primary committee refuses said request, then the committee having secondary jurisdiction, through its chair, may request the Majority Coalition Leaders to consider such secondary referencing. If a secondary reference is so made, the secondary committee shall consider the bill forthwith and return said bill to the primary committee or the calendar, as the case may be, along with the secondary committee's recommendations.

...

b. Each bill reported by a standing committee shall be accompanied by a report, and the Democratic Conference shall file a Democratic Conference committee report within seven days of the bill being reported out of committee and said reports shall be filed with the Journal Clerk. The report of a committee upon any matter referred to it shall upon request include a brief statement of the opinion of any member or members of the committee voting in either the majority or minority."

Thank you.

