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February 11, 2014

TO: Secretary of the Senate Francis W. Patience

Senate Finance Committee Chair John A. DeFrancisco
Senate Finance Committee Ranking Member Liz Krueger

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

RE: RECORDS REQUEST: Fiscal Notes for the Governor's Article VII Judiciary and Legislative Budget Bills & his Introducer's Memoranda:
#S.6351/A.8551 (2014) – third phase of the judicial salary increase;
#S.2601/A.3001 (2013) – second phase of judicial salary increase;
#S.6251/A.9051 (2012) – first phase of judicial salary increase.

Senate Rule VII, §6 entitled "Budget bills" 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..."

Senate Rule VIII, §7 entitled "Finance Committee" states:

"...The sponsor of a bill providing for an increase or decrease in state revenues or in the appropriation or expenditure of state moneys, without stating the amount thereof, must, before such bill is reported from the Finance Committee or other committee to which referred, file with the Finance Committee and such other committee a fiscal note which shall state, so far as possible, the amount in dollars whereby such state moneys, revenues or appropriations would be affected by such bill, together with a similar estimate, if the same is possible, for future fiscal years. Such an estimate must be secured by the sponsor from the Division of the Budget or the department or agency of state government charged with the fiscal duties, functions or powers provided in such bill and the name of such department or agency must be stated in such note.

The Finance Committee shall keep and maintain a file containing all bills requiring fiscal notes and the notes appertaining thereto, which shall be available to Senators and officers of the Senate, accredited representatives of the press, and other responsible persons having a legitimate interest therein."

Budget Bill #S.6351/A.8551, “submitted by the Governor pursuant to article seven of the constitution” and combining the budgets of the Legislature and Judiciary, does not state the “increase” of its “appropriation or expenditure of state monies”.

Consequently, pursuant to the above-quoted Senate Rule VIII, §7 and Senate Rule XV “Freedom of Information”, please furnish the fiscal note that the Governor, as sponsor of Budget Bill #S.6351/A.8551, filed, or must file, with the Senate Finance Committee before the bill can be “reported”. If properly drawn, such fiscal note would not only specify “the amount in dollars” of the third phase of the judicial salary increase recommended by the August 29, 2011 Report of the Special Commission on Judicial Compensation, pursuant to Chapter 567 of the Laws of 2010, but “the amount in dollars” of the increases in statutorily-tied salaries of district attorneys and county clerks and of all “General State Charges” – together with “estimate[s]” for “future fiscal years”. This third-phase judicial salary increase is hidden somewhere in the Judiciary portion of the Governor’s Budget Bill #S.6351/A.8551 (pp. 10-26), with no identification of its “amount in dollars” for fiscal year 2014-2015.

Additionally, please furnish the fiscal notes that the Governor was required to have filed with the Senate Finance Committee before it “report[ed]”:

- his Budget Bill #S.2601/A.3001 (“Legislature and Judiciary Budget”) for fiscal year 2013-2014 – whose Judiciary portion (pp. 10-26) hid the second phase of the judicial salary increase, with no identification of its “amount in dollars”. If properly drawn, the “fiscal note” would have necessarily included “the amount in dollars” of the increases in statutorily-tied salaries for district attorneys and county clerks and of all “General State Charges” – together with “estimate[s]” for “future fiscal years”
- his Budget Bill #S.6251/A.9051 (“Legislature and Judiciary Budget”) for fiscal year 2012-2013 – whose Judiciary portion (pp. 10-26), not referencing the first phase of the judicial salary increase, made a reappropriation as follows (at pp. 24-25):

“By chapter 51, section 2, of the laws of 2008, as reappropriated and amended by chapter 51, section 3 of the laws of 2009, and as reappropriated by chapter 51, section 3 of the laws of 2011:

For expenses necessary to fund adjustments in the compensation of state-paid judges and justices of the unified court system and housing judges of the New York City civil court, and for such other services and expenses specified in section two of this act.

Personal service - regular ... 51,006,759..... (re. \$31,000,000)”

If properly drawn, such fiscal note would necessarily have included “the amount in dollars” of the increases in statutorily-tied salaries for district attorneys and county clerks and of all “General State Charges” – together with “estimate[s]” for “future fiscal years”.

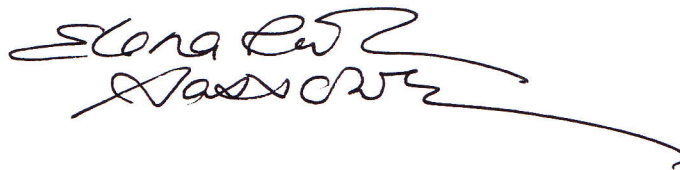
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Finally, Senate Rule VII, §1 entitled "Introduction" states:

"Bills and resolutions shall be introduced by a Senator, or on the report of a committee, or by message from the Assembly, or by order of the Senate, or by the Governor pursuant to Article VII of the Constitution. Every bill introduced...shall be accompanied by the introducer's memorandum in quadruplicate. Such memorandum shall contain a statement of the purposes and intent of the bill and, if the member deems it appropriate, may set forth such other statements that the member feels necessary including, but not limited to, statements relating to economic impact, environmental impact or the impact on the judicial system of the bill. A Committee, where it deems necessary, may require that the introducer's memorandum be amended to include such appropriate statements."

Pursuant to Senate Rule XV "Freedom of Information", request is made for the Governor's "introducer's memorandum" for each of his aforesaid three Article VII budget bills for the Judiciary and Legislature, including any amendments thereto.

Thank you.

A handwritten signature in black ink, appearing to read "Stana Ruzic", with a long, sweeping horizontal line extending to the right.

cc: Assembly Ways & Means Committee Chair Herman D. Farrell, Jr.
Assembly Ways & Means Committee Ranking Member Robert C. Oaks