

Center for Judicial Accountability

From: Center for Judicial Accountability <elena@judgewidth.org>
Sent: Thursday, May 26, 2016 3:44 PM
To: steinr@assembly.state.ny.us
Cc: simcoek@assembly.state.ny.us; buchwaldd@assembly.state.ny.us; 'roithmayra@assembly.state.ny.us'; mlungariel@lohud.com; ncutler@lohud.com; 'jspector@gannett.com'; 'jcampbell1@gannett.com'
Subject: Elections 2016: What is Assemblyman Buchwald's expert opinion of CJA's March 23, 2016 second supplemental complaint challenging the NYS budget & the Commission on Legislative, Judicial & Executive Compensation, etc?
Attachments: nys-constitution-article7-sections-1-7-and-article4-section7.pdf

Dear Rich,

Following up our phone conversation on May 2nd and earlier this afternoon, please schedule a time and date for me to meet with Assemblyman Buchwald so that we can discuss my below March 31st e-mail to him, to which I received no response from the Assemblyman or his staff.

As this is an election year, I trust the Assemblyman will have no objection to the press being present to discuss the causes of action of CJA's March 23, 2016 verified second supplemental complaint, suing the Legislature, etc. – including as relates to the Commission on Legislative, Judicial and Executive Compensation and his own prospective salary increase.

Meantime, I would appreciate if you would verify whether the Westchester County Board of Legislators has – or is intending to – petition New York's Legislature to have the state assume the cost of the Westchester district attorney salary increases resulting from the Commission on Legislative, Judicial and Executive Compensation's "force of law" recommendations to increase judicial salaries.

Thank you.

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From: Center for Judicial Accountability [mailto:elena@judgewidth.org]
Sent: Thursday, March 31, 2016 9:44 AM
To: 'simcoek@assembly.state.ny.us'; buchwaldd@assembly.state.ny.us; bongioa@assembly.state.ny.us'; 'roithmayra@assembly.state.ny.us'
Cc: 'mlungariel@lohud.com'; 'ncutler@lohud.com'; 'jspector@gannett.com'; 'jcampbell1@gannett.com'
Subject: FOR ASSEMBLYMAN BUCHWALD: Have you read what the NYS Constitution has to say about the NYS budget?

[Kim Simcoe/Legislative Director to Assemblyman Buchwald](#)

As discussed. My e-mail to the press at 5 a.m. this morning is below.

It is long past time for Assemblyman Buchwald, a member of the Assembly Judiciary Committee, a member of the Assembly Committee on Governmental Operations – in addition to being a Harvard Law School graduate and the Center for Judicial Accountability’s own Assemblyman – to show leadership on the issues pertaining to the \$150-plus billion state budget. And, of course, this is an election year!

How is the “three-men-in-a-room”, behind-closed-doors budget deal-making and their purportedly “on-time budget”, which, virtually without inspection, the Senate and Assembly are being strong-armed to pass, remotely constitutional?

Let Assemblyman Buchwald speak up at the closed-door Assembly Democratic-majority political conference of which he is part – and on the Assembly floor. And he should be educating Westchester’s local media about the NYS Constitution and relevant statutory and rule provisions.

Thank you.

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From: Center for Judicial Accountability [<mailto:elena@judgewatch.org>]
Sent: Thursday, March 31, 2016 5:04 AM
To: jemcki@nytimes.com; 'metro@nytimes.com'; 'editorial@nytimes.com'; 'susan_arbetter@wcnyc.org'; liz.benjamin@twcnews.com; 'gblain@nydailynews.com'; cbragg@timesunion.com; wbrunelle@politico.com; 'jcampbell1@gannett.com'; dan.clark@twcnews.com; kclukey@politico.com; kconley@nypost.com; acutler@wten.com; 'kdewitt@wxxi.org'; 'fud31@aol.com'; ny.tips@chalkbeat.org; 'zack.fink@ny1news.com'; jvielkind@capitalnewyork.com; 'cseiler@timesunion.com'; 'efmnews@aol.com'; news@cbs6albany.com; 'michael.gormley@newsday.com'; mhamilton@timesunion.com; 'khughes@nysnys.com'; ahupfl@cityandstateny.com; 'rkarlin@timesunion.com'; shaneking@statewatch.com; info@gothamgazette.com; 'dking@gothamgazette.com'; dklepper@ap.org; david@statewatch.com; 'klnynews@aol.com'; bmahoney@politico.com; mmcandrew@syracuse.com; Erica.Orden@wsj.com; 'nperreault@wutr.tv'; 'Alyssa_Plock@wcnyc.org'; 'mikep@statewatch.com'; 'tprecious@buffnews.com'; 'nick.reisman@twcnews.com'; drobison@bizjournals.com; krouse@wnyc.org; 'yancey.roy@newsday.com'; 'mryan@wmht.org'; 'jspector@gannett.com'; 'joelstashenko@aol.com'; jvalasquez@politico.com; hviccaro@dailygazette.net; jvielkind@capitalnewyork.com; 'mvirtanen@ap.org'; swaldman@politico.com; vivian.yee@nytimes.com; mike.vilensky@wsj.com
Cc: 'Bob Schulz'

Subject: Have you read what the NYS Constitution has to say about the NYS budget?

HAVE YOU READ WHAT THE NEW YORK STATE CONSTITUTION HAS TO SAY ABOUT THE NEW YORK STATE BUDGET?

Missing from ALL reporting and editorializing about the New York State budget is ANY reference to what the New York State Constitution has to say about how it is to be presented and enacted.

As it is IMPOSSIBLE to reconcile what has been taking place, with the constitutional design, take TEN MINUTES to read the relevant constitutional provisions, attached for your convenience.

These are NYS Constitution, Article VII, sections 1-7 and, additionally, Article IV, section 7.

Start with the three sentences of Article VII, section 4, as these identify that ALL the Governor’s budget bills making appropriations and re-appropriations – other than his Legislative/Judiciary budget bill – become

effective, “immediately without further action by the governor”, once the Senate and Assembly reconcile their divergent amendments to those bills – and those amendments can only consist of reducing or striking out the Governor’s proposed allocations.

As for such increases and additional appropriations as the Senate and Assembly may wish, Article VII, section 4 requires that these be “stated separately...” and section 5 requires that neither house may consider same “until all the appropriation bills submitted by the governor shall have been finally acted on by both houses, except on message from the governor certifying to the necessity of an immediate passage of such a bill.”

In other words, by now, most of the Governor’s executive budget should be in place by dint of the Senate and Assembly amendments to his appropriation bills, reconciled between them, having taken effect “immediately without further action by the governor” – with the only thing left, other than the Legislative/Judiciary budget bill, being the Legislature’s separate and distinct bills for increased and additional appropriations, regulated by Article VII, sections 4, 6 and 7.

And, of course, this constitutional design for enactment of the state’s budget – reposed as it is in the Legislature – is open to public view. In the words of Article III, section 10 of the New York State Constitution: “Each house of the legislature shall keep a journal of its proceedings, and publish same...The doors of each house shall be kept open...”

For your further convenience, here’s the link to the Center for Judicial Accountability’s “Budget Resource Page”, posting the relevant Court of Appeals decisions, briefs, and other materials, whose explications of Article VII, sections 1-7 reinforce the blatant unconstitutionality of much of what you have been reporting and editorializing about relating to the budget as if it were sanctioned by law: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/supreme-ct/2016/budget-resource-page.htm>

Finally, for details as to the Legislature’s violations of the constitutionally-mandated budgetary design – and of a mountain of statutory and legislative rule provisions pertinent thereto – replaced by “three-men-in-a-room”, behind-closed-doors, budget deal-making – these are presented by the 12th, 13th (sections D & E), and 16th causes of action of the March 23, 2016 verified second supplemental complaint in CJA’s citizen-taxpayer action against the Governor, Legislature, Attorney General, and Comptroller, seeking declarations of unconstitutionality and unlawfulness. The webpage for the second supplemental complaint is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/3-23-16-osc-2nd-supp-complaint.htm>.

I am available to answer questions – and would be pleased to assist you to the max to ensure the accuracy of your reporting and editorializing.

Thank you.

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