



MEMO OF SUPPORT

[S4398 \(Hoylman-Sigal\) / A4908 \(Lavine\)](#)

*Protects the Commission on Judicial Conduct’s budget request
and makes complaint process more transparent*

March 27, 2024

TITLE OF BILL

An act to amend the judiciary law, in relation to requiring the state commission on judicial conduct to transmit its annual budget request to the governor for inclusion in the executive budget without revision; to complaints regarding judges; and to extending the jurisdiction of the state commission on judicial conduct as to judges who resign or retire while under investigation or formal charges.

SUMMARY OF PROVISIONS

Section 1 amends section 42 of the Judiciary Law to add a new subdivision 7 requiring the Executive Budget to transmit the Commission on Judicial Conduct's (the “Commission”) annual budget request to the Legislature with comment, but without amendment.

Section 2 amends subdivision 4 of section 44 of the Judiciary Law to make Commission proceedings public when a judge is formally charged with misconduct.

Section 3 amends section 45 of the Judiciary Law to make conforming changes regarding availability of records related to complaints.

Section 4 amends section 47 of the Judiciary Law to extend the Commission's jurisdiction to judges who resign or retire while under investigation or formal charges.

Section 5 states that this act shall take effect immediately.

STATEMENT OF SUPPORT

This legislation aligns the budget submission process for the Commission on Judicial Conduct with how the Judiciary budget is submitted to the Legislature.

Our groups support this bill because robustly funded ethics oversight agencies are the first line of defense against corruption, misconduct, and the abuse of public trust. We strongly support independent budgeting mechanisms for oversight agencies like the Commission on Judicial Conduct, because here agencies are vulnerable to political retaliation just for properly doing their job, which includes ensuring influential public officials follow the rules. It is crucial that the Commission on Judicial Conduct have the funding they need to hold judges accountable.

We note that the [Commission's FY 2024-2025 budget testimony](#) highlights their increasing caseload, with the following relevant data from 2023:

- A record 2,800 new complaints processed.
- Over 500 preliminary reviews and inquiries.
- Over 200 full-fledged investigations – the most since 2010 and a 28% increase over the Commission's 10-year average.
- 17 judges publicly disciplined, 13 of which were removals or stipulated permanent resignations.

Additionally, the Commission's testimony notes that its staffing levels have actually decreased over time. In 1978, when it was created, there were 63 full-time equivalents. The current Executive Budget proposes funding for 49; this is a 22% decline in staffing over a period when the State's population has grown 11%.

Ideally, we would like to see independent budgeting for this Commission in the State Constitution, but this legislation is a clear step forward and will help protect against efforts from governors or legislatures to reduce the Commission's funding through the use of "notwithstanding" clauses or other maneuvers.

This legislation also requires that the judicial complaint process is more transparent, requires formal written complaints to be public, as well as hearings to be public. Previously, hearings could only be public upon request of the judge.

Lastly, under current law, judges with complaints against them can avoid accountability by retiring. This legislation would ensure that as long as formal written complaints are filed within 120 days of a judge's retirement, the Commission will still be able to investigate and pursue the complaint.

We strongly urge the Legislature to pass the bill, and the Governor to sign it.