



# This Week in New York

**Covering New York State and City Government**

*A Publication of Pitta Bishop & Del Giorno LLC*

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## *In the News – New York State*



### **Governor Cuomo Signs Executive Order to Protect and Strengthen Net Neutrality in New York**

Governor Andrew Cuomo this week signed an executive order to protect and strengthen net neutrality in New York. Under the order, New York State government is directed not to enter into any contracts for internet service unless the ISPs agree to follow net neutrality principles.

"The FCC's dangerous ruling goes against the core values of our democracy, and New York will do everything in our power to protect net neutrality and the free exchange of ideas," Governor Cuomo said. "With this executive order, we reaffirm our commitment to freedom and democracy and help ensure that the internet remains free and open to all."

The order applies to all "Affected State Entities" which is defined as agencies and departments over which the Governor has Executive Authority and all public-benefit corporations, public authorities and commissions, for which the Governor appoints the Chair, the Chief Executive, or the majority of Board Members, except for the Port Authority of New York and New Jersey. These entities must revise their respective procurement criteria to require recipients of state contracts to "...ensure that internet services provided to Affected State Entities, include net neutrality protections, and specifically state that ISPs may not block lawful content, applications, services, non-harmful devices, or applications that compete with other services provided by the ISP."

Under the order, any contract or contract renewal entered into by Affected State Entities for internet services on or after March 1, 2018, shall include a binding agreement and Affected State Entities shall not enter into a contract with any ISPs, agents, or other entity offering to or procuring on behalf of any Affected State Entity internet services, without a binding agreement.

In addition, the Department of Public Service is directed to evaluate potential actions to promote net neutrality in order to protect New Yorkers' access to a free and open internet.



## NYS Senate Passes Bill to Protect Taxpayers from State Tax Hit from D.C. Tax Changes

The New York State Senate this week passed legislation to protect taxpayers from a new \$1.5 billion state income tax burden created by the recently adopted federal tax overhaul.

The measure (S6974A), sponsored by Senator Simcha Felder, works to hold harmless New Yorkers who may have to pay more in state income taxes because of the changes at the federal level and prevents the state from benefitting from the sudden revenue increase at the expense of taxpayers.

“We’re responsible to do everything in our power to save hardworking, over-taxed New Yorkers from any additional tax burdens,” Senator Felder said. “New Yorkers shouldn’t be the collateral damage of federal tax reform. This bill rights an egregious injustice that would have cost New York taxpayers billions. We will continue to work to keep taxes down and New York affordable for the individuals, families and seniors who live, thrive and succeed here.”

The bill is part of the Senate Majority’s comprehensive “Affordability Agenda” and proactively modifies the state tax law to provide \$1.5 billion in annual savings to New Yorkers starting next tax year when the federal changes begin taking effect. The bill mitigates the potential for New York taxpayers to see a state income tax increase as a result of changes on the federal level in several ways, including:

- ***Allowing taxpayers to deduct their full property tax payments (approximately \$400 million) and restoring other deductions (approximately \$300 million):*** Currently, state personal income taxes are based on the federal tax code. The bill changes the reference to the federal tax code to reflect the code in effect prior to December 1, 2017 - pre-dating the passage of the federal tax cuts. This effectively decouples the state income tax code from the new federal tax code and allows individuals to choose to deduct the full amount of state and local tax (SALT) payments, among other potential benefits for those who might be negatively impacted by the \$10,000 federal SALT cap and other federal tax changes.
- ***Ensuring that more than 5 million single filers can claim their full New York State standard deduction (\$800 million):*** This is achieved by making a technical amendment to the definition of a single non-dependent filer in the state’s income tax code.
- ***Removing the existing state prohibition on itemizing a state income tax return if a taxpayer chooses to take the new higher federal standard deduction (\$45 million).*** With the increase in the federal standard deduction, it is expected that more people will claim the standard deduction. However, under current state law, filers cannot itemize their state deductions if they take the federal standard deduction, and such a prohibition could cost New York taxpayers who want to itemize their state return to save more money.



## Labor Department Releases Hearing Dates for Tipped Worker Proposal

The State Department of Labor this week released the dates and locations for the upcoming public hearings to address the possibility of ending minimum wage tip credits in New York State. Hearings are being scheduled for New York City, Syracuse, Buffalo, Long Island, Watertown, and Albany.

State Labor Commissioner Roberta Reardon will preside over the hearings which will be focused on the scope of the problem, including the hardships created by tipping, reasons for and ramifications of eliminating the subminimum wage in impacted tipped occupations (i.e. car wash worker, beautician, waiter, bartender, dog groomer, tow truck driver, wedding planner, tour guide, etc.) and recommendations for the potential elimination timeline and complicating factors.

The hearings will be held at the following locations and times. Preregistration is necessary.

**Monday, March 12, 2018 at 10 a.m.**

SUNY College of Environmental Science and Forestry, The Gateway Center, Syracuse

**Wednesday, March 21, 2018 at 10 a.m.**

Common Council Chamber, City Hall, Buffalo

**Friday, April 20, 2018 at 10 a.m.**

Roosevelt Little Theatre, SUNY Farmingdale

**Wednesday, April 25, 2018 at 10 a.m.**

Dulles State Office Building, 317 Washington Street, Watertown

**Friday, May 18, 2018 at 10 a.m.**

Legislative Office Building, Albany

**Week of June 18**

New York City, Location TBD, *Note: This hearing is for non-hospitality industries only.*

**Week of June 25**

New York City, Location TBD, *Note: This hearing is for hospitality industries only.*

"New York continues to be a national leader in fighting for justice for working men and women, and by providing a platform for New Yorkers' concerns to be heard, we are furthering our efforts to deliver fair wages for all," Governor Andrew Cuomo said. "I am urging those impacted by this proposal to register, attend a hearing, and help us move this state one step closer toward a better, more just New York."

Individuals interested in testifying my register at

- Online: [www.labor.ny.gov/subminimum](http://www.labor.ny.gov/subminimum)
- Email: [hearing@labor.ny.gov](mailto:hearing@labor.ny.gov)
- Phone: 518-457-5519
- Fax: 518-485-1126
- Mail: New York State Department of Labor  
ATTN: Subminimum Wage Hearing  
Building 12, Room 588  
Harriman State Office Campus  
Albany, NY 12240

All written testimony must be received by July 1, 2018. Digital versions of testimony and comments are preferred and should be emailed to [hearing@labor.ny.gov](mailto:hearing@labor.ny.gov).

## *In the News – New York City*



### **New York Files Amicus Brief to Defend Labor Unions' Right to Collect Fees**

The City of New York has filed an amicus brief with the U.S. Supreme Court in *Janus v. American Federation of State, County, and Municipal Employees, Council 31, et al.*, to defend the right of labor unions to collect agency shop fees.

According to Mayor Bill de Blasio, the *Janus* case questions the ability of unions to collect fees from public employees who elect not to join a union but nonetheless benefit from union collective bargaining activities. For over forty years, the Supreme Court has upheld the constitutionality of agency shop fees, but plaintiffs in *Janus* now seek to change the law and limit union rights.

"New York City is the city it is today because of the hardworking unionized men and women who built it and run it," Mayor de Blasio explained. "Our city is stronger because of unions' ability to organize and fight for all of our rights. Especially in the face of our current political climate, we should be bolstering tools for empowering and protecting workers not making them more difficult to come by."

The City's brief explains how New York City pioneered collective bargaining for public employees and how the City adopted agency shop fees to protect workers and the public through a fair and effective collective bargaining system. The fees are modeled after successful private-sector labor relations strategies.

"Prohibiting agency shop fees would strip jurisdictions like New York City of a tool that has for years helped foster productive relationships between governments and their public workforces. Agency shop fees have strengthened a collective bargaining process that has worked for us for nearly half a century," said Corporation Counsel Zachary Carter.

Mr. Carter explained that collective bargaining activities in New York City are both time-intensive and research-intensive and require extensive expertise from both the government and union sides. Agency shop fees finance the provision of tools for negotiation and mediation that help resolve disputes for the benefit of public workers and city residents.

"I'm very happy that Mayor de Blasio and his administration stand with Labor in this battle to protect a system which has been working very well for so many years," said Harry Nespoli, Chairperson of the Municipal Labor Committee and President of the Uniformed Sanitationmen's Association, Local 831, I.B.T.

The City's amicus brief was filed Friday, January 19, along with the briefs of labor leaders, states from across the country, dozens of cities and counties large and small, public schools and hospitals, economists, members of the clergy across all faiths and faith-based organizations, private and public sector employers, governors, and a large number of nonprofits and foundations.

"We are pleased that New York City recognizes the vital role of unions in sustaining its working class and middle class. The Supreme Court case threatens to significantly undermine these protections at a watershed moment when the American middle class is eroding and wealth is concentrating increasingly in the hands of the very few," said Mark Cannizzaro, President of the Council of School Supervisors and Administrators.

## **City Sues Landlord for Converting Rent Stabilized Units Into Illegal Hotel Rooms**

The Mayor's Office of Special Enforcement is bringing a lawsuit against a Manhattan landlord who turned his four-story walkup into an illegal hotel through [www.Airbnb.com](http://www.Airbnb.com). According to the suit, the illegal hotel operated for years despite persistent complaints, enforcement actions and fines against the operation.

"If a landlord persists in illegal activity despite complaints from residents and violations from the City, then we will elevate our response to safeguard its rent-stabilized housing stock and protect New Yorkers and visitors from the dangers of illegal hotels" Christian Klossner, Executive Director of the Mayor's Office of Special Enforcement.

The defendants in the suit include 156 West 15<sup>th</sup> Street Chelsea LLC, its head officer and managing agent Dr. Philip Baldeo and operator Miguel Guzman.



According to Director Klossner, illegal transient use in the nine-unit Chelsea building at 156 West 15th Street (near 7th Avenue) appeared to increase over time. In August 2014, the Office of Special Enforcement uncovered two apartments being unlawfully rented while in September of 2017 OSE investigations found illegal hotel use in six out of nine units.

In addition, the building has been the subject of at least thirteen illegal hotel complaints since 2014, 23 building and fire violations, three criminal summonses, and one advertising summons. Currently, more than \$11,000 worth of penalties for building and fire violations have been imposed or paid.

“There must be zero tolerance for illegal hotels” said Council Speaker Corey Johnson. “In addition to depleting our housing stock, illegal hotels put lives at risk by flouting the basic fire and safety regulations that apply to hotels. This lawsuit sends a strong message to landlords across the city that we will not tolerate such practices.”

The case represents the eleventh lawsuit the City has brought against landlords or operators for illegal hotels.

## ***Briefs***

### **Governor Cuomo Announces Efforts to Combat Maternal Depression and Prevent Maternal Mortality**

Governor Andrew Cuomo will direct the Department of Financial Services (DFS) to require all health insurance policies include coverage for maternal depression screening and will launch a new Maternal Mortality Review Board.

Specifically, DFS will require that all health insurance policies issued in the State to include coverage for maternal depression screening by both adult and pediatric primary care providers, as well as speedy referrals to treatment specialists. Insurance policies that cover the child but not the parent, must provide coverage for maternal depression screening. This directive will build upon additional measures to expedite referrals and treatment, including expansion of Project TEACH to connect primary care providers with mental health specialists, enhanced screening and referrals at WIC clinics and increased access to telepsychiatry for those in rural communities.

Also, in an effort to prevent maternal deaths, the State Department of Health will form a Maternal Mortality Review Board to analyze very maternal death in the New York State and to develop recommendations to improve maternal outcomes and clinical care.

New York ranks 30<sup>th</sup> in the nation for lowest maternal mortality rate and African American women are almost four times more likely to die in childbirth than white women.

## **Comptroller DiNapoli: State Correction Commission Falling Short in Tracking Problems or Inspecting Prisons**

The State Commission on Correction which is charged with the oversight and inspection of 561 state and local correctional facilities and jails across New York is not properly tracking or analyzing incidents and inmate complaints, according to an audit released by State Comptroller Thomas DiNapoli. In addition, auditors also found the Commission is also not routinely inspecting the state's 54 prisons, devoting its time and resources to toward oversight and inspection of local facilities.

Over the three year period examined, the number of complaints received by the Commission increased 16 percent to 2,316 in 2016, and grievances increased 69 percent to 2,932. Auditors found that while the Commission improved the timeliness of its responses to complaints and grievances during the audit period, its new management information system lacks the ability to produce reports on how complaints and inmate grievances are resolved and how long they have been in process.

## **Governor Cuomo Signs Executive Order to Combat Widespread Flu Epidemic in New York**

*7,779 New Flu Cases and 1,759 Hospitalized for Flu since Last Week*

Governor Andrew Cuomo this week signed an executive order to allow pharmacists to administer flu vaccines to children ages 2 to 18 - increasing access and convenience for New Yorkers seeking the flu vaccination as the number of reported cases across the state continues to rise.

Over the past week, 7,779 laboratory confirmed influenza cases were reported to the state and 1,759 New Yorkers have been hospitalized with confirmed influenza, the highest weekly numbers in both categories since reporting began in 2004 and surpassing last week's previous high of 1,606 hospitalizations.

## **State Attorney General Sues Tropical Breeze Car Wash For Allegedly Cheating Over 150 Minimum Wage Employees Out Of More Than \$540,000 In Wages And Benefits**

Attorney General Eric Schneiderman this week announced a lawsuit against Brooklyn-based Tropical Breeze Car Wash for allegedly cheating over 150 minimum wage car wash workers out of more than \$540,000 in wages and benefits. The Attorney General is seeking nearly \$1.6 million in restitution, damages, and penalties.

The lawsuit was filed in New York Supreme Court, Kings County against U.S. Auto Wash, L.L.C. d/b/a Tropical Breeze Car Wash ("Tropical Breeze"); its owner, Benno Gmuer; and its managers, Philip Gmuer and Gregory Gmuer.

As the Attorney General's complaint alleges, the company cheated over 150 car wash workers out of over \$500,000 in wages and over \$30,000 in benefits, and failed to pay its fair share of unemployment insurance and workers' compensation contributions.

An investigation conducted by the Attorney General's office revealed that at least as early as January 1, 2012 and through at least January 1, 2018, Tropical Breeze allegedly underpaid employees for hours they worked, including overtime hours, time spent waiting on-site for the car wash to open, and time deliberately cut from employees' time cards. Tropical Breeze also allegedly failed to pay employees for at least four hours of work when employees reported to work but were sent home early, known as "call-in pay." Additionally, Tropical Breeze denied workers reimbursement for mandatory uniforms and failed to provide employees with earned sick leave.

## **Bronx Animal Shelter to Open in 2024**

The de Blasio administration this week announced the location of the City's new Bronx Animal Shelter. Projected to open in 2024, the 47,000-square-foot Bronx shelter will be located in the East Bronx, and have space for 70 dogs, 140 cats, 30 rabbits and 20 animals from other species. The City will also renovate its existing Brooklyn shelter to expand its current facilities, renovation will be complete by 2022.

Animal Care Centers of NYC currently runs full-service shelters in Manhattan, Brooklyn and Staten Island and admissions centers in the Bronx and Queens. The new Bronx shelter will undergo a thorough community engagement process throughout the Uniform Land Use Review Procedure (ULURP) before construction begins.

"This new shelter will be a critical life-saving resource for pets and their owners in the Bronx," said Matt Bershadker, President and CEO of the ASPCA. "For too long, vulnerable Bronx animals have been transported to shelters in neighboring boroughs, which adds to the challenges at those facilities and hinders reunions between lost pets and their owners. We thank Mayor de Blasio for pledging to protect at-risk animals in every community in this city, and we look forward to supporting Animal Care Centers of NYC as it provides homeless animals with the care they need and deserve."

## **Truth in Broadband: Mayor's Office Issues RFI to Promote Open and Transparent Internet**

The Mayor's Office of the Chief Technology Office this week released a "Truth in Broadband" Request for Information (RFI) to establish transparency and accountability in how carriers provide internet service to consumers. The goal of the RFI is to gather input from industry and subject matter experts to help implement a system for monitoring the quality and performance of internet service providers. The Truth in Broadband RFI builds on the NYC Connected RFI for Citywide Broadband and the Governors Island Connectivity Challenge, both of which are aimed at delivering new infrastructure and service. Responses to the Truth in Broadband RFI are due February 28, 2018 and can be submitted at <http://on.nyc.gov/truthinbroadbandrfi>.



## Coming Up

### New York State

*The Legislature is in session Monday January 29<sup>th</sup> through Tuesday January 30<sup>th</sup>*

#### *Monday, January 29<sup>th</sup>*

*Economic Development Budget Hearing*, NYS Legislative Fiscal Committees, Legislative Office Building, Hearing Room B, 10:30 am.

#### *Tuesday January 30<sup>th</sup>*

*Public Protection Budget Hearing*, NYS Legislative Fiscal Committees, Legislative Office Building, Hearing Room B, 9:30 am.

*Commission Meeting*, NYS Joint Commission on Public Ethics, 540 Broadway, Albany, 10:30 a.m.

#### *Wednesday, January 31<sup>st</sup>*

*Elementary & Secondary Education Budget Hearing*, NYS Legislative Fiscal Committees, Legislative Office Building, Hearing Room B, 9:30 am.

### New York City

#### *Wednesday January 31<sup>st</sup>*

*Committee on Finance*, Committee Room – City Hall, 10 a.m.

*City Council Stated Meeting*, Council Chambers – City Hall, 1:30 p.m.

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