

# 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

### New York Prepared to Protect Labor Unions & Workers Following Janus Decision

In anticipation of an adverse ruling in the U.S. Supreme Court case, *Janus v. AFSCME*, Governor Andrew Cuomo and the State Legislature included legislation to strengthen the rights of the state's unions and protect the workers they represent in the 2018-2019 fiscal plan.

On Wednesday, the U.S. Supreme Court proved New York's leaders right by ruling 5 to 4 that non-union-member public employees don't have to pay "fair share" or "agency" fees to the unions that represent them in collective bargaining and grievances. ([Pitta LLP alert regarding the decision](#)).

Labor leaders are taking the decision head-on, calling it a "wake-up call" that will ultimately make unions stronger.



NY's Labor Leaders watch as Governor Cuomo signs Union Protection Legislation in April

"...when we look back at this time period and the consequences, I believe it will be seen as a time when the result was to make unions stronger, not weaker," Harry Nespoli, President of the Uniformed Sanitationmen's Association, IBT, Local 831 said in an op-ed in the *Daily News*. "Working men and women will have a stronger understanding of why they and their families are better off with a union, and they will continue to pay their union dues. They also will be better organized to fight for the common good, for better wages, better working conditions, better healthcare, a better life. They will be better prepared to resist those who attack what working people have earned through hard work for the public. And their unions will be in a better position to advocate for the common good."

The workers of today learned from our parents and grandparents the importance of standing together to defend our rights and work for a better quality of life for ourselves and for our children. Janus was a wake-up call that well-funded groups are always looking for ways to oppress working men and women."

New York's Law (Chapter 59 of the Laws of 2018) makes it clear that members who pay union dues will receive certain benefits and services and unions cannot be forced to provide full benefits of membership to those who do not pay for them. In addition, the law requires public employers to:

- Notify the relevant union within 30 days of a new employee being hired, rehired or promoted into a bargaining unit represented by that union. Provide the new employee's name, address, work location to the union.

- Permit union representatives to meet with new employees within 30 days, for a reasonable amount of time, and without charge to leave credits.

The law also supports unions by:

- Ensuring union membership is maintained so workers' benefits are protected if they take leave.
- Enabling unions to send dues deductions to employers electronically.
- Requiring dues to be reinstated automatically if a union member employee leaves service, but is reinstated to a position with the same employer and covered by the same bargaining unit within one year.



## **PSC Condemns Spectrum for False Advertising**

The New York State Department of Public Service (PSC) this week sent a letter to Charter CEO Thomas Rutledge condemning the company's false advertising and misleading of New York consumers.

The letter demands that the cable company immediately cease and desist from making continued false advertisements and publications about its compliance with its obligations to New York State and its efforts to provide New Yorkers with critical broadband access. According to the PSC, these misrepresentations, coupled with Spectrum's overall pattern of unacceptable conduct in New York, call into question the continued viability of Spectrum as a regulated telephone/cable company in the state.

"The situation regarding Charter/Spectrum is getting more serious with each passing day," PSC CEO John B. Rhodes said. "Not only has the company failed to meet its obligations to build out its cable system as required, it is now making patently false and misleading claims to consumers that it has met those obligations without in any way acknowledging the findings of the Public Service Commission to the contrary."

In its letter to CEO Rutledge, the PSC said the company "knows full well" that it is not meeting its commitment to expand the company's broadband network in New York to "pass" additional unserved and underserved residences and businesses. Nevertheless, Spectrum continues to assert in advertisements and publications that it has complied with its commitment to New York.

The PSC's letter directs Spectrum to stop deceptive advertising. In addition, the PSC said it was referring the matter to the Attorney General and to the United States Securities and Exchange Commission based on the company's failure to provide appropriate disclosure to its investors and the market about its failings to honor its commitments to New York and the possibility that the approval of its acquisition of Time Warner may be revoked.

Last week, the Appellate Division, First Department allowed the State Attorney General's claim that Spectrum has engaged in false advertising about the speed of its internet service to go forward.

## *In the News – New York City*



### **Mayor de Blasio and 22 Mayors Deepen Commitment to Working Families and Municipal Employees**

*Sign pledge promising to recognize and protect the rights of municipal labor unions*

Mayor Bill de Blasio has joined 22 mayors from across the nation in signing a pledge committing to defending the rights of working families and municipal workers.

The commitment follows the Supreme Court decision in the case of Janus v. AFSCME Council 31, which negates the legality of “fair share” fees that unions receive from employees who elect not to join the union but nonetheless benefit from the collective bargaining of union members.

“In New York City, we believe in fairness – we believe working people deserve fairness. It’s clear that the conservative Supreme Court justices don’t share that same sentiment,” Mayor de Blasio said. “Unions and their members are the backbone of the middle class, and this attack on the power and resources of the labor movement demands a response. I’m proud to stand with mayors from across the country who once again recognize the power of cities to do right where others have done wrong.”

The pledge was also signed by:

- Mayor Steve Adler, Austin, TX
- Mayor Ras Baraka, Newark, NJ
- Mayor Sharon Weston Broome, Baton Rouge, LA
- Mayor Kirk Caldwell, Honolulu, HI
- Mayor LaToya Cantrell, New Orleans, LA
- Mayor Jacob Frey, Minneapolis, MN
- Mayor Joe Ganim, Bridgeport, CT
- Mayor Toni Harp, New Haven, CT
- Mayor Sly James, Kansas City, MO
- Mayor Tim Keller, Albuquerque, NM
- Mayor Jim Kenney, Philadelphia, PA
- Mayor Lyda Krewson, St. Louis, MO
- Mayor Rick Kriseman, St. Petersburg, FL
- Mayor William Peduto, Pittsburgh, PA
- Mayor Kathy Sheehan, Albany, NY
- Mayor Paul Soglin, Madison, WI
- Mayor Darrell Steinberg, Sacramento, CA
- Mayor Ethan Strimling, Portland, ME
- Mayor Ben Walsh, Syracuse, NY
- Mayor Nan Whaley, Dayton, OH
- Mayor Ted Wheeler, Portland, OR
- Mayor Victoria Woodards, Tacoma, WA

The pledge identifies several ways cities can mitigate the impact of the Supreme Court’s decision. It has received support and validation from national labor leaders, including the National Education Association, Service Employees International Union, the American Federation of State, County and Municipal Employees, and the American Federation of Teachers.

## Mayors Stand With Working Families Pledge

### **Preamble:**

*As Mayors we know that efficient delivery of city services goes hand in hand with standing up for the rights of municipal workers, including the right to join a union. Effective unions are not only vital to the quality of life of municipal employees, they are the backbone of the middle class and essential voices for fairness in our cities.*

*Unions have been leaders in the movement for economic justice and civil rights. The accomplishments of the labor movement include many policies that Americans rely on: The 40 hour work week, child labor laws, the minimum wage, workplace safety laws, social security, unemployment insurance and more.*

*The rights of public employees are under attack as never before. An unfavorable Supreme Court decision in the case of Janus v. AFSCME Council 31 is the latest attack on the labor movement, and among the most damaging ones this nation has witnessed in generations.*

*We believe that a strong labor movement is necessary for the future of our cities and our country. By ensuring high-quality jobs for working families in our cities, unions help improve the standard of living in our communities and reduce demand for public benefits.*

*To ensure that unions remain strong and effective, we will partner with our local public employee unions and will stand with working families by supporting the following measures to the extent legally permissible:*

- **Affirming the role of unions:** As part of the new employee onboarding process provide new employees with a message from the Mayor that highlights the contribution of unions to civic life and their role in ensuring high-quality jobs that improve the standard of living for working families.
- **Access:** All employees should have the opportunity to interact with their union representatives. Cities will provide new employees with early access to their union representatives, involve union representatives in new employee orientations, and provide opportunities for new bargaining unit members to meet with union representatives early in their employment. On at least an annual basis, all bargaining unit members should be provided with an opportunity to meet with their union representatives during the course of their employment.
- **Rapid and Secure Information:** Institute systems that ensure rapid, accurate, and secure transmission of new hire and bargaining unit member data to union.
- **Ease Recruitment and Maintenance of Membership Dues:** Institute systems to facilitate membership recruitment and maintenance by unions such as honoring electronic signatures and standardized opt-out window for discontinuing dues set by union rules.
- **Enhance opportunities for union-employee engagement:** Allow union representation at employee trainings, improve access to employees at worksites, and ensure adequate union leave provisions.
- **Training and Benefits collaboration:** Identify opportunities to collaborate with unions to provide professional development and training opportunities, joint-labor management benefits and services.
- **Neutrality:** Prohibit supervisor/manager statements that discourage union membership by implementing employer neutrality policies.



## Bills Signed by the Mayor

**Introduction 401-A, sponsored by Council Member Paul Vallone,** requires the DOHMH to ensure that full-service animal shelters are operated in all five boroughs by July 1, 2024. While the City operates facilities to receive lost, stray, or homeless dogs and cats in the Bronx and Queens, neither borough is currently served by a full-service animal shelter.

**Introduction 615-A, sponsored by Council Member Diana Ayala,** requires the Department of Health and Mental Hygiene (DOHMH) to provide opioid overdose reversal drugs, such as naloxone, to all syringe exchange programs operating in the City.

**Introduction 618-A, sponsored by Council Member, Justin Brannan,** requires the Department of Health and Mental Hygiene to develop age appropriate educational materials on drug and opioid awareness and prevention.

**Introduction 623-A, sponsored by Council Member Andrew Cohen,** requires the Fire Department of New York to report on the number of opioid antagonists the department has available, the number of EMTs and other department employees trained to administer opioid antagonists, and the number of opioid overdose reversal drugs administered by EMTs.

**Introduction 667-A, sponsored by Council Member Ritchie Torres,** requires the Department of Social Services to refer individuals residing in Department of Homeless Services' shelters or HIV/AIDS Service Administration (HASA) facilities that suffered a non-fatal overdose to additional services.

**Introduction 668-A, sponsored by Council Member Ritchie Torres** requires the Department of Health and Mental Hygiene (DOHMH) to provide opioid overdose prevention and reversal training to the public

**Introduction 669-A, sponsored by Council Member Ritchie Torres** requires the Municipal Drug Strategy Advisory Council, a council established by Local Law 48 of 2017 and comprised of health care professionals, advocates, and persons suffering from substance misuse disorder, to include in its biennial report the number of opioid overdose reversal drugs that are distributed to City agencies.

**Introduction 717-A, sponsored by Council Member Jumaane Williams,** requires the New York City Police Department to report quarterly – to the City Council and the Department of Health and Mental Hygiene – on the number of opioid antagonists the department has available, the number of officers trained to administer opioid antagonists, and the number of opioid overdose reversal drugs administered by NYPD Officers.



## Bills Approved by the Council

***Introduction 203-B, sponsored by Council Member Steven Matteo***, would raise the penalties for public littering for the second violation within a 12-month period to \$300 (up from \$250) and the third violation within a 12-month period to \$400 (up from \$350). The bill would not change the penalty for a first violation (it remains at \$75).

***Introduction 601-A, sponsored by Speaker Corey Johnson***, would require the City to report annually on implementation of an affordable housing plan with specificity, including the number of units targeted to be created or preserved in each year and the number of units that were actually created or preserved in the preceding year in each neighborhood tabulation area.

***Introduction 607-A, sponsored by Council Member Donovan Richards***, would require the City to include measures to affirmatively further fair housing in its report on creation or preservation of affordable housing.

***Introduction 655-A, sponsored by Council Member Steven Matteo***, would enhance the Department of Sanitation's ability to enforce prohibitions on unauthorized dumping by allowing it to use identifying information found among unlawfully dumped materials as evidence of the identity of the person doing the dumping.

***Introduction 656-A, sponsored by Council Member I. Daneek Miller***, would raise the criminal penalties for unlawful commercial dumping. It also raises the civil penalties for unlawful dumping to \$4,000 for a first violation (up from \$1,500), to \$9,000 for a second violation in an 18-month period (up from \$5,000), and to \$18,000 for a third or subsequent violation in an 18-month period (up from \$10,000). The bill also sets the criminal fines at \$4,000 for a first violation and \$9,000 for a second violation.

***Introduction 722-A, sponsored by Speaker Corey Johnson***, would require the Department of Housing Preservation and Development (HPD) to create a tracking system for start and expiration dates for all department regulatory agreements and affordability requirements.

***Introduction 850-A, sponsored by Council Member Steven Matteo***, would increase the civil penalties for littering from a vehicle to \$200 for a first violation (up from \$100), \$350 for a second violation in a 12-month period (up from \$250), and \$450 for a third or subsequent violation in a 12-month period (up from \$350).

***Introduction 851, sponsored by Council Member Steven Matteo***, would mandate that the Department of Sanitation (DSNY) create a plan for increasing enforcement against littering from vehicles in areas where such littering has been shown to be an issue.

## Briefs

### **Governor Cuomo Signs Legislation to Increase Protections for Immigrant Children in New York State**

Governor Andrew Cuomo this week signed legislation to increase protections for immigrant children who have been separated from their families. The legislation will provide parents who have been detained in New York, or are facing deportation from the state, an opportunity to appoint someone of their choosing to care for their child.

***Standby Guardian Bill (Chapter 79 of the Laws of 2018), Sponsored by Senator Diane Savino and M. of A Nily Rozic.*** Currently, a parent in New York can only designate a standby guardian for their child in the event of their (i) incapacity, (ii) debilitation and consent, or (iii) death. Chapter 79 provides for a standby guardian's authority when and if a child - documented or undocumented - is separated from a parent. The legislation also grants the court the ability to appoint an attorney for the child to then recommend whether the appointment of a standby guardian is in the best interest of the child.

***Temporary Caretaker Bill (Chapter 80 of the Laws of 2018), Sponsored by Senator Tony Avella and M. of A. Eileen Jaffee.*** This law extends the authority of New York's temporary caregiver provisions for up to 12 months. Under the General Obligations Law, parental designation forms provide a mechanism for parents to make arrangements in advance and for a caregiver to be designated without going to court. Chapter 80 allows this arrangement to last for up to 12 months.

### **LaGuardia Airtrain Project Advances**

Legislation to facilitate the construction of a new AirTrain connection to LaGuardia Airport was signed this week by Governor Andrew Cuomo. AirTrain LGA seeks to establish a reliable means of travel, with less-than 30-minute trips between the airport and New York Penn Station or Grand Central Terminal. It will also provide rail access from all of Long Island via the LIRR as well as the MTA's 7 subway line.

The legislation specifically defines a corridor within which the AirTrain LGA project could be constructed and allows, within this corridor, for alternative alignments to be developed and considered as part of an environmental review process, with required public participation. That corridor was created in consultation with local community members and elected officials. No route can be finalized before the environmental review, which will be led by the Federal Aviation Administration (FAA), is completed. Under the legislation, the State Department of Transportation would be authorized to acquire parcels of land already owned by the City or the MTA within the established corridor. No private property would be impacted.

In coordination with the FAA, the steps include the selection of a consultant to prepare the environmental impact statement and to oversee the process for the proposed environmental review. The environmental review is slated to begin later this year and be completed by the end of 2019. Construction is anticipated to start in 2020 and conclude in 2022.

The Port Authority of New York and New Jersey, which operates LaGuardia Airport, is working cooperatively with the Metropolitan Transportation Authority to build a new station complex at Mets-Willets Point, with easy transfer options between the LIRR or 7-line and the new AirTrain (which will run approximately every four minutes). The total estimated travel time between midtown Manhattan and the airport of less than 30 minutes is comprised of an approximate 16-minute journey on the LIRR between Moynihan/Penn Station or Grand Central and Willets Point, followed by an approximate 6-minute journey from the Willets Point Station to LaGuardia.

## **Open FOIL NY**

The Cuomo Administration this week launched Open FOIL NY, a new website that provides a centralized online location to file Freedom of Information Law requests with 59 New York State agencies and public authorities. It includes an “open-access” records request webform that allows the requester to select up to three state agencies for a single records request.

In the next phase of Open FOIL NY, State agencies will be able to use software designed by the Office of Information Technology Services to process records requests more efficiently. The computer program will be made available to State executive agencies and authorities on a rolling basis over the next 12 months.

Open FOIL NY will also include an online tracking system, which is planned to launch in early 2019. The system will enable users to submit, track, and receive digital records relating to their FOIL requests.

## **State's Justice Center Creates Sexual Abuse Task Force**

New York's Justice Center for the Protection of People with Special Needs has created a specialized team of investigators to address sexual abuse. The Sex Abuse Response Team (SART) will be comprised of current Justice Center investigators who will undergo intensive training on the complexities of sexual abuse involving vulnerable populations that rely on support or services, according to Executive Director Denise M. Miranda.

The team, Ms. Miranda explained, will include a representative of the Justice Center's Medical Review Board and a member of the agency's Individual and Family Support Unit, is to develop a coordinated approach to investigate sexual abuse and connect victims to needed services. SART will also develop procedures to ensure the quality and integrity of the sexual abuse investigation and prosecution. This will include a 24/7 notification process and the establishment of agreements and procedures with service providers to ensure access to emergency medical care for victims.

The Justice Center’s Special Prosecutor will have an “enhanced role” in all SART cases in order to pursue any potential criminal charges. Finally, the Justice Center will focus efforts on “education, outreach, and preventative measures to reduce the rate of sexual abuse, educate the workforce, and help victims come forward to pursue justice.”

## ***Coming Up***

### ***New York State***

*No meetings scheduled.*

### ***New York City***

*No meetings scheduled.*



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