



This Week in New York

Covering New York State and City Government

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April 20, 2018 Edition



In the News – New York State

Governor Signs Legislation to Protect New York's Unions

Bill Increases Access to and Protects Union Membership



As part of the 2018-2019 New York State fiscal plan, Governor Andrew Cuomo signed legislation to strengthen the rights of the state's unions and protect the workers they represent.

In anticipation of an adverse ruling in the pending U.S. Supreme Court case, *Janus v. AFSCME*, this new law increases access to and protects union membership in New York's public-sector workplaces.

"Too often, and at the hands of this federal administration, we are seeing the labor movement going backwards. In New York it is a different story, and our efforts to protect working men and women are moving labor forward, making the workplace fairer and more just than ever before," Governor Cuomo said. "This action sends a clear message to the rest of the nation: we will not let this federal administration silence New York's working class, we will support every voice in every community and in every industry, and we will do everything in our power to protect the right to achieve the American Dream."

The legislation makes it clear that members who pay union dues will receive certain benefits and services, and unions - while they serve the interests of all workers in bargaining units they represent - cannot be forced to provide full benefits of membership to those who do not pay for them.

In addition, the legislation strengthens unions by requiring 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 legislation 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, which makes it easier and faster for unions to receive dues.
- 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.



New York Begins Consideration of State's Tip-Credit

Department of Labor Commissioner Roberta Reardon today launched the public portion of the State's examination of the tip credit, which allows restaurants and other tipped businesses to meet the State's minimum wage requirement. Today's hearing will be held at SUNY Farmingdale on Long Island.

On December 17, 2017, Governor Andrew Cuomo first called upon the Commissioner of Labor to hold public hearings to "examine industries and evaluate the possibility of ending minimum wage tip credits in New York State." The public hearings were then included in Governor Cuomo's State of the State Address in January.

"At the end of day, this is a question of basic fairness," Governor Cuomo said in the annual message. "In New York, we believe in a fair day's pay for a fair day's work, and that all workers deserve to be treated with dignity and respect. There should be no exception to that fairness and decency."

The first set of meetings were originally scheduled for Syracuse and Buffalo in March, but were postponed due to scheduling conflicts.

Meeting Schedule

Friday, April 20 th 10 a.m.	Roosevelt Little Theatre, SUNY Farmingdale, Long Island
Wednesday, April 25 th 10 a.m.	Dulles State Office Building, 317 Washington Street, Watertown
Monday, April 30 th 10 a.m.	SUNY College of Environmental Science & Forestry, Syracuse

Tuesday, May 8 th 10 a.m.	SUNY Erie City Campus, Minnie Gillette Auditorium, Buffalo
Friday, May 18 th 10 a.m.	Legislative Office Building, Albany
Tuesday, June 19 th 10 a.m. Non-hospitality industries only	Hostos Community College, 500 Grand Concourse, Bronx
Wednesday, June 27 th 10 a.m. Hospitality industries only	Hostos Community College, 500 Grand Concourse, Bronx

New York’s tip credit varies by location, industry, and size of employer. In general, as of December 31, 2017:

- Employers with 11 or more workers in New York City must pay a general minimum wage of \$13 an hour, up to \$4.35 of which can be a credit for tips received.
 - Employers with 10 or fewer workers in New York City must pay a general minimum wage is \$12 an hour, up to \$4 of which can be a credit for tips received.
 - Employers in Long Island and Westchester must pay a general minimum wage of \$11 an hour, up to \$3.50 of which can be a credit for tips received.
 - Employers in the remainder of New York state must pay a general minimum wage of \$10.40 an hour, up to \$2.90 of which can be a credit for tip received.
- DOL fact sheet: <https://labor.ny.gov/formsdocs/factsheets/pdfs/p717.pdf>

Currently, seven states prohibit tip credits: Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington.

As New York mulls the fate of its tip credit, the 2018 federal budget included a provision to clarify a longstanding dispute over tip pooling. The federal budget bill prohibits employers that claim the tip credit from requiring tip pooling. However, if an employer does not claim the tip credit and pays the full federal minimum wage (\$7.25), it can require tip pooling for the purpose of sharing tips with certain non-managerial employees such as cooks and bussers. Owner, supervisors, and managers are prohibited from participating in the pooled tip system.



Tax Reforms to Help New Yorkers Prepare for Federal Changes

Legislation enacted as part of the 2018-2019 State budget included a series of reforms to the New York State tax code designed to protect New York residents from the adverse impacts of the recently enacted federal Tax Cuts and Jobs Act.

Promotes State Charitable Contributions to Benefit New Yorkers: The FY 2019 Budget creates a new state-operated Charitable Contribution Fund to accept donations for the purposes of improving health care and public education in New York State. Taxpayers who itemize deductions may claim these charitable contributions as deductions on their federal and state tax returns. Any taxpayer making a donation may also claim a state tax credit equal to 85 percent of the donation amount for the tax year after the donation is made. Taxpayers may also make qualified contributions to certain not-for-profit organizations for specified purposes.

pension funds that are not as well-funded. We know that more than one million members, retirees and their families rely on us for their financial security in retirement, and we're making sure that our state pension fund is one of the best in the nation."

The New York State Common Retirement Fund is the third largest public pension fund in the United States, with an estimated \$209.1 billion in assets under management as of Dec. 31, 2017. The Fund holds and invests the assets of the New York State and Local Retirement System on behalf of more than one million state and local government employees and retirees and their beneficiaries. The Fund has a diversified portfolio of public and private equities, fixed income, real estate and alternative instruments.

In the News – New York City



NYC DEPT OF CORRECTION WILL HOUSE INCARCERATED INDIVIDUALS ACCORDING TO GENDER IDENTITY

NYC Commission on Human Rights worked with NYC Department of Correction on policy reforms to house inmates safely and according to their gender identity in compliance with federal, state, and local laws

Mayor de Blasio this week announced that the NYC Department of Correction (DOC) will house inmates consistent with their gender identity. In addition, DOC is working with the NYC Commission on Human Rights (CCHR) to maintain the Transgender Housing Unit as an additional safe housing option for transgender inmates.

The Mayor's announcement follows recent efforts by CCHR to ensure that DOC's housing policies are consistent with Executive Order No. 16, which requires that City agencies permit people to use single sex facilities consistent with their gender identity, as well as applicable state and federal law. CCHR is giving DOC six months to implement this policy.

"It's the city's responsibility to protect the rights and safety of all New Yorkers, and that means protecting transgender individuals in city jails as well. New York City is one of the first major cities to commit to taking this step, and it's crucial to ensuring all our facilities are welcoming and safe for all New Yorkers, no matter their gender identity," said Mayor de Blasio.

In March 2016, Mayor de Blasio issued Executive Order No. 16 which required City agencies to allow employees and members of the public to access City single-sex facilities consistent with their

gender identity without being required to show identification, medical documentation, or any other form of proof or verification of gender. While the DOC initially received a temporary and partial exemption from CCHR from the requirements of this EO as they relate to housing, CCHR modified its exemption this week.

Over the next six months, DOC will provide bi-monthly progress reports to CCHR.

Briefs

New York Law Increases Disclosure of Online Political Ads

The 2018-2019 New York State Budget included provisions which would extend the state's political advertising disclosure laws to paid online ads and social media. All paid political advertising in newspapers, on television and radio, and now on line in New York State are required to disclose the organization or individual paying for that ad. The recently enacted state budget amends the definition of "political communication" to include paid Internet and digital advertisements.

In addition, the legislation includes other transparency protections including:

- Ensures foreign entities are prohibited from forming an independent expenditure committee and purchasing political ads in order to influence New York elections.
- Requires all digital ad buyers to register as an independent expenditure committee, just as they are required to when purchasing time on television.
- Requires paid independent political online ads to clearly display that the ad was not authorized by any candidate and who actually paid for the ad.
- Directs the State Board of Elections to create an online archive of all political communications for a set period in order to make them transparent and accessible to the press, fact-checkers, political opponents and the public.

Comptroller Releases Report on Tax Check-Off Donations

New York state's personal income tax (PIT) check-off funds are not distributed promptly to charitable causes, according to a report released this week by State Comptroller Thomas P. DiNapoli. His office found more than \$15.7 million remained in the funds as of the end of state fiscal year 2016-17.

New York state's first PIT check-off program, Return a Gift to Wildlife, was created in 1982. Since then, 15 additional check-offs have been created to provide funding for a variety of programs.

Key findings of the Comptroller's report include:

- While the number of check-off authorizations has increased significantly over the past 30 years, annual contributions have not. In SFY 1988-89, the one check-off in existence, Return a Gift to Wildlife, collected over \$1.8 million. In comparison, the 14 check-offs funds eligible for donations in FY 2016-17 collected just under \$2.2 million.
- Average annual check-off donations by fund in SFY 2016-17 ranged from \$3 for the Lake Placid Olympic Training Center fund to \$27 for the Mental Illness Anti-Stigma fund.

DFS Urges Insurers to Encourage Use of Commercial GPS Equipment Which Warns of Low Bridges, Overpasses and Other Hazards

The State Department of Financial Services (DFS) issued guidance urging insurers to encourage commercial policyholders to utilize global positioning systems that specifically warn truck drivers, bus operators, and other commercial vehicles of height restrictions on New York's parkways. DFS is urging property/casualty insurers to examine whether the prospective policyholder, or existing policyholder should - and to what extent - utilize commercial GPS on insured vehicles.

The State has incurred more than \$125 million in costs over the last five years to repair damaged bridges and overpasses across New York. Between 2009 to 2015, more than 700 DOT bridges and overpasses were damaged by over-height vehicles.

Governor Cuomo Signs Executive Order to Restore Voting Rights to New Yorkers on Parole

Governor Andrew M. Cuomo this week signed an executive order to restore voting rights to individuals on parole. This reform will restore the right to vote upon release from incarceration.

Excerpt from Executive Order 181:

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by the power vested in me by the laws and the Constitution of the State of New York, do hereby order and direct as follows:

I. From this date forward, individuals being released from incarceration onto parole supervision and individuals who are currently under parole supervision will be given consideration for a conditional pardon that will restore voting rights without undue delay. Effective immediately, the Commissioner of the Department of Corrections and Community Supervision shall submit a record of individuals who are currently under parole supervision to the Governor's Office. Beginning May 1, 2018, the Commissioner shall submit a monthly record of individuals who have been released from prison onto parole supervision in the prior month. Each individual on the eligible list will be reviewed to determine whether he or she will be granted a pardon that will restore voting rights.

A.G. Launches Inquiry Into Cryptocurrency “Exchanges”

New York Attorney General Eric Schneiderman this week launched the Virtual Markets Integrity Initiative, a fact-finding inquiry into the policies and practices of platforms used by consumers to trade virtual or “crypto” currencies like bitcoin and ether. The Attorney General’s office sent letters to thirteen major virtual currency trading platforms requesting information on their operations, internal controls, and safeguards to protect customer assets. As the letters explain, the Initiative seeks to increase transparency and accountability as it relates to the platforms retail investors rely on to trade virtual currency, and better inform enforcement agencies, investors, and consumers.

The questionnaires ask the platforms to disclose information falling within six major topic areas, including (1) Ownership and Control, (2) Basic Operation and Fees, (3) Trading Policies and Procedures, (4) Outages and Other Suspensions of Trading, (5) Internal Controls, and (6) Privacy and Money Laundering.

The Investor Protection Bureau of the Office of the Attorney General sent letters to the following virtual currency trading platforms: (1) Coinbase, Inc. (GDAX); (2) Gemini Trust Company; (3) bitFlyer USA, Inc.; (4) iFinex Inc. (Bitfinex); (5) Bitstamp USA Inc.; (6) Payward, Inc. (Kraken); (7) Bittrex, Inc.; (8) Circle Internet Financial Limited (Poloniex LLC); (9) Binance Limited; (10) Elite Way Developments LLP (Tidex.com); (11) Gate Technology Incorporated (Gate.io); (12) itBit Trust Company; and (13) Huobi Global Limited (Huobi.Pro).

Governor Directs DFS to Urge Insurance Companies & Financial Institutions to Review Relationships with the NRA

Governor Andrew M. Cuomo this week directed the Department of Financial Services (DFS) to urge insurance companies, New York State-chartered banks, and other financial services companies licensed in New York to review any relationships they may have with the National Rifle Association and other similar organizations. Upon this review, the companies are encouraged to consider whether such ties harm their corporate reputations and jeopardize public safety.

According to the Governor, DFS is encouraging regulated entities to “consider reputational risk and promote corporate responsibility in an effort to encourage strong markets and protect consumers.” A number of businesses have ended relationships with the NRA following the Parkland, Florida school shooting. MetLife recently announced it was ending a discount program it offered with the NRA and Chubb recently stopped underwriting the NRA-branded “Carry Guard” insurance program.

DFS regulates more than 1,400 insurance companies.

PA James Calls for Legalization of Marijuana in New York

Public Advocate Letitia James this week called for the legalization of marijuana for adult recreational use in New York. Legalizing marijuana in New York will serve as a critical step to reform our criminal justice system, ensuring that individuals are not unduly punished for low-level offenses.

The Public Advocate called for potential revenue from the legalization of marijuana to be reinvested in educational and support programs in the communities that have been historically burdened by the prohibition and prosecution of marijuana use, and that they be included in future business opportunities.

“We can no longer ignore the shortfalls of our current laws on marijuana,” said Public Advocate Letitia James. “Legalizing marijuana will make our justice system fairer and deliver a significant boost to our economy. Under the broken status quo, individuals’ lives, disproportionately young people of color, have been ruined because of outdated and shortsighted marijuana prohibition and it’s past time we right this wrong.”

According to a report from the Drug Policy Alliance, despite similar rates of marijuana consumption across racial and ethnic groups, Blacks and Latinos made up 80 percent of the nearly 23,000 people arrested for marijuana in New York in 2016. In comparison, in the nine states that have legalized adult recreational use, arrests have plummeted by about 94 percent.

Stanley Brezenoff Interim Chair of NYCHA

Stanley Brezenoff will serve as Interim Chair of the New York City Housing Authority, succeeding Shola Olatoye who will depart the post at the end of April. As Interim Chair, Brezenoff will partner with NYCHA’s new General Manager Vito Mustaciulo. NYCHA is the nation’s largest public housing authority, home to 400,000 residents—1 in 14 New Yorkers.

Mr. Brezenoff served as President of New York City Health and Hospitals Corporation from 1981 to 1984 under Mayor Koch. He became the City’s Deputy Mayor for Operations in 1984 and served as First Deputy Mayor from 1985 to 1990. Brezenoff then served as Executive Director of the Port Authority. Beginning in 1995, Mr. Brezenoff served as President and Chief Executive Officer of Maimonides Medical Center, then as CEO and President of Continuum Health Partners, Inc. Most recently, he was the interim CEO of New York City Health + Hospitals.

Coming Up

New York State

The Legislature is in session Monday April 23rd through Wednesday April 25th

Monday April 23rd

Medical Aid in Dying, Assembly Standing Committee on Health, Legislative Office Building, Roosevelt Hearing Room C, Albany, 10 a.m.

New York City

Monday April 23rd

Committee on Criminal Justice, Committee Room – City Hall, 10 a.m.

Committee on Small Business, Committee Room, 16th Floor – 250 Broadway, 10 a.m.

Committee on Aging, Council Chambers – City Hall, 10:30 a.m.

Committee on Environmental Protection, Committee Room, 16th Floor – 250 Broadway, 12 p.m.

Committee on Women, Committee Room, 14th Floor – 250 Broadway, 12:30 p.m.

Committee on Civil Service and Labor, Council Chambers – City Hall, 1 p.m.

Committee on Environmental Protection, Committee Room – City Hall, 1 p.m.

Committee on Civil and Human Rights, Council Chambers – City Hall, 1 p.m.

Tuesday April 24th

Committee on Health, Committee Room – City Hall, 10 a.m.

Committee on Public Housing, Council Chambers – City Hall, 10 a.m.

Committee on Sanitation and Solid Waste Management, Committee Room, 250 Broadway, 10 a.m.

Committee on Consumer Affairs and Business Licensing, Committee Room – City Hall, 1 p.m.

Committee on General Welfare, Council Chambers – City Hall, 1 p.m.

Wednesday April 25th

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

Thursday April 26th

Committee on Housing and Buildings, Council Chambers – City Hall, 10 a.m.

Committee on Youth Services, Committee Room, 14th Floor – 250 Broadway, 10 a.m.

Committee on Governmental Operations, Committee Room, 16th Floor – 250 Broadway, 1 p.m.

Committee on Hospitals, 6th Floor Auditorium, Main Building – NYC Health + Hospitals/Metropolitan, 1901 First Avenue, New York, NY 10029, 1 p.m.

Committee on Mental Health, Disabilities and Addiction, 6th Floor Auditorium, Main Building – NYC Health + Hospitals/Metropolitan, 1901 First Avenue, New York, NY 10029, 1 p.m.

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