



This Week in New York

Covering New York State and City Government

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In the News – State



New York's Budget Deadline Looms as State Grapples with COVID-19

With the April 1st budget deadline quickly approaching and a \$15 billion shortfall in the State's future, Governor Andrew Cuomo is calling for enactment of a reduced 2020-2021 fiscal plan that can be adjusted automatically as necessary throughout the fiscal year.

The plan would give the Division of Budget the ability to adjust funding provided in the budget periodically, depending upon the State's revenues. According to the Governor, the adjustments would reflect "mathematical" reductions based upon receipts. It would give the State the necessary flexibility to deal with the expenses of COVID-19.

In January, Governor Cuomo released an Executive Budget which totaled \$178 billion and closed a \$6.1 billion deficit. The week, State Budget Director Robert Mujica estimated a shortfall of \$10 billion to \$15 billion due to the impact of COVID-19.

"New York state is basically bankrupt," Governor Cuomo said in an interview this week. He explained that the budget will include statewide cuts in education.

"We know the revenues are down – we don't know how much," Governor Cuomo said in announcing the plan. "We don't know when the economy comes back, we don't know the rate at which the economy comes back... but you have to do a budget with all those unknowns."

The Governor's budget adjustment plan, as proposed, would not require legislative action, aside from the initial approval of the State's spending plan by April 1st. Governor Cuomo indicated that he is operating with the expectation that there "will be a budget and nothing else," given the challenges presented by COVID-19.

While acknowledging the need for flexibility, the legislative leaders called for transparency and maintaining legislative input.

“We are a co-equal branch of government, and we understand the need to have the nimbleness to react if something has to happen, but I would never be in favor of giving wide latitude [to the executive] without the involvement of the Legislature in most of these decisions,” Senate Majority Leader Andrea Stewart-Cousin said in an interview on *Capital Tonight*.

Similarly, a spokesman for Assembly Speaker Carl Heastie, said in published reports, “The state is faced with an unprecedented public health and economic crisis that will require leadership and tough decision-making. We are exploring ways to give the governor the flexibility he may need without sacrificing transparency and legislative authority.”

Both chambers are looking to approve a resolution next week that would allow for remote voting and teleconferencing. Assembly Majority Leader Crystal Peoples-Stokes has already introduced a resolution.



Attorney General James Scores Major Win for ‘Gig’ Workers with Victory in Postmates Case

New York’s Highest Court Rules That Postmates Delivery Drivers Are Employees, Eligible for Unemployment Insurance

During Coronavirus Pandemic, Decision Will Allow Drivers to Collect Unemployment Benefits

New York Attorney General Letitia James this week announced that the New York State Court of Appeals ruled in favor of the state and against the food-delivery app Postmates, finding that workers for the app are considered employees for purposes of unemployment benefits. The majority of judges agreed that the company's workers are not independent contractors, and Postmates is therefore obligated to pay into the state's Unemployment Insurance Fund for each employee.

“Today’s decision is a huge victory for thousands of gig workers across New York,” said Attorney General James. “The courts have solidified what we all have known for a while — delivery drivers are employees and are entitled to the same unemployment benefits other employees can obtain. As the nation battles the spread of the coronavirus and more and more employees are laid off, Postmates drivers should know they have the same safety net millions of others in New York have today. My office will always fight for workers’ rights and to ensure every New Yorker receives the benefits they are entitled to.”

Luis A. Vega, a former courier for Postmates, sought unemployment insurance benefits after he was terminated. When the state's Unemployment Insurance Appeal Board sided with Vega and stated he is an employee entitled to receive unemployment insurance benefits, Postmates filed a direct appeal under the Labor Law to challenge the Board's determination in the Appellate Division.

In ruling in favor of Vega today, the Court of Appeals agreed with the state's argument that Postmates exercised sufficient control over the work of its couriers to create an employer-employee relationship, writing that Postmates "dominates the significant aspects of its couriers' work by dictating to which customers they can deliver, where to deliver the requested items, effectively limiting the time frame for delivery and controlling all aspects of pricing and payment." In reaching this conclusion, the court applied its established test for deciding whether an employment relationship exists, focusing on whether the employer exercised control over the results produced or the means used to achieve the results. The court also emphasized that the application of this test "will necessarily vary depending on the nature of the work," explaining that Postmates' couriers are "low-paid workers performing unskilled labor who possess limited discretion over how to do their jobs."

According to the Attorney General, the Court of Appeals' ruling is particularly relevant today as New Yorkers and Americans across the nation battle the coronavirus disease 2019 (COVID-19), which has resulted in many workers losing their jobs and turning to unemployment insurance benefits to make ends meet.



State Senate Minority Leader John Flanagan Will Not Seek Re-election

State Senate Minority Leader John Flanagan announced this week that he will not seek re-election, ending a public service career that spanned more than 30 years.

The Senator said the move is "the best decision for me and my family." The timing of the announcement, he said, "is not particularly ideal," but was made in light of the state's political calendar.

Senator Flanagan served in the Senate since 2002, rising to the position of majority Leader in 2015. He was elected to the state Assembly in 1987 at age 25, following his late father, John J. Flanagan, who served in the state Assembly from 1972 to 1986.

My career has spanned over three decades...I have met some of the finest and most dedicated people in my life throughout this time, and it reminds me of why New York State is so special – because of its people in and out of government. It is still my fervent belief that New York is the Empire State and will continue to be so for many, many years to come.

In the News – City



Mayor de Blasio's Senior Leadership Team Combatting COVID-19 Crisis

Mayor de Blasio announced several new senior appointments to further the City's response to the pandemic.

In addition to her role as Chief of Staff, Emma Wolfe will now serve as the Deputy Mayor for Administration. Wolfe will now be the second in the line of succession if the Mayor is temporarily unable to perform his duties, following the First Deputy Mayor.

Kathryn Garcia will serve as the COVID-19 Food Czar. In this role, she will create, operationalize and oversee a structure for working New Yorkers to get the food they need during this pandemic. Garcia will also work with City and State agencies, including the Mayor's Office of Food Policy, as well as food distributors to take any action necessary to ensure the city's food supply continues without disruption. Garcia will take on this role in addition to continuing to lead the Department of Sanitation.

Peter Hatch will now serve as the COVID-19 Public-Private Partnership Czar. Hatch most recently served as the Chief of Staff to the Deputy Mayor for Health and Human Services and Senior Advisor to the Mayor on Street Homelessness. In his new role, Hatch will oversee and coordinate the work being done with private and philanthropic partners to aid City's response to the pandemic.

Gabrielle Fialkoff will be temporarily returning to her former role as Senior Advisor to the Mayor to help coordinate COVID-19 relief efforts. She previously served as the Senior Advisor to the Mayor and Director of the Office of Strategic Partnerships from 2014 to 2018.

Julie Bero will now serve as the Chief of Staff to the Deputy Mayor for Health and Human Services. Previously, Bero served as a Senior Advisor for Intergovernmental Affairs. In her new role, Bero will support Deputy Mayor Perea-Henze in ensuring that City's 12 public health and social service agencies are best serving the New Yorkers in need.



City Department of Finance Offers Programs to Help Property Owners with Hardships Pay Property Taxes

The New York City Department of Finance offers several programs to assist property owners who face hardships making their property tax payments. These include exemption programs to lower the amount of taxes owed, standard payment plan options as well as the new Property Tax and Interest Deferral (PT AID) program, for those who qualify.

Exemption Programs

The Department of Finance administers several benefits in the form of tax exemptions, abatements, and money-saving programs. Exemptions lower the amount of tax owed by reducing a property's assessed value. Abatements reduce taxes by applying credits to the amount of taxes owed. Exemptions administered by DOF include the [Coop & Condo Abatement](#) for qualifying property owners, as well as a number of programs for seniors, disabled and veterans. More information and application information for those programs can be found [here](#).

Standard Payment Plans

The Department of Finance offers flexible payment plans programs that are personalized to each property owner. Under a payment plan, property owners agree to pay the total amount owed over time instead of paying the full amount all at once. A payment plan will also prevent enforcement from occurring against a property.

DOF offers standard payment plans to owners of all properties. Standard payment plans require a down payment as low as zero dollars and can spread out the repayment of what is owed over a period that can be as long as ten years. While the payment plan is in effect, interest is charged on the outstanding balance and the property owner is required to pay newly occurring property taxes in full.

Property Tax and Interest Deferral program (PT AID)

Property owners who qualify for the Property Tax and Interest Deferral program can defer their property tax payments, or pay only a small percentage of their income, to ensure they stay in their home. The PT AID program defers property tax payments for a given length of time, depending on each applicant's situation. Through the program, payment of property taxes can be deferred for a fixed length of time for a temporary hardship, or for a longer period due to a chronic hardship. The amount each property owner can defer paying is limited to a maximum of 25% of the owner equity of a one-, two-, or three-family home, or up to 50% of the equity of a condominium unit. The program is open to one-to three-family home and condominium owners who have fallen behind on their property tax payments.

Below are the three payment plan options:

➤ **Extenuating Circumstances Income-Based (ECI) Plan**

Homeowners experiencing extenuating circumstances can enter into a payment plan which limits their payments to a maximum 8% of their adjusted gross income while the hardship persists. The Department of Finance defines "extenuating circumstances" as involving the death or serious illness of a property's owner or immediate family member, loss of income, or enrollment in the [Department of Environmental Protection's Water Debt Assistance Program](#).

Eligibility criteria:

- The property must be a one- to three-unit tax class 1 residential property, or a condominium.
- The property must have been the applicant's primary residence for at least one year.
- Applicants must have a federal adjusted gross income (AGI) of \$58,399 or less.
- Applicants must be able to document an extenuating circumstance such as the death or serious illness of a property's owner or immediate family member, loss of income, or enrollment in the [Department of Environmental Protection's Water Debt Assistance Program](#).

➤ **Low-Income Senior Plan**

Senior homeowners experiencing hardship can fully or partially defer payment of their delinquent and future property taxes for either a fixed or indefinite period of time. Property owners can choose to pay 0% (full deferral), 25%, 50%, or 75% of the delinquent and future property taxes.

Eligibility criteria:

- Property owner must be 65 or older.
- Property must be a one- to three-unit tax class 1 residential property, or a condominium.
- The applicant must have been using the property as their primary residence for at least one year.
- Applicants must have a federal adjusted gross income (AGI) of \$58,399 or less.

➤ **Fixed-Term Income-Based plan**

Property owners can enter into a payment plan which limits their payments to a maximum of 8% of their adjusted gross income. The plan may include only the delinquent amount or the delinquent amount plus charges projected to be due over the next year.

Eligibility criteria:

- The property must be a one- to three-unit tax class 1 residential property, or a condominium.
- The property must have been the applicant's primary residence for at least one year.
- Applicants must have a federal adjusted gross income (AGI) of \$58,399 or less.

Applications and more information about property payment plan applications can be [found here](#); information and the application for the PT AID program can be [found here](#). Completed applications and supporting documentation for both standard payment plans and the PT AID program can be emailed to PTAID@finance.nyc.gov or mailed to: Department of Finance, Payment Plans, 59 Maiden Lane, 28th Floor, New York, NY 10038.

Briefs

Stimulus Bill Sent to President Trump for Signature

The U.S. House of Representatives this afternoon approved the \$2 trillion federal COVID-19 stimulus bill and sent the measure to President Donald Trump for signature.

The House approved the spending package by voice vote, which allowed members to shout “aye” or “nay” on whether to support it. Rep. Thomas Massie, R-Ky., tried to force a full yes or no vote on the measure, which could have delayed its passage by hours. However, he could not get the necessary second to his motion.

For details on the legislation, please see [Pitta LLP's March 27th Client Alert](#).

State Suspends All Nonessential Construction

New York has stopped all “non-essential” construction work, as part of the State’s efforts to stem the spread of COVID-19, according to new guidelines posted today by Empire State Development (ESD).

In an update to the “essential” guidelines under Executive Order 202.6, “essential” construction includes roads, bridges, transit facilities, utilities, hospitals or health care facilities, affordable housing, and homeless shelters. “Nonessential” construction work may continue in certain emergency circumstances, including projects necessary to protect building occupants and construction that is unsafe if not completed.

Below is the EDS guideline:

Construction

- All non-essential construction must shut down except emergency construction, (e.g. a project necessary to protect health and safety of the occupants, or to continue a project if it would be unsafe to allow to remain undone until it is safe to shut the site).
- Essential construction may continue and includes roads, bridges, transit facilities, utilities, hospitals or health care facilities, affordable housing, and homeless shelters. At every site, if essential or emergency non-essential construction, this includes maintaining social distance, including for purposes of elevators/meals/entry and exit. Sites that cannot maintain distance and safety best practices must close and enforcement will be provided by the state in coordination with the city/local governments. This will include fines of up to \$10,000 per violation.
- For purposes of this section construction work does not include a single worker, who is the sole employee/worker on a job site.

State Labor Department: Unemployment Claims

The state Department of Labor (DOL) announced that New York’s initial unemployment insurance claims filed last week, the first week impacted by the outbreak, rose over the past year by 520 percent. Overall, more than 80,500 claims were filed last week.

DOL has a new filing system based on the first letter of the applicant’s last name. Applicants with a last name that begins with A-F should file for benefits on Mondays. G-N will file on Tuesday. O-Z on Wednesday. If the applicant misses the assigned day, the applicant should file on Thursday or Friday.

In addition, DOL Commissioner Roberta Reardon announced Thursday that there will be no work search activities required of those on unemployment during the COVID-19 outbreak, according to a department post Thursday afternoon on *Twitter*.

How to E-Notarize

Governor Andrew Cuomo signed an Executive Order 202.7 last week providing for electronic notarization of documents. Below are the necessary steps, according to the New York State Academy of Trial Lawyers:

HOW TO E-NOTARIZE*
in 6 EASY STEPS

- 1** Set-up a video conference allowing for direct, live interaction between the Person and the Notary.
- 2** The Person must present valid photo ID to the Notary.
- 3** The Person must affirmatively state that they are present in the State of New York.
- 4** The Person must then sign, and on the same date, e-mail or fax document to the Notary.
- 5** The Notary may then notarize the e-mailed or faxed copy and send it back to the Person.
- 6** If a fully executed original is needed, the original and e-notarized documents must be sent to the Notary within 30 days. The Notary may then notarize the original using the e-notarization date.

*In response to the COVID 19 emergency, the Governor has issued EO No. 202.7
AUTHORIZING NOTARY SERVICES VIA AUDIO-VIDEO TECHNOLOGY

New York Paid Family Leave COVID-19: Frequently Asked Questions

Last week, Governor Cuomo signed into law an emergency paid leave law ("NYSPSL") to financially help employees who are unable to work (or telework) because they are subject to a mandatory or precautionary order of quarantine or isolation ("Order") related to the novel Coronavirus ("COVID-19"). The State published frequently asked questions and answers ("FAQs") concerning such topics as benefits and eligibility which will be helpful in interpreting the language of the law.

Comptroller: City Revenue Losses Could Now be up to \$6B

City Comptroller Scott Stringer predicted this week that the economic effects of the coronavirus outbreak will cost the city up to \$6 billion through the end of the next fiscal year.

The Comptroller laid out two analyses of revenue declines from taxes on personal income, sales, hotel rooms, property transactions and business income to come up with the range of potential impacts. In the moderate scenario, in which the City's efforts to slow the virus are successful and the shutdown of the economy would end by May, Comptroller Stringer assumed that the damage would be confined to those industries already hardest hit. However, if the emergency declaration lasts until at least June or July, the fiscal decline will be more widespread.

Mayor de Blasio & Commissioner Salas Target Repeat Price Gougers Preying on New Yorkers

DCWP files case against Metro Drugs for \$37,500 for price gouging of face masks; City has received 4,000 complaints and issued 1,000 violations total since March 5th

Mayor Bill de Blasio and Department of Consumer and Worker Protection (DCWP) Commissioner Lorelei Salas this week announced the Department filed a case against Metro Drugs (931 Lexington Avenue) for knowingly increasing the price of face masks in violation of DCWP's price gouging regulations under the City's Consumer Protection Law.

DCWP inspected Metro Drugs twice and both times the pharmacy was selling face masks at drastically increased prices—as high as \$200 for 20 masks. In total, DCWP received 23 complaints about Metro Drugs and issued them 75 violations for price gouging of face masks. The case will be heard at the City's Office of Administrative Trials and Hearings (OATH) where DCWP is seeking up to \$37,500 in fines. This is the first of several cases that DCWP will be filing against repeat offenders of its price gouging regulations.

DCWP is actively inspecting stores based on consumer complaints. Businesses found to be overcharging consumers 10 percent or more for any personal or household good or service that is needed to prevent or limit the spread of or treat COVID-19 will be issued a violation. Examples of covered products include disinfectants, soap, and cleaning products, diagnostic products and services, medicines, and tissues.

New York City Streets will Open to Pedestrians to Give New Yorkers More Open Space During NY Pause

Cars will be banned from the following streets from Friday, March 27th, to Monday, March 30th:

- Manhattan: Park Ave. between E. 28th and E. 34th streets in Midtown.
- Brooklyn: Bushwick Ave. from Johnson Ave. to Flushing Ave. in Williamsburg.
- Queens: 34th Ave. from 73rd St to 80th St. in Jackson Heights.
- Bronx: Grand Concourse between E. Burnside and 184th St. in Fordham Heights.

Coming Up

New York State

The Legislature is scheduled to be in session Monday, March 30th through Wednesday, April 1st.

New York City

Source: <https://legistar.council.nyc.gov/Calendar.aspx>

Monday March 30th

Subcommittee on Zoning and Franchises, Committee Room – City Hall, 10 a.m.

Subcommittee on Landmarks, Public Sitings and Dispositions, 250 Broadway, 16th Floor, 1 p.m.

Tuesday March 31st

Committee on Land Use, Committee Room – City Hall, 11 a.m.

Wednesday April 1st

Committee on Criminal Justice, Council Chambers – City Hall, 12:30 p.m.

Thursday April 2nd

Committee on Women and Gender Equity, Council Chambers – City Hall, 10 a.m.

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

Committee on Standards and Ethics, Committee Room – 250 Broadway, 14th Floor, 10 a.m.

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To Our Clients: If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop & Del Giorno LLC professional with whom you usually work.

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