



# This Week in New York

**Covering New York State and City Government**

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**“Every record has been destroyed or falsified, every book rewritten, every picture has been repainted, every statue and street building has been renamed, every date has been altered. And the process is continuing day by day and minute by minute. History has stopped. Nothing exists except an endless present in which the Party is always right.”**  
**-George Orwell, 1984-**

## *In the News – State*

### **Nurses' Union Blasts DOH Report on Hospital & Nursing Home Staffing**

The New York State Nurses Association, which represents over 42,000 nurses statewide, criticized the recently-released state Department of Health (DOH) report which found that Association-supported minimum staffing requirements would cost New York facilities up to \$4.7 billion to implement and require 70,000 more nurses and other staff. Instead, DOH recommended the state adopt a policy that provides flexibility to providers to “align workforce capacity with patient and resident needs in a dynamic, continually evolving delivery system.”

The Association asserts the report fails to take seriously the “life or death” consequences of short staffing in New York hospitals and uses a flawed methodology that exaggerated cost project.

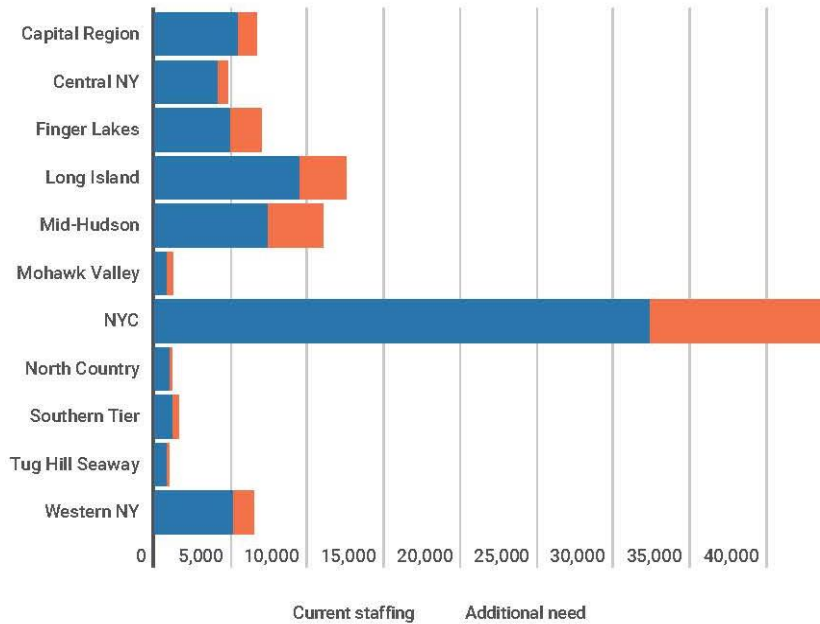


“Unfortunately, this is just the latest example of the Department of Health’s failure to listen to frontline nurses and incorporate our expertise into the policy-making process,” the Association said in a statement. “This report demonstrates a staggering lack of understanding of how nursing care is provided and its methodology is fatally flawed. Estimates of the economic impact of minimum staffing standards are wildly overstated, and the report fails to incorporate any key lessons from the first wave of COVID-19.”

The study was required as part of the 2019-2020 State budget and was due December 31, 2019. It was released last Friday. DOH commissioned Cornell University’s schools of Human Ecology and Industrial and Labor Relations to analyze current nurse staffing levels, and formulate projections based on the ratios in the 2019 Safe Staffing for Quality Care Act, based on unit and type of care delivered.

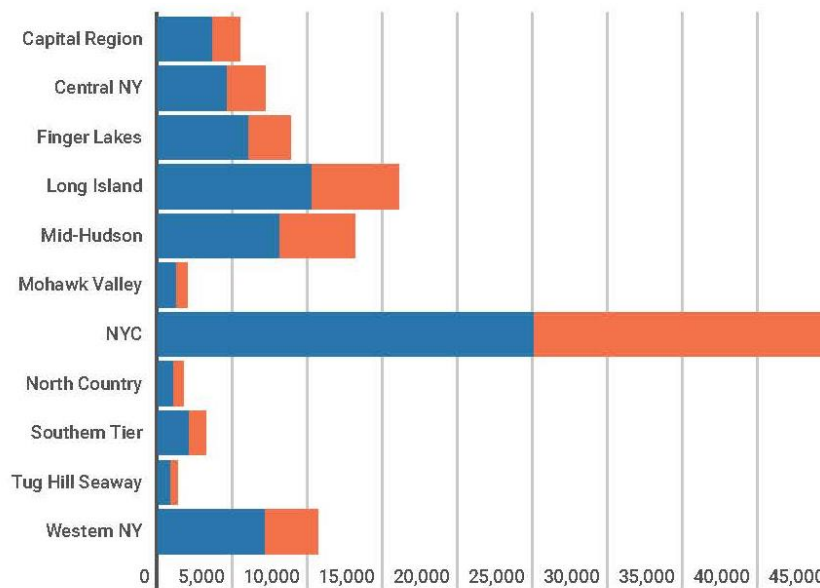
### Projected Staffing Needs at New York Hospitals (Source: *Times Union*)

New York hospitals would need to hire an additional 24,779 nurses to meet the ratios proposed by the bill. Hospitals currently employ just below 73,000 full-time equivalent nurses. New York hospitals would have to spend an additional \$1.8 to \$2.4 billion.



### Projected Staffing Needs at New York Nursing Homes (Source: *Times Union*)

Statewide, nursing homes would need to hire an additional 45,158 nurses, nurse aides, orderlies and assistants to meet minimum direct care hours required under the proposed law. The current workforce is 70,000. To comply with the law, nursing homes would have to spend an additional \$1.9 to \$2.3 billion.



# State Cracks Down on Utility Companies For Failed Response to Tropical Storm Isaias



The New York State Department of Public Service (DPS) has issued [Notice of Apparent Violation](#) letters to four electric service providers — Con Edison, Orange & Rockland, PSEG LI, and Central Hudson — and telephone, cable and internet provider Altice-Optimum in relation to their preparation and restoration efforts for Tropical Storm Isaias.

Specifically, DPS cited Con Edison and Orange & Rockland for inaccurate communications, website problems, and inadequate pre-staging; PSEG LI was cited for a failure of its outage management system, inaccurate communications and problems with its call center; and Central Hudson was cited for inadequate communications capacity at its back-up data center, leading to their website becoming unavailable to customers. Altice-Optimum apparently did not follow its emergency plan pertaining to generator deployment and communications protocols, among other failures.

DPS has also called on PSEG LI to forfeit its 2020 incentive compensation of approximately \$10 million and to use the proceeds toward compensating families and small businesses who lost food and medicine as a result of the extensive outages. PSEG LI has agreed to do so.

According to Governor Andrew Cuomo, the DPS is still threatening to pursue franchise revocations for Con Edison and Orange & Rockland as well as termination of PSEG-LI's contract with LIPA if the ongoing investigation deems it appropriate. Governor Cuomo directed the Department of Financial Services to work with DPS to enhance its review of these utilities.

Governor Cuomo will also propose legislation to expedite and clarify franchise revocation procedures. It will address questions including the ownership and transfer of assets such as substations, cables and trucks to ensure that the ratepayers who funded them are not charged again in the event of a new operator taking them over.

Peak power outages in New York State due to Tropical Storm Isaias reached approximately 920,000 customers, and approximately 1.3 million New York customers experienced power outages during the event.

The State is directing the utilities to undertake several corrective actions, including:

- Add crewing capacity via retainer contracts from private contractors or utilities located outside of New York.
- Test capabilities at all command centers, call centers and back-up command centers to ensure capability to handle an event that affects 90 percent or more of their customers.
- Refine coordination plans with municipalities tailored to each county (road clearing, local liaisons, etc.).
- Update life support equipment and critical infrastructure lists.



## Chapters of the Laws of 2020

**Chapter 138** – Sponsored by Senator Myrie/M of A Taylor - Authorizes voters to request absentee ballots immediately.

**Chapter 139** – Sponsored by Senator Biaggi /M of A Dinowitz - Gives voters the right to request an absentee ballot due to risk of illness to themselves or others.

**Chapter 140** – Sponsored by Senator Gianaris/ M of A Bichotte - Allows ballots to be postmarked on the day of the election, November 3.

## *In the News – City*



## Law Enforcement Unions Challenge NYC “Diaphragm Law”

The five New York Police Department unions and several other unions took the first step in a challenge to overturn the recently enacted New York City “diaphragm compression” law. A lawsuit was filed in NYS Supreme Court in New York County, challenging the local law as preempted by State Law and so vague and ambiguous as to be unconstitutional. Modeled after the New York State “Eric Garner” law, which bans chokeholds during an arrest, the City law further bans the compression of a person’s diaphragm during the arrest process.

Violation of the City law requires no intent nor injury and is a misdemeanor punishable by a one-year jail sentence.

The next step in the litigation is seeking an injunction against enforcement of the law. Unless an injunction is ordered during litigation, the law remains on the books and enforceable. The complaint can be found [here](#).

## 50a Litigation Update

United States Southern District Judge Katherine Polk Failla declined the unions' request for a broad preliminary injunction against the release of New York City police officer Civilian Complaint Review Board (CCRB) histories (under the recently-enacted State Human Rights Law 50-a) pending determination of the unions' lawsuit challenging New York City's and the CCRB's release of members' disciplinary records today.

Judge Failla declined the request, citing that the likelihood of the lawsuit's success has not been demonstrated. Materials already produced and published will not be restrained as irreparable harm has not been demonstrated, the Judge found. Records of technical violations which could eventually be eligible for expungement cannot be disclosed.

Judge Failla stayed her decision until Monday to allow parties to appeal should they so desire. The unions have indicated that they will appeal.



## CBC to Conduct In-depth Study of City's Land Use Process

The Citizens Budget Commission (CBC) this week announced that it will initiate an “in-depth” study of the City’s land use policies and processes. In addition, CBC urged the City Council to “carefully consider how best to balance community needs with citywide interests, which include the potential for job creation with no direct public investment required” in relation to future of the proposed Industry City rezoning in Brooklyn.

CBC President Andrew Rein released a statement Monday indicating the nonpartisan, nonprofit civic organization was “increasingly concerned that at times the city’s land-use process serves as an impediment, rather than as an instrument of improvement, to proposals needed to spur job creation and develop desperately needed housing.”

Following Mayor Bill de Blasio’s mid-March suspension, the City Planning Commission meetings resumed remotely on August 3<sup>rd</sup>. Currently, it will address projects not subject to the City’s Uniform Land Use Review Procedure (ULURP) or that were already in public review prior to the March 16 ULURP suspension, as well as presentations on projects that will go into public review in the future. The ULURP process will resume on September 14<sup>th</sup>, according to the Commission’s website.

"Historically, the Citizens Budget Commission’s (CBC’s) research has focused on what is best for New Yorkers both today and in the future, including identifying which policies promote growth and a thriving city and enhance New York’s attractiveness as a place to live, work, and start and expand a business,” according to the CBC statement. “While CBC has not focused extensively on the land use process or specific zoning proposals, CBC recognizes the best land use process and decisions will balance citywide and community needs, is based on solid analysis and some common criteria, is

transparent and reasonably fast, and provides the certainty and predictability needed to support activities that catalyze job growth and increase a diverse housing supply.”

While CBC is conducting its review, it “urges City leaders—particularly during this time of economic crisis—to work to advance and approve projects that help New York City continue to grow and adapt as a modern metropolis. The New York City Council soon will determine the future of the proposed Industry City rezoning, which has proceeded with significant community engagement and modification before and during the Uniformed Land Use Review Procedure (ULURP). In its determination, the Council should carefully consider how best to balance community needs with citywide interests, which include the potential for job creation with no direct public investment required.”

## *Briefs*

### **Gyms & Fitness Centers Outside NYC Can Reopen Starting August 24<sup>th</sup>**

*Governor Gives Facilities Green Light to Operate at 33 Percent Capacity and Follow Health and Safety Protocols, Including Masks at All Times*

*Mayor de Blasio Says NYC Facilities Will Not Open Before September 2<sup>nd</sup>*

Governor Andrew Cuomo this week announced that gyms and fitness centers can reopen in New York starting August 24<sup>th</sup>. Local elected officials may choose to delay the reopening of gyms and fitness centers until September 2<sup>nd</sup>, in part, to provide time for required local health department inspections, and may also choose to delay the reopening of indoor fitness classes until a date beyond September 2<sup>nd</sup>. New York City Mayor Bill de Blasio has opted for a September 2<sup>nd</sup> start date.

Outside of New York City, the county's chief executive - county executive, administrator, manager, or chair of the local elected legislative body - will determine whether gym reopening needs to be postponed.

Localities can also determine whether gyms postpone resumption of indoor classes. In New York City, the Mayor and, throughout the rest of the state, the county's chief executive may decide to opt-out of indoor group fitness and aquatic classes within their jurisdiction, postponing their resumption until a later date. Local health departments must inspect gyms prior to reopening, or within two weeks of reopening, to ensure strict adherence to Department of Health guidance.



### **Guidance for Gyms and Fitness Centers**

- **Capacity:** 33% occupancy limit.
- **Access:** Sign-in with contact information and health screening required.
- **PPE:** Appropriate face coverings required at all times.
- **Distancing:** 6 feet of separation at all times.
- **Hygiene/Cleaning:** Cleaning and disinfection supplies made available to customers; shared equipment cleaned after every use; staff must also be available to clean and disinfect equipment in between uses; rental equipment must be cleaned and disinfected between customer use.
- **Classes:** By appointment/reservation only; maximum class capacity capped at number of people that can adhere to the 6-foot social distancing rules, but in no case more than 33% of the typical class size (i.e., leave stations, cycles, etc. vacant); classes should be scheduled to allow additional time for cleaning and disinfection in between each session.
- **Amenities:** Water bottle refill stations permitted, but not shared water fountains; communal showers are closed, but individual showers/stalls can remain open so long as they are cleaned in between use.
- **Air Handling Systems:** Gyms should operate at MERV-13 or greater and adopt additional ventilation and mitigation protocols from American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) and the Centers for Disease Control and Prevention (CDC).
- **Inspection:** Local health departments shall inspect before or within two weeks of the gym/fitness center opening to ensure compliance.

## **Governor Extends State Moratorium on COVID-19-Related Commercial Evictions**

Governor Andrew Cuomo this week signed an executive order extending New York's moratorium on COVID-related commercial evictions and foreclosures an additional month, until September 20th. This measure extends protections already in place for commercial tenants and mortgagors.

## **NYS Cracks Down on Impaired Driving**

New York's *Drive Sober or Get Pulled Over* Enforcement Campaign began this week and will run through Labor Day.

Law enforcement will be stepping up patrols, and the NYS Thruway Authority and State Department of Transportation will have Variable Message Signs alerting motorists to the consequences of impaired driving to help deter this dangerous behavior.

During the 2019 enforcement campaign, law enforcement throughout the state issued 4,995 tickets for impaired driving and 170,378 tickets for other vehicle and traffic law violations.

## **Mayor Signs Executive Order Directing Hotels and Short-term Rentals to Collect COVID-19 Quarantine Registrations**

New York City hotels and short-term rentals will have to collect quarantine registration forms from travelers from high-risk COVID-19 states before letting them into their rooms, under an Executive Order [signed by Mayor Bill de Blasio Tuesday](#).

The state had ordered travelers from areas where coronavirus infection rates are high — currently 33 states plus Puerto Rico and the Virgin Islands — to self-isolate for 14 days when they arrive in New York. Under the new executive order, hotels and rentals from sites like Airbnb will be required to collect a form that high-risk travelers must fill out, which includes contact information. They may not allow guests to check into their rooms until the form is filed.

## **New York City Buses to Start Collecting Fares; Uber & Lyft Overnight Transport to End**

The Metropolitan Transportation Authority (MTA) announced this week that it would return to front-door boarding and begin collecting fares on buses in New York City on August 31<sup>st</sup>. In addition, the program which provided free Uber and Lyft transportation to essential workers affected by MTA's overnight subway shutdown will end on August 30<sup>th</sup>.

The MTA switched to rear-door boarding on most of its buses in March to reduce interactions between passengers and bus drivers as a safety measure during the COVID-19 pandemic and it shut down subway service between 1 a.m. and 5 a.m. to facilitate cleaning.

The MTA is projecting a \$10.3 billion deficit through 2021 and has expended the \$4 billion in aid it received through the federal CARES Act earlier this year.

## **De Blasio Administration Commits to Further Black Entrepreneurship in New York City**

Mayor Bill de Blasio this week announced new commitments to invest in Black entrepreneurs across all five boroughs. The [BE NYC](#) initiative aims to increase the number of Black-owned businesses in New York City with a focus on businesses in high-growth industries.

As part of the City's commitment to close the racial wealth gap and support Black-owned businesses, the Department of Small Business Services is releasing the [Black entrepreneurship report](#) and using its partnerships to launch four new programs for Black business owners:

- **Providing Access to World-Class Business Experts:** The City has partnered with Ernst & Young (EY) to connect Black entrepreneurs with world-class resources and guidance.
- **Access to Capital and Business Education:** Goldman Sachs 10,000 Small Businesses will support BE NYC by facilitating access to affordable financing and business education.
- **Closing the Digital Divide:** Mastercard will join New York City in its efforts, helping to ensure that Black entrepreneurs survive and thrive in a post-COVID economy by providing the resources they need and deserve to launch and maintain their business, as well as expand and improve their online presence
- **Launching a BE NYC Accelerator:** Through an initial \$3 million investment of capital and operating funds from the City Council, the Brooklyn Navy Yard, The Young Men's Initiative, and SBS will launch a BE NYC accelerator to help cultivate businesses for the economy of tomorrow.



# Coming Up

## New York State

**Tuesday, August 25<sup>th</sup>**

**Impact of COVID-19 on the Metropolitan Transportation Authority and Public Transportation**  
New York State Senate Transportation Committee, Senate & Assembly Committees on Corporations, Authorities & Commissions. Remote Hearing, 10 a.m.

## New York City

**Thursday, August 27<sup>th</sup>**

**New York City Council, Stated Meeting, Remote Hearing, 1:30 p.m.**

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**“We believe in the ideas of family, mutuality,  
the sharing of benefits and burdens  
for the good of all, feeling one another’s pain,  
sharing one another’s blessing  
recognizing that at the heart of the matter  
we are bound to each other.”**

**-Mario M. Cuomo-**

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120 Broadway, 28th Floor  
New York, New York 10271  
Telephone (212) 652-3890  
Facsimile (212) 652-3891

111 Washington Avenue, St. 401  
Albany, New York 12210  
Telephone (518) 449-3320  
Facsimile (518) 449-5812

25 Hyatt Street, St. 202  
Staten Island, New York 10301  
Telephone (718) 943-1050  
Facsimile (718) 943-1051