



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 – State



Executive Budget Includes Initiatives to Protect Transportation Workers from Harassment and Assault

Governor Andrew Cuomo's FY 2021 Executive Budget includes expanded protections for transportation workers. This legislation expands the list of employee titles who are protected by law from physical attacks and adds further protections by making several forms of aggravated harassment against a transportation worker a Class A misdemeanor.

"New York transit workers literally keep this state moving and the attacks against them are repugnant," Governor Cuomo said. "No transit worker should ever be subjected to assault of any kind, and I am proposing new measures to enhance protections for them and ensure more workers across the transit system get the respect they deserve."

The legislation expands the list of protected transportation workers to also include customer assistance personnel, signal system repairers, and track cleaners, among other additional titles. Currently protected titles include train and bus operators, signalpersons, and terminal cleaners. In addition, the legislation clarifies existing protections for transportation workers while adding new ones. Any form of forceful or violent physical contact against a worker on duty, including spitting on them, constitutes a Class A misdemeanor punishable by up to one year in prison

These proposals build on Governor Cuomo's State of the State 2020 agenda which includes measures to make public transit systems safer for everyone, including banning repeat and high-risk sexual offenders as well as repeat assailants of MTA employees from accessing the subway, bus and rail systems. This proposal authorizes the MTA to issue orders prohibiting individuals who commit repeat sex-related violations of the MTA code of conduct, or who are high-risk sex offenders (Level 3), from using MTA transportation services for a period of three years. This proposal is in response to a number of recent MTA incidents involving repeat sex offenders.

Speaking at this week's Legislative Fiscal Committees' Transportation Budget, MTA Chairman Patrick Foye voiced support for the worker protection initiatives, as well as the Governor's plan to ban repeat sex offenders who target riders or attack transit employees. In addition, the Chairman noted that the MTA's 2020 legislative agenda includes legislation cracking down on toll violators in anticipation of the start of the Central Business District tolling program.



NYS Comptroller DiNapoli Announces Coal Investments Under Review

New York State Comptroller Thomas DiNapoli this week announced the New York State Common Retirement Fund (Fund) is reviewing 27 thermal coal mining companies to determine whether they are taking steps to transition to a more sustainable business model in line with the growing low carbon economy. The review of coal companies is part of Comptroller DiNapoli's [Climate Action Plan](#) to further decarbonize the state pension fund's investments.

The companies were selected from the Fund's portfolio because they earn at least 10 percent of revenues from mining thermal coal – coal that is burned in power plants to produce electricity either directly for industries or to supply power grids. Included in the list are: China Coal Energy Company, Coal India Ltd., NACCO Industries, Inc., South32 Ltd., and ConsolEnergy Inc.

Comptroller DiNapoli wrote the companies, asking for information responsive to the Fund's new minimum standards, giving them until mid-February to respond. The Fund will evaluate each company's strategies for moving away from coal mining against minimum standards it has developed as part of Comptroller DiNapoli's Climate Action Plan. Among the standards being assessed are companies' efforts to align their business model with the Paris Agreement's goals by: reducing capital expenditures on coal; setting long-term targets to reduce greenhouse gas emissions; improving climate reporting; and increasing revenue from low-carbon or green technologies.

According to the Comptroller, companies that fail the Fund's assessment and cannot demonstrate transition readiness may be subject to divestment pending fiduciary review to ensure their removal will not negatively impact the Fund. It is expected the process will take several months to complete. A complete list of the companies is available at <https://osc.state.ny.us/press/docs/thermal-coal-list.pdf>.

Business Groups Urge Lawmakers To Reject "Gig" Worker Reclassification

A coalition of business groups this week issued a letter to New York's Legislative Leaders, urging them to reject legislation to reclassify workers in the "gig" economy.

In the Executive Budget, Governor Andrew Cuomo proposed a Digital Marketplace Worker Classification Task Force to develop a new classification system by May 1st. The legislation would also authorize the New York State Department of Labor to promulgate regulations after May 1, 2020 (if the task force cannot come to an agreement) to determine the appropriate classification of individuals providing services for a "digital marketplace company."

The issue involves a push to provide labor benefits and collective bargaining rights to workers who provide services for apps like Uber, Lyft and Grubhub. California approved similar rules last year. The companies contend the workers are independent contractors.

Labor unions, including the New York AFL-CIO, have endorsed new protections for this class of worker. However, business groups, including the Buffalo Niagara Partnership, Business Council of New York State and Unshackle Upstate, as well as local chambers of commerce assert that changing how these workers are classified would have a negative impact on the economy and businesses.

“But by trying to force a new and innovative industry to fit into a decades old employment model will only serve to hurt those who rely on it the most, and will harm small cities and rural areas upstate that have benefited from these new opportunities over the past several years,” they wrote in the letter to Assembly Speaker Carl Heastie and Senate Majority Leader Andrea Stewart-Cousins. "As you consider legislation, I urge you to think about a new solution that allows these workers to maintain their independence and ability to work on a flexible schedule while also ensuring that they are afforded basic protections.”

Under the Governor’s legislation, “digital marketplace company” is defined as:

[A]n organization . . . that operates a website or smartphone application, or both, that customers use to purchase, schedule and/or otherwise arrange services including, but not limited to repair, maintenance, construction, painting, assembly, cleaning, laundry, housekeeping, delivery, transportation, cooking, tutoring, massage, acupuncture, babysitting, home care, healthcare, first aid, companionship, or instruction, and where such company utilizes one or more individuals to provide such services.

Such organization: (i) establishes the gross amounts earned by the individual providing such services; (ii) establishes the amounts charged to the consumer; (iii) collects payment from the consumer; (iv) pays the individual; or any combination of the foregoing actions; and the individual may provide such services in the name of the individual, or in the name of a business, or as a separate business entity, and without regard the consumer of such personal services may be an individual, business, other entity, or any combination thereof.

In addition, the legislation would further direct the New York State Department of Labor to “consider” whether the “ABC” test should be the appropriate standard for whether such workers should be classified as employees or independent contractors. Finally, the legislation would allow the New York State Department of Labor to “exempt any company from application” of the regulations.

In the News – City



NYC Real Property Tax Committee Releases Preliminary Report

The New York City Advisory Commission on Property Tax Reform today released its [Preliminary Report](#) with initial recommendations to make City’s property tax system “simpler, clearer, and fairer, while ensuring there is no reduction in revenue used to fund essential City services.”

Established by Mayor Bill de Blasio and Council Speaker Corey Johnson in May 2018, the Commission’s mandate was to undertake this comprehensive review and analysis of the City’s complex property tax system.

Among the recommendations are proposals to move coops, condominiums and rental buildings with up to 10 units into a new residential class along with 1-3 family homes; use a sales-based methodology to value all properties in the residential class; assess every residential property at full value; and create a circuit breaker tax for low income New Yorkers.

To develop the recommendations, the Commission - headed by Marc Shaw and Vicki Breen - held five public hearings across the City, three hearings with invited experts, and two public meetings to hear an overview of the current system. The feedback received from the public and experts generally centered on the amount of property taxes paid relative to market value, comparisons of property tax bills across neighborhoods, and difficulty with understanding how the system works.

The Commission reached on consensus on 10 initial recommendations:

1. The Commission recommends moving coops, condominiums and rental buildings with up to 10 units into a new residential class along with 1-3 family homes. The property tax system would continue to consist of four classes of property: residential, large rentals, utilities, and commercial.
2. The Commission recommends using a sales-based methodology to value all properties in the residential class.
3. The Commission recommends assessing every property in the residential class at its full market value.
4. The Commission recommends that annual market value changes in the new residential class be phased in over five years at a rate of 20% per year, and that Assessed Value Growth Caps should be eliminated.
5. The Commission recommends creating a partial homestead exemption for primary resident owners with income below a certain threshold. The exemption would be available to all eligible

- primary resident owners in the residential class and would replace the current Coop-Condo Tax Abatement.
6. The Commission recommends creating a circuit breaker within the property tax system to lower the property tax burden on low-income primary resident owners, based on the ratio of property tax paid to income.
 7. The Commission recommends replacing the current class share system with a system that prioritizes predictable and transparent tax rates for property owners. The new system would freeze the relationship of tax rates among the tax classes for five-year periods, after which time the City would conduct a mandated study to analyze if adjustments need to be made to maintain consistency in the share of taxes relative to fair market value borne by each tax class.
 8. The Commission recommends that current valuation methods should be maintained for properties not in the new residential class (rental buildings with more than 10 units, utilities, and commercial).
 9. The Commission recommends a gradual transition to the new system for current owners, with an immediate transition into the new system whenever a property in the new residential class is sold.
 10. The Commission recommends instituting comprehensive reviews of the property tax system every 10 years.

According to the Commission, a final report will follow public hearings held in each borough. The hearing schedule is being developed and, once finalized, will be available on the Commission website at <https://www1.nyc.gov/site/propertytaxreform/index.page>.



Council Speaker Johnson Unveils Agenda to Address Homeless Crisis

City Council Speaker Corey Johnson this week unveiled a new report that includes almost 90 recommendations aimed at preventing homelessness, increasing access to permanent housing, and enhancing support for New Yorkers experiencing homelessness.

“Everyone wants a home and everyone wants to experience the enormous possibilities of living in the greatest city in the world. But, for approximately 80,000 of our fellow New Yorkers, realizing those possibilities is complicated by the experience of homelessness. This report is a serious attempt to combat this crisis with concrete proposals and a long-term vision. These are not just aspirational goals. These are feasible policies that will work to help prevent homelessness, increase pathways to permanent housing, and support our neighbors experiencing homelessness. Housing stability is at the core of every person’s success, and we must fight for every New Yorker to have this right,” said Speaker Corey Johnson.

The Council worked with over a hundred of stakeholders and advocates for 18 months to create the agenda which calls for prioritizing permanent housing and preventing homelessness from occurring.

Among the Council's recommendations are:

- A pilot program for families with children to target people earlier in the housing instability spectrum; currently, HomeBase, the city's homelessness prevention program, primarily provides services only to families at imminent risk, like those who have received an eviction notice.
- More support for seniors at risk of homelessness. Our senior population is expected to rise by more than 165% by 2030. Recommendations include creating housing ambassadors and utilizing senior centers to reach at-risk seniors before they end up in the shelter system.
- Enhanced aftercare programs to give people transitioning from shelter to permanent housing the supports they need. Aftercare programs are tailored to keep people in permanent housing, including tenant support. In FY 2019, nearly one in five single adults and nearly 1 in 10 families with children returned to DHS shelter within a year.
- A safe haven system with adequate staffing and model budgets, as well as a bed for every chronic street homeless individual.
- Tools for street outreach teams to bring individuals inside, including intensive mental health teams dedicated to street homelessness. Currently, there are no mental health teams specifically dedicated to street homelessness.
- A comprehensive medical respite system that tracks the number of medically homeless and addresses their short- and long-term housing needs, to end the revolving door from hospitals to homelessness. Currently, there is no system to deal with this high needs population. According to the Speaker, there's currently just one program with 12 beds.
- Enhanced staffing, investments in infrastructure, and tailored services to support the needs of those in the shelter system for Runaway and Homeless Youth.
- Creation of a Deputy Mayor of Homelessness and Housing to integrate housing and homelessness policies and streamline coordination.



Comptroller Stringer Proposes 'Universal Affordable Housing' Requirement for All New Construction in the City

Universal Affordable Housing would require 25% permanently low-income affordable housing in all new development with ten or more units

Five-borough housing strategy would end the \$1.6 billion 421-a tax subsidy to developers

New York City Comptroller Scott Stringer this week released ‘*Housing We Need*,’ a five-borough housing strategy that includes a universal requirement for 25% permanently low-income affordable housing in all new development with ten or more units.

Comptroller Stringer also proposed an end to the 421-a tax subsidy program for developers, the redirection of existing capital dollars to extremely and very low-income housing construction, and the creation of a New York City land bank that would facilitate the use of vacant city-owned properties into affordable housing.

With respect to the 421-a program, Comptroller Stringer proposes:

- Providing subsidies only on a discretionary basis strictly to plug financing gaps where there is demonstrated, documented need in order to meet the new mandate for affordability, deepen the affordability levels, increase the amount of affordability or provide good-paying jobs.
- Giving more discretion to the City to tailor subsidies including property tax abatements and capital subsidies.
- Mandating that all affordable housing supported through subsidies must be permanently affordable and ensuring accountability and enforceability by transparently reporting all affordable housing units created through this program.



**Department of
Buildings**

NYC Buildings Department Releases Façade Inspection Rules

Department of Buildings Commissioner Melanie E. La Rocca announced the publication of a new rule governing exterior wall inspections and repairs, strengthening the existing Façade Inspection & Safety Program (FISP). The rule will be effective on February 20, 2020.

Known as “Local Law 11” inspections, this program requires all owners of buildings over six stories tall to hire licensed professionals to perform a comprehensive façade inspection every five years, and submit these FISP reports for our review.

The final rule, published in *The City Record*, is part of a slate of recent actions DOB has taken to increase façade safety in New York City, following the December 2019 fatal façade collapse that occurred in Midtown, Manhattan.

“Building owners are on notice – maintain the safety of your façades, or you will face stiff fines and rigorous enforcement,” said Commissioner La Rocca. “We are strengthening the tools we already have to ensure that New Yorkers are kept safe from deteriorating façades. New rule changes and more proactive field inspections will better equip us to hold negligent building owners accountable, and protect the public.”

Among other changes in the new amended rule, FISP reports will now require more up-close, hands-on inspections, as well as enhanced experience requirements for privately contracted Qualified Exterior Wall Inspectors (QEWI), increased penalties for property owners who fail to make repairs to unsafe façade conditions, and a new requirement for landlords to post information on the status of the façade in the lobby of the building.

Briefs

NYC Increases Investments in Water Delivery System Infrastructure

City now investing \$800 million on new water mains over next two years, a \$130 million increase

The de Blasio Administration announced the City will be constructing new water mains and increasing staffing as part of several steps in the efforts to ensure the continued reliability of the City's water delivery system. This initiative brings the City's capital investment in new water mains and related infrastructure to \$800 million over the next two fiscal years

To ensure New York City continues to have a leading water system in the nation, the City is taking the following new measures:

Building New Water Mains

The City is adding approximately \$128 million in capital funding to ensure the replacement of approximately 1 percent of the system's water mains annually

Inter-Agency Coordination

DEP and NYC Emergency Management will meet with the New York City Fire Department, Department of Transportation, Con Edison, National Grid, and the Metropolitan Transit Authority and others to review current coordination protocols in an effort to expedite water shut-off and service restoration during emergencies.

Predictive Modeling

DEP prioritizes new water main construction based on multiple factors including the age, size, material and historical performance of the current main, as well as neighborhood demand for water and proximity of other capital projects.

Senate and Assembly Fiscal Committees Release Analysis of the Executive Budget

The Senate Finance Committee and the Assembly Ways and Means Committee have released their respective preliminary analyses of the Executive Budget. The Senate White Book may be accessed at: https://www.nysenate.gov/sites/default/files/article/attachment/fy2021_whitebook.pdf. The Assembly Yellow book may be accessed at: <https://nyassembly.gov/Reports/WAM/2020yellow/>.

AG Launches Online Complaint Portal for Housing Discrimination

State Attorney General Letitia James has launched a new [online complaint portal](#) for New Yorkers to report instances of housing discrimination based on the source of their incomes.

According to the Attorney General, legislation enacted last year makes it illegal to deny people housing on the basis of where a resident gets their income. The law applies to almost all types of housing across the state, outside of one- or two-family homes occupied by the owner, room rentals in properties for individuals of the same sex like college dorms and housing for seniors. Lawful sources of income now include: alimony, foster care subsidies, child support, society security or Supplemental Security Income, any form of federal, state or local public or housing assistance such as like cash assistance and Section 8 vouchers, and any other form of lawful income or government assistance.

Discriminatory behavior may include listings or advertisements that use phrases such as “no section 8/no DSS/no SSI” or “apartment has not yet been approved for any vouchers/subsidies,” or property owners providing different terms or privileges or denying the use of facilities to residents based on their source of income.

Coming Up

New York State

The Legislature is in session Monday February 3rd through Wednesday February 5th

Monday February 3rd

Legislative Fiscal Committee Hearing on 2020-2021 Executive Budget Mental Hygiene Proposal
Hamilton Hearing Room B, Legislative Office Building, 2nd Floor, Albany, 11 a.m.

Tuesday February 4th

Legislative Fiscal Committee Hearing on 2020-2021 Executive Budget Higher Education
Hamilton Hearing Room B, Legislative Office Building, 2nd Floor, Albany, 9:30 a.m.

Wednesday February 5th

Legislative Fiscal Committee Hearing on 2020-2021 Executive Budget Workforce Proposal
Hamilton Hearing Room B, Legislative Office Building, 2nd Floor, Albany, 9:30 a.m.

Legislative Fiscal Committee Hearing on 2020-2021 Executive Budget Housing Proposal
Hamilton Hearing Room B, Legislative Office Building, 2nd Floor, Albany, 1 p.m.

New York City

Monday February 3rd

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

Committee on Rules, Privileges and Elections, Committee Room – City Hall, 11 a.m.

Tuesday February 4th

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

Wednesday February 5th

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

Thursday February 6th

Committee on Small Business, Committee Room – City Hall, 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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