



This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

November 18, 2022 Edition



“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 – New York State



Comptroller DiNapoli: NY’s Outdated Unemployment Insurance System Left State Vulnerable to Fraud, Resulting in More Than \$11 Billion in Pandemic Overpayments

The State Department of Labor’s (DOL) failure to replace its “long-troubled” Unemployment Insurance (UI) system and “ad hoc” workarounds weakened oversight and ultimately contributed to billions of dollars in improper payments during the COVID-19 pandemic, according to an audit released this week by State Comptroller Thomas DiNapoli. The Comptroller estimated that the State paid over \$11 billion in improper unemployment claims.

According to the Comptroller, DOL refused to provide auditors with the data that would have enabled auditors to calculate the precise amount of improper payments and was slow to provide requested information that delayed the completion of the audit. The audit examined the period from January 2020 to March 2022.

“The state Department of Labor’s antiquated UI system was ill-equipped to handle the challenges posed by the extraordinary demand caused by the pandemic for unemployment benefits and more lenient federal eligibility requirements,” Comptroller DiNapoli explained. “The agency resorted to stop-gap measures to paper over problems, and this proved to be costly to the state, businesses, and New Yorkers.”



Comptroller DiNapoli

During the pandemic the State had to borrow from the federal government to support UI claims. Its loan balance stands at approximately \$8 billion and, according to the Comptroller, must be paid back with interest at the expense of New York’s employers.

According to the Comptroller, the system lacked the resources necessary to adjust to new laws or handle workload surges. It also administered UI benefits for the temporary programs under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which had less stringent eligibility requirements and contributed to the significant increase in UI claims.

The U.S. DOL reported New York's traditional UI estimated improper payment rate at 10.34%, including a fraud rate of 4.51% in 2019-20. During the pandemic (SFY 2021-22), U.S. DOL's estimated New York's improper payment rate increased to 28.89% with a fraud rate of 17.59%.

From April 1, 2020 through March 31, 2021, the state made 218.2 million traditional and temporary UI payments totaling over \$76.3 billion. Using the U.S. DOL's estimated fraud rate, the Comptroller equated it to approximately \$11 billion lost to fraud in that fiscal year. The Comptroller indicated that this figure likely understates the actual amount, as New York DOL acknowledged that the temporary programs had a significantly higher risk of fraud.

Auditors found that DOL's "pay and chase" approach increased the risk of overpayments, payments charged to the wrong funding source, and fraud. For example, auditors sampled 118 claimants and found 96 of the claimants were improperly paid nearly \$2.8 million through the state's traditional UI program instead of the temporary federal CARES Act. Auditors identified another \$41.2 million paid to 8,798 claimants, whose payments appeared to be more than the maximum allowed amounts.

The outdated system also created obstacles to monitoring and analyzing fraudulent claims and for making operational decisions. Auditors found that DOL could not identify the root cause of overpayments and fraud and did not implement controls to address weaknesses in the system. In addition, while DOL repeatedly pointed to identity theft as the major cause of fraud within the program, specifically for the temporary benefit programs, it did not implement a system to stop identity theft--ID.me--until February 2021, after approximately 80% of UI claims had already been made.

The audit recommended DOL:

- Continue the development of the replacement UI system and ensure its timely implementation.
- Take steps, including collecting and analyzing data related to the identity verification process, to ensure the correct balance between fraudulent identity detection and a streamlined process for those in need of UI benefits.
- Follow up on the questionable claims identified by this audit to ensure adjustments have been made so they are paid from the proper funding source and overpayments are recovered, as warranted.
- Ensure the current and new UI system and data comply with provisions of the NYS Information Security Policy, the Classification, Authentication, Encryption, and Logging Standards, as well as the ITS Operations Change Management Process and Policy.

The Comptroller indicated that Department officials generally agreed with the audit's findings and recommendations.

In the News – New York City



Mayor Eric Adams Releases November Financial Plan Update for FY2023 Totaling \$104 Billion

New York City Mayor Eric Adams this week released the City of New York's [November Financial Plan Update for Fiscal Year 2023 \(FY23\)](#). The FY23 budget is \$104 billion and remains balanced.

The Mayor reiterated the fiscal challenges facing the city including the impact of increased pension costs caused by stock-market losses, new needs related to aid for asylum seekers, the threat to the budget of impending healthcare and labor cost increases, and economic stresses like high energy prices and elevated inflation.

To maintain balance, the Financial Plan draws upon the Administration's Program to Eliminate the Gap (PEG), achieving more than \$2.5 billion in savings without service reductions or layoffs over this fiscal year and the next – more than \$900 million in FY23 and more than \$1.6 billion in Fiscal Year 2024 (FY24). Additionally, the administration achieved \$1.5 billion of PEG savings in both Fiscal Years 2025 (FY25) and 2026 (FY26). Program changes include "3-K Cost Avoidance," "3-K Right Sizing," "Discretionary Overtime Reduction" and "EMS Rate Increase" in the Fire Department, "Delay Laptop and Tablet Replacements and Upgrades" in the Probation Department, "Facility Cleaning" (Reduction in frequency of contracted facility cleaning in the Sanitation Department), and additional speed camera revenue generated from expansion of program to weekends and overnight (10 pm to 6 am) in the Department of Transportation.

As a result of the PEG, the FY24 budget gap was reduced by more than \$1 billion and is now \$2.9 billion. Gaps are \$4.6 billion in FY25 and \$5.9 billion in FY26 because of the FY22 stock-market losses.

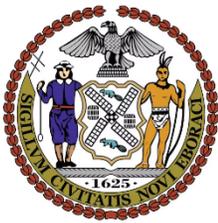
Budget reserves remain at \$8.3 billion, including \$1.9 billion in the Rainy-Day Fund, \$4.5 billion in the Retiree Health Benefits Trust, and \$1.6 billion in the General Reserve, as well as \$250 million in the Capital Stabilization Reserve.

Budget growth in FY23 since Adoption in July 2022 is the result of federal grant funds, including a projected \$1 billion to fund the on-going cost of providing shelters and other services to the new asylum seekers in New York.

New agency spending of \$211 million in FY23 and \$138 million in FY24 is offset by PEG savings. As a result, the November Financial Plan shows a surplus of \$705 million in FY23, which is used to lower the FY24 budget gap.

Examples of the New FY23 investments include:

- \$19 million in additional support for the medallion relief program.
- \$14.5 million to launch “Get Stuff Clean,” an initiative that will create a cleaner city through a major upgrade to cleanliness protocols across the five boroughs. This includes funding to clean over 1,000 ‘No Man’s Land’ neglected areas around the city, increased litter basket service, expanded camera enforcement against illegal dumping, and funding for additional rat exterminators.
- \$15 million for the Shelter to Housing Action Plan, which includes a package of reforms to the CityFHEPS city-funded housing voucher program.
- \$3.0 million to modify school boilers to burn cleaner fuel in support of the mayor’s “Leading the Charge” initiative to combat climate change.
- \$2.6 million to run a pilot residential curbside organics collection program in Queens, which was announced by the mayor and began operating in October.



NYC Workforce Down Over 19,000 Employees

Attrition outpaces hiring among New York City’s municipal workforce, which could have an impact on critical city services and programs, according to a [report](#) released this week by State Comptroller Thomas DiNapoli. The report shows the city’s full-time workforce declined by 19,113 employees over the last two years. Despite the city hiring over 40,000 new employees in the last fiscal year, city job vacancies stand at more than 21,000.

"The pandemic caused a significant decline to the city’s workforce, and it is particularly troubling that turnover continues to outpace hiring," Comptroller DiNapoli said. "Without the hardworking individuals who keep this city running, critical and essential services for our children and most vulnerable residents could be impacted. Budget gaps loom, and while the city needs to find efficiencies, it also must prioritize a clear understanding of staffing challenges at its agencies and be transparent about their potential impact on services."

The 6.4% decrease in the city’s workforce during the pandemic was found to be uneven across its 37 largest agencies, with 11 experiencing a decline in staffing of more than 13%. The Department of Correction had the greatest loss of employees with a 23.6% decline, followed by the Department of Investigation at 22.2% and the Taxi & Limousine Commission at 20.5%.

Comptroller DiNapoli’s report noted that while a staff reduction at the Department of Correction was planned, the pace was greater than anticipated, and the Police Department (6.7%), Department of Social Services (13.7%), and Administration for Children’s Services (15.6%) accounted for more than half of the citywide workforce decline from June 2020 to August 2022.

Other agencies that saw a significant decline in staff included the City Law Department (18.3%), Department of Finance (16.8%), Citywide Administrative Services (15.6%), City Planning (15.3%), Youth and Community Development (14.8%), Department of Probation (13.8%) and the Department of Social Services (13.7%).

The Comptroller also examined divisions within city departments that deliver and

oversee critical programs and services, finding 23 had vacancy rates of more than 14%. Divisions within Social Services, Education, Parks and Recreation, Homeless Services, and Mental Health and Hygiene had the highest vacancy rates of more than 20%. This means services for child support, early childhood education, park facility maintenance, and help for the homeless and individuals facing mental health challenges could be disrupted unless more efficient means of providing those services are found.

Comptroller DiNapoli’s report notes vacancy rates are mostly driven by the City’s temporary reduction in hiring in city fiscal year (FY) 2021 during the pandemic, as well as due to a sharp rise in separations from service which followed. In September, the Mayor ordered New York City agencies to cut spending by 3% in FY 2023 and by 4.75% beginning in FY 2024. While reducing vacancies may be used to achieve part of these savings, the report shows many city departments have yet to even reach their current staffing targets, due to elevated attrition over the past two years.

Across departments, 14 major occupational groups experienced declines of 15% or more, including executive assistants (-27.2%), correction officers (-25.9%), groundskeepers and gardeners (-24.5%), school safety agents (-22.0%), information clerks (-21.6%), counselors (-19.4%), lawyers (-19.3%) and legal assistants (-17.4%). Turnover of more than 13% was also shown among fire inspection and prevention occupations, financial officers, architects, accountants and auditors, general office clerks, mechanics and repairers, school administration support staff, social workers, investigators and adjusters, managers, and sheriffs.

The City’s current financial plan looks to fill 24,969 positions by fiscal year 2023. The report called the goal ambitious given current attrition numbers but said all social service agencies had been trying to hire, and that the Administration for Children’s Services and Department of Homeless Services ranked among the highest in number of job listings.

In October, more than half of the City’s major agencies had external job postings for at least 20% of their openings, while other major agencies did not show significant efforts to hire as of October 2022.

FIGURE 1
Uneven Decline in Agency Full-Time Staffing
 (Full-time employees)

Agency	Actual	Actual	Percent Decline	Plan
	June 2020	August 2022		August 2022
Dept. of Correction	10,978	8,388	23.6%	9,574
Dept. of Investigation	361	281	22.2%	316
Taxi & Limousine Commission	584	464	20.5%	486
Law Dept.	1,713	1,400	18.3%	1,551
Finance Dept.	1,996	1,660	16.8%	1,800
Citywide Administrative Services	2,403	2,028	15.6%	2,159
Dept. of Homeless Services	2,119	1,793	15.4%	2,012
City Planning	301	255	15.3%	283
Youth and Community Development	546	465	14.8%	514
Dept. of Probation	1,116	962	13.8%	1,035
Dept. of Social Services	12,330	10,637	13.7%	13,023
Subtotal	34,447	28,333	17.7%	32,753
Department of Education	134,684	129,869	3.6%	140,364
Police Dept.	51,429	48,007	6.7%	49,274
Children's Services	7,039	6,159	12.5%	6,445
All Other	72,847	68,985	5.3%	73,580
Total	300,446	281,333	6.4%	302,396

Note: August 2022 data includes 11 positions at the Districting Commission. The City's planned headcount is as of the FY 2023 Adopted Budget. Sources: NYC Office of Management and Budget; OSC analysis

Briefs

Governor Hochul Directs State Agencies to Hold the Line on Expenses in FY24

State Budget Director Robert Mujica this week issued the annual [call letter](#) to State agency Commissioners, directing the agency heads to “develop agency budget requests, which should not exceed enacted FY 2023 funding levels, excluding one-time investments.”

“Commissioners must be mindful of Governor Hochul’s commitment to deliver critical services for New Yorkers while protecting our state’s fiscal health,” the Budget Director explained. “All aspects of business should be reviewed for savings and efficiencies, and funding requests should articulate execution of this review. The effectiveness and efficiency of every program and every dollar spent should be closely evaluated; unnecessary duplication or overlap should be eliminated; energy-and material-saving measures afforded by technology should be pursued; opportunities to provide services and engage residents digitally should be seized...”

Agency budget requests are due no later than November 29, 2022.

Late last week, the Division of Budget released the State’s long awaited [Mid-year update to the 2023 Budget](#). The report continued to show out-year budgets of between \$3 to \$6 billion with receipts slightly up, and the general fund cash balance slightly up. These figures are based upon the August report in which the State lowered its tax receipt projections.

“This update to the State’s financial plan reinforces what was known from the prior one – global and national economic headwinds will have an impact in every state of the country, but New York is prepared with fiscally responsible budgeting that puts record-level deposits and balances into our reserves,” said Budget Director Mujica.

State Budget Director to Step Down at the End of the Year

State Budget Director Robert Mujica is stepping down at the end of the year to become Executive Director of Puerto Rico’s Financial Oversight and Management Board.

“Robert's more than 25 years of service to New York State have been incredibly valuable, and I'm so glad that our neighbors in Puerto Rico will get to benefit from his considerable talents,” Governor Hochul said in a statement. “I am deeply grateful for his help in guiding my Administration through our first budget process...I will continue to draw on Robert's unique wisdom and expertise for years to come, but he has built a strong Division of the Budget that is full of dedicated public servants, and we'll rely on them as we search for a new budget director.”

Federal Judge Blocks Cannabis Licenses for Several New York Regions

Ruling May Impact Next Week's Awarding of the First Retail Licenses

A federal judge last week temporarily blocked New York state cannabis regulators from issuing retail licenses in certain locations following a lawsuit by a company that had been denied approval to operate in the state. The injunction may impact how many initial dispensary licenses are awarded at next week's Cannabis Control Board (CCB) meeting.

U.S. District Court Judge Gary Sharpe issued the injunction based on a legal challenge brought by the owner of the Michigan-based Variscite. The company is challenging the provisions in the law that require that licenses for retail cannabis dispensaries be awarded to people who have not been affected by drug laws in New York state. Variscite's primary owner was previously convicted of a marijuana-related offense in Michigan. The regions impacted by the injunction are areas in which Variscite had sought a license to operate: Finger Lakes, Central New York, western New York, the Mid-Hudson, and Brooklyn.

Next week, the Cannabis Control Board is slated to consider applicants for the state's Conditional Adult-Use Retail Dispensary license program — which reserves the first 150 dispensary licenses to New Yorkers with business experience and prior marijuana-related convictions. Given the injunction, the Board may act on licenses outside of the court-restricted regions, nine of the program's 14 designated geographic regions. Ninety of the 150 licenses are located outside of the court-restricted areas. In addition, the Cannabis Control Board on Monday is also expected to approve dispensary licenses for up to 25 nonprofits.

In an October interview, Governor Kathy Hochul told the editorial board of Advance Media, owner of *Syracuse Post-Standard*, the state would open 20 dispensaries by the end of the year, with another 20 openings each month after.

NYS Public Service Commission Approves Manure-to-Pipeline Gas Project

The Public Service Commission this week approved the Bluebird Renewable Energy project, a renewable natural gas project that will transport purified gas from dairy farms in upstate New York to a nearby pipeline.

“We are clearly identifying that this complies with the [Climate Leadership and Community Protection Act],” said Commissioner Diane Burman in voting to approve the project during the session. “Much of the waste would become methane through natural processes. ... It's clear to me that dairy farms have a role to play in decarbonization.

Environmental groups and advocates argued purifying and shipping the gas via truck into the interstate pipeline system would have higher emissions than simply using it on-site.

Mayor Adams Details Vision for Willets Point

New York City Mayor Eric Adams this week detailed the next phase of the transformation of the Willets Point community in Queens, including a 100% Affordable Housing Project and a privately financed soccer stadium.



Through a new partnership with 2021 Major League Soccer (MLS) Cup champions New York City Football Club (NYCFC) and Queens Development Group (QDG) — a joint venture of Related Companies and Sterling Equities — Willets Point will be anchored by 2,500 new affordable homes. In addition, New York City’s first soccer-specific stadium will come to Willets Point along with over 40,000 square feet of public open space, a 250-key hotel and ground-floor retail shops.

The entire project is expected to generate \$6.1 billion in economic impact over the next 30 years, creating 1,550 permanent jobs and 14,200 construction jobs.

City’s Taxi & Limousine Commission Approves Fare Increases

New York City cab riders will see a 23% increase in metered fares, the first increase since 2012, following a vote this week by the city’s Taxi and Limousine Commission.

The Commission also approved an increase in rush hour and overnight surcharges, and airport flat rates, according to a document released by the TLC. The increases will also affect per-mile and per-minute rates for Uber Technologies Inc. and Lyft Inc. and are expected to go into effect before year-end, the TLC said.

“Raising taxi fare rates and minimum pay for high-volume drivers is the right thing to do for our city,” TLC Commissioner David Do said in a statement. “We are confident that today’s unanimous Commission vote will keep our taxi and FHV fleets sustainable and ready to serve New Yorkers.”

For taxis, the metered rate will rise to \$3 from \$2.50, with surcharges rising to \$2.50 from \$1 during rush hour. The fee on overnight rides will rise to \$1 from 50 cents. The flat fare to John F. Kennedy International Airport will jump to \$70 from \$52.

Uber and Lyft driver pay rates will increase by 7% per minute and 24% per mile. A sample trip of 30 minutes and 7.5 miles (12 kilometers) will require a minimum payment of \$27.15, documents show.

First Deputy Mayor Grillo to Depart Adams Administration

New York City Mayor Eric Adams today announced that First Deputy Mayor Lorraine Grillo will depart the Administration in early January.

According to the Mayor, in her time as First Deputy Mayor, Grillo played a critical role in creating plans for the CUNY Brookdale Campus that will establish career pipelines for students in the life sciences, health, and public health industries; overhauling the capital project process; leading the city's COVID-19 recovery; and championing minority-and-women-owned business efforts (M/WBEs).

“New York City, as a whole, is better off today because Lorraine Grillo brought her invaluable expertise and inimitable work ethic to this administration and served the people of this great city,” said Mayor Adams. “She’s a living example of what ‘Getting Stuff Done’ truly means, and I, and all New Yorkers, will always be in her debt for her dedicated service to New York City. We wish her all the best and will miss her deeply.”

Prior to her appointment as First Deputy Mayor, Grillo was appointed as pandemic “Recovery Czar,” leading strategy and planning efforts while coordinating across the public and private sector. A native of Astoria, Queens, Grillo began her career as community relations specialist for the New York City School Construction Authority (SCA) in 1994. She then served in several senior roles and was appointed SCA’s President and CEO, in 2010, by former Mayor Michael Bloomberg. Grillo was reappointed by former Mayor Bill de Blasio. In 2018 Grillo was appointed Commissioner of the New York City Department of Design and Construction (DDC) — serving as lead for both DDC and SCA simultaneously, bringing her unmatched experience in building physical infrastructure.

Coming Up

New York State

Tuesday, November 22nd

Addressing Workforce Shortage

Joint – Assembly Standing Committee on Labor and Subcommittee on Emerging Workforce
Roosevelt Hearing Room C, Legislative Office Building, 2nd Floor, Albany, 10:30 a.m.

New York City

Monday, November 21st

Joint - Committee on Education & Oversight and Investigations, City Hall, 10 a.m.

Oversight – School us Transportation Services.

Subcommittee on Zoning and Franchises, Committee Room – City Hall, 1 p.m.

Committee on Land Use, Committee Room – City Hall, 2 p.m.

Tuesday, November 22nd

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

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

Disclaimer: The materials in this *This Week in New York* report are provided for informational purposes only and are not intended to be a comprehensive review of legislative or governmental or political developments, to create a client-consultant/lobbyist relationship, or to provide consulting, lobbying or political advice. Readers are cautioned not to attempt to solve specific problems on the basis of information contained in this *This Week in New York*. If consulting, lobbying or government relations advice is required, please consult a professional expert in such matters. The information contained herein, does not necessarily reflect the opinions of Pitta Bishop & Del Giorno LLC, or any of its members or employees or its clients.

Neither Pitta Bishop & Del Giorno LLC, nor its members or employees make any warranty, expressed or implied, and assume no legal liability with respect to the information in this report, and do not guarantee that the information is accurate, complete, useful or current. Accordingly, Pitta Bishop & Del Giorno LLC is not responsible for any claimed damages resulting from any alleged error, inaccuracy, or omission. This communication may be considered an advertisement or solicitation.

To request that copies of this publication be sent to a new address or fax number, to unsubscribe, or to comment on its contents, please contact Theresa Cosgrove at tcosgrove@pittabishop.com or at (518) 449-3320.

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.

This Week in New York is a publication of Pitta Bishop & Del Giorno LLC.

**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

**1220 19th Street NW
Washington, D.C. 20036**
Telephone (202) 964-4753
Facsimile (202) 964-5754