



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 – New York State



COVID-19 Vaccinations: New York Leads the Way

New York Governor Andrew Cuomo made good on his promise that “New York Will Lead the Way” in Covid-19 vaccinations, as the State administered the first Pfizer shot in the nation on Monday morning.

Sandra Lindsay, ICU Nurse at Long Island Jewish Medical Center in Queens received the United States’ first vaccine at 9:30 a.m. Monday under Phase 1 of New York’s Vaccine Distribution Plan.

“This vaccine is exciting because I believe this is the weapon that will end the war,” Governor Cuomo said. “It’s the beginning of the last chapter of the book, but now we just have to do it. Vaccine doesn’t work if it’s in the vial, right? So New York State has been working very hard to deploy it, get it out. We have trains, planes and automobiles moving this all over the state right now. We want to get it deployed and we want to get it deployed quickly...”

Following the initial vaccination, New York continued the Phase I plan to inoculate health care workers at highest risk from the virus and residents and staff in nursing homes and other long-term residential facilities across the State.

Phase II will focus on essential workers and members of the general public with underlying health conditions that make them especially vulnerable. This distribution is projected to begin in late January.

According to Governor Cuomo, regional vaccination hubs will work with local government leaders and community organizations to help implement distribution and administration. Each regional vaccination hub – located at medical facilities across the state -- will be tasked with developing a plan for distribution in Phase II. All plans will be due by early January, at which point the State Department of Health will evaluate and issue approval.

The state Department of Financial Services will order all insurers to cover any costs associated with getting the vaccine for all New Yorkers.

"We want people to get vaccinated," Governor Cuomo pledged. "It shouldn't be about wealth. No one will pay a penny."

The New York State Clinical Advisory Task Force this morning approved the Moderna vaccine for use in the State, following yesterday's approval by the federal Food and Drug Administration (FDA) vaccine committee. Full FDA approval is anticipated today and New York will receive 346,000 doses next week.



\$15 Minimum Wage Phase-in to Continue as Report Shows NYS Labor Markets Recovering

Increase to Take Effect on December 31, 2020

The New York State Department of Labor (DOL) this week announced the state's \$15 minimum wage phase-in will continue, with the next stage taking effect December 31, 2020. The minimum wage rose to \$15 per hour for companies with 10 or fewer employees in New York City last year and remains at that level. It will rise to \$14 per hour on Long Island and in Westchester, and to \$12.50 in the rest of the state.

This announcement comes after a statutorily required report by the Division of the Budget found the Upstate, Long Island, and Westchester labor markets -- where the minimum wage is scheduled to rise -- are leading New York's economic recovery from the downturn caused by the global pandemic. The report found that, just prior to the pandemic, the State had achieved record low unemployment following four years of increases to the minimum wage. In addition, the report showed that minimum wage workers need support today, as they were disproportionately impacted by the pandemic's economic toll, with those earning the minimum wage representing a large portion of the hardest-hit industries, including retail trade and leisure and hospitality.

"Even as we continue to battle the pandemic, we are working to build back in an equitable and just way," Labor Commissioner Roberta Reardon said. "Before this crisis, we achieved record low unemployment rates while increasing the minimum wage - improving the lives of thousands of New Yorkers - and we will rebuild our economy while continuing to lead the nation in the fight for economic justice. This investment in our workers once again proves that in New York we believe a fair day's work deserves a fair day's pay."

The Division of the Budget report is required by the minimum wage statute to review the state of the economy in each region and the effect of minimum wage increases to determine whether increases move forward as scheduled or should be delayed.

Key findings from the Division of the Budget's Minimum Wage Report include:

- Just prior to the pandemic, the State achieved a record low unemployment rate of 3.7% while raising the minimum wage for four years.
- The Long Island/Westchester county regional unemployment rate has fallen from its April peak of 15.9 percent to 7.1 percent in October, while the remainder of Upstate has fallen from its 15.4 percent April peak to 6.8 percent in October.
- The report concludes: close examination of the available economic data by region suggests that the labor market recovers on Long Island and in Westchester and the remainder of Upstate are proceeding apace and are not likely to be substantially harmed by the minimum wage increases scheduled for the end of this year.

General Minimum Wage Rate Schedule

Location	12/31/16	12/31/17	12/31/18	12/31/19	12/31/20	2021*
NYC - Large Employers (of 11 or more)	\$11.00	\$13.00	\$15.00			
NYC - Small Employers (10 or less)	\$10.50	\$12.00	\$13.50	\$15.00		
Long Island & Westchester	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00
Remainder of New York State	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	*

*Future increases will be based on an indexed schedule to be set by the Director of the Division of the Budget in consultation with the Department of Labor following an annual review of the impact.



Governor Cuomo Signs the “Protect Our Courts” Act

Governor Andrew Cuomo this week signed the “Protect Our Courts Act” (Chapter 322) to ensure New Yorkers can “freely access the justice system without fear of being targeted by federal immigration authorities.”

According to the Governor, the legislation addresses longstanding concerns that federal immigration enforcement was deterring immigrants from appearing in New York State courts and impeding the fair administration of justice. It builds upon a prior executive order by the Governor and a directive by the chief judge of the New York State Unified Court System. The legislation was sponsored by Senator Brad Hoylman and M of A Michaele Solages.

"... New York has always protected our immigrant communities," Governor Cuomo said. "This legislation will ensure every New Yorker can have their day in court without fear of being unfairly targeted by ICE or other federal immigration authorities."

The bill would not prohibit an arrest warrant from being authorized by a judge. However, an immigration-related courthouse arrest based on an administrative warrant, or without a warrant, would not be permitted. This is currently the requirement on state land and in state buildings per [Executive Order 170.1](#), issued in 2018 to protect New Yorkers who are accessing essential services on state property to do so without fear of arrest.



Chapters of the Laws of 2020

Chapter 322 Sponsored by M of A Solages/Senator Hoylman -- Exempts certain interested parties or people from civil arrest while going to, remaining at, or returning from the place of such court proceeding.

Chapter 323 Sponsored by M of A Weinstein/Senator Hoylman -- Reforms the statutory short form and other powers of attorney for purposes of financial and estate planning.

Chapter 328 Sponsored by M of A Gottfried/Senator Rivera -- Requires parity in the standards of dental telehealth services.

Chapter 332 Sponsored by Rules (at the request of M of A Englebright)/Senator Kaminsky -- Provides penalties for the unlawful disposal and dealing in construction and demolition wastes.

Chapter 341 Sponsored by Senator Breslin/M of A Cusick -- Relates to payment in construction contracts; specifies the meaning of "substantial completion" for the purposes of requisition payments in construction contracts.

Chapter 343 Sponsored by Senator Biaggi/Rules (at the request of M of A Bichotte) -- Prohibits the state of New York from selling or displaying symbols of hate or any similar image, or tangible personal property, inscribed with such an image.

Chapter 344 Sponsored by Senator Breslin/M of A McDonald -- Requires municipalities with the highest population in each county to have at least one polling place designated for early voting.

Chapter 346 Sponsored by Senator Montgomery/Rules (at the request of M of A Wright) -- Authorizes former foster care youth who have been discharged from foster care to return to foster care placement during the COVID-19 state of emergency without requiring such children to file a motion authorizing their return to foster care placement and places a temporary moratorium on aging out of foster care during a state of emergency.

In the News – City



Comptroller DiNapoli: NYC Retail Sector Battered by Pandemic

The retail sector, one of New York City's biggest employers, is having an uneven recovery from the COVID-19 pandemic, with "non-essential" retailers struggling but online sellers booming, according to a [report released this](#) week by State Comptroller Thomas DiNapoli.

"2020 was a bleak year for brick and mortar retailers, and the holiday season's tepid start as infection rates rise may push many to insolvency," Comptroller DiNapoli said.

In 2019, the city's retail sector had 32,600 businesses that provided 344,600 jobs, paid \$16 billion in total wages citywide, and contributed \$55 billion in taxable sales to the city's economy, according to Comptroller DiNapoli's report. About 44 percent of all retail workers who lived in the city were immigrants. Including both immigrants and native-born residents, Hispanic and Latino people made up the largest share of the city's retail workforce (31 percent), followed by White (25 percent), Black and African American (22 percent) and Asian (19 percent).

By March 22, when New York's statewide stay-at-home order went into effect, the city essentially shut down, causing the closure of many retail establishments, including clothing, general merchandise, and furniture stores. By April, retail sector employment had dropped to 245,000 positions, according to the Comptroller.

In Manhattan, foot traffic in key corridors initially fell by more than 90 percent at the onset of the pandemic and is still less than half of its 2019 levels in some commercial corridors, the report found. The borough had nearly half of all retail jobs in 2019, and these paid an average salary of \$59,400, above the citywide average of \$46,600.

Comptroller DiNapoli's report found that by August 2020, employment in essential stores, such as groceries and pharmacies, had returned to pre-pandemic levels. While online retailers and some essential businesses have experienced growth since the beginning of the pandemic, others have struggled. In most retail subsectors, such as clothing and clothing accessories stores, employment as of October remains below levels from a year earlier.

According to the Comptroller, retail firms in New York State have relied primarily on federal assistance to shore up their businesses. Retail firms sought assistance mainly from the Paycheck Protection Program (PPP), Economic Injury Disaster Loans (EIDLs) and the Small Business Administration's Loan Forgiveness programs, while nonretail businesses sought relief from these as well as other federal programs and commercial banks.

The report found that more than half (52 percent) of the city's retailers were approved for PPP loans. The number of retail jobs reported by them accounted for 38 percent of all retail sector jobs. Loans to food and beverage stores, health and personal care stores, and clothing and clothing accessories stores accounted for 57 percent of all retail sector loans and 62 percent of all retail sector jobs reported.

Comptroller DiNapoli's report noted that brick-and-mortar retailers, already concerned with rent costs, are now experiencing more acute need from the lack of revenues that used to come from their physical stores.



Bills Passed by the City Council

Prohibits the Termination of Fast-Food Employees Without Just Cause

Int. 1396-A, sponsored by Council Member Adrienne Adams, would prohibit fast-food employers from terminating the employment or substantially reducing the hours of a fast-food employee in the absence of bona fide economic reasons, including full or partial closing of operations or technological or organizational changes to the business in response to the reduction in volume of production, sales, or profit.

Additionally, the employer would be required to discharge employees by inverse seniority (those hired last will be discharged first). Employees discharged for bona fide economic reasons within the prior year must first be offered available shifts before they are distributed to other employees or new hires. This bill additionally provides for arbitration of disagreements between fast-food employers and fast-food employees. This bill would take effect 180 days after it becomes law.

Int. 1415-A, sponsored by Council Member Brad Lander, would prohibit fast-food employers from terminating the employment or substantially reducing the hours of a fast-food employee in the absence of the fast-food employee's demonstrated failure to satisfactorily perform job duties or misconduct; in other words, without just cause. Employers would be required to give employees a written reason for the termination of their employment. Laid off fast food employees would also be entitled to schedule pay premiums for shifts lost due to termination and provides for remedies including reinstatement, back pay, and civil penalties. This bill would take effect 180 days after it becomes law.

Whistle Blower Protections

Int. No. 1770-A, sponsored by Council Member Ritchie Torres, would expand whistleblower protections for individuals facing adverse personnel actions by:

1. Requiring the Corporation Counsel to investigate allegations of adverse personnel action against high-ranking officials within the Department of Investigation (rather than having those officials investigate themselves);
2. Clarifying that persons who report misconduct to the Special Commissioner of Investigation for the New York City School District are eligible for whistleblower protection;

3. Requiring that the entity investigating a whistleblower retaliation claim provide periodic status updates (at least every 90 days) to the relevant whistleblower;
4. Establishing a private right of action for City employee whistleblowers who suffer adverse personnel actions if their employing agency does not comply with remedial actions recommended by the Department of Investigation (or appropriate investigating entity); and
5. Requiring more comprehensive annual reporting about whistleblower retaliation claims from the Department of Investigation.

Requires the New York City Department of Education to Report on Remote Learning Attendance*Int. No. 2058-A, sponsored by Public Advocate Jumaane D. Williams*, would require the New York City Department of Education (DOE) to post student attendance data on its website monthly during the use of remote learning due to the COVID-19 pandemic.

Requires the New York City Department of Education to Report on Metrics Regarding Remote Learning During the COVID-19 pandemic*Int. No. 2104-A, sponsored by Council Member Mark Treyger*, would require the New York City Department of Education (DOE) to report on a series of metrics whenever it is engaged in remote learning due to the COVID-19 pandemic.

Extends the Deadline for the Installation of Carbon Monoxide Detectors in Commercial Spaces*Int. No. 2171-A, sponsored by Council Member Robert Cornegy*, extends the Local Law 191 compliance deadline by six months, until July 1, 2021, in order to give property owners additional time to install carbon monoxide detectors in compliance with the law. Local Law 191 of 2018 requires the installation of carbon monoxide detectors in certain new Group M occupancies and certain existing commercial buildings that were not previously required to have carbon monoxide detectors.

Extends the deadlines for inspection and correction of building gas piping systems in community districts 1, 3 and 10*Int. No. 2151-B, sponsored by Council Members Daniel Dromm and Robert Cornegy*, would extend the deadline for buildings in Community Districts 1, 3 and 10 in all boroughs to inspect gas piping systems and, where applicable, certify that hazardous conditions have been corrected. The deadline for these requirements, which were established by Local Law 152 of 2016, would be extended from December 31, 2020 to June 30, 2021. The deadlines for the remaining Community Districts are staggered through December 2023.

Briefs

LIRR Projects Run \$70 Million Over Budget, Years Behind Schedule: State Comptroller

A State Comptroller report on Long Island Rail Road (LIRR) capital projects found that the railroad has run almost \$70 million over budget and years behind schedule because officials failed to enforce their own construction rules, according published reports.

According to Comptroller Thomas DiNapoli' study of 11 of the railroad's construction projects from 2015 to 2020, LIRR officials were lax in relation to budgeting, project start dates, and reviewing hours worked by LIRR employees. Since this audit was conducted, the new MTA Construction & Development agency has assumed capital program management from the LIRR and other MTA agencies.

Attorney General James Sues to End Google's Illegal Monopolies

New York Attorney General Letitia James this week co-led a bipartisan coalition of 38 attorneys general in suing Google LLC for its "illegal, anticompetitive conduct that has sought to maintain its monopoly power in the general search services and search advertising markets." The suit was filed in the U.S. District Court for the District of Columbia.

The attorneys general assert that through a series of exclusionary contracts and other anticompetitive conduct, Google has deprived consumers of competition that could lead to greater choice and innovation, as well as better privacy protections. Attorney General James and the coalition also accuse Google of exploiting its market position to accumulate and leverage data to the detriment of consumers, all in an effort to control the market and generate profits. Google is charged with multiple violations of Section 2 of the Sherman Act.

The suit asks the court to halt Google's illegal conduct and restore a competitive marketplace. The states also seek to counter any advantages that Google gained as a result of its anticompetitive conduct, including divestiture of assets as appropriate. Finally, the court is asked to provide any additional relief it determines appropriate, as well as reasonable fees and costs to the states.

City Council Voluntarily Recognizes Union of Council Staffers

The City Council voluntarily recognized the newly formed Association of Legislative Employees, a union that will represent two civil service titles ("Legislative Financial Analyst" and "Senior Legislative Financial Analyst") in the Council's Finance Division. The petition now goes to the Office of Collective Bargaining for certification.

"As the proud son of a Teamster, I am a staunch supporter of labor and deeply appreciate the stability and benefits that unions provide to working families," Council Speaker Corey Johnson said. "I am told that it is rare to have a City governmental entity file a voluntary petition of recognition for employees seeking to unionize but I believe that it is important to practice what you preach, especially when it comes to workers' rights. That's why I am so proud to have filed this petition on behalf of our Central Staff Legislative and Senior Legislative Finance Analysts."

Mayor de Blasio Appoints Keri Butler as Acting Executive Director of Public Design Commission

Mayor de Blasio announced this week that he has appointed Keri Butler as the Acting Executive Director of the Public Design Commission (PDC). Butler, who has served at PDC in various roles for 15 years, has most recently served as the agency's Deputy Executive Director.

In addition to overseeing the PDC's design review process, Butler has represented the Commission on panels and public events that highlight the City's art collection and women designers. Butler managed Superstorm Sandy recovery efforts in 2012-13 and led the Commission through the abrupt transition to remote work during the COVID-19 pandemic.

She holds a Bachelor of Arts in Art from the University of North Texas and a Master of Arts in Arts Administration from the School of the Art Institute of Chicago

Coming Up

New York State

Tuesday, December 22nd

Meeting of the Independent Redistricting Commission, Virtual Meeting, 2 p.m.

<https://www.ustream.tv/channel/8uudgGB33NV>

New York City

No meetings scheduled.

**“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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