



This Week in New York

Covering New York State and City Government

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In the News – New York State

Comptroller DiNapoli Calls for Better Oversight of Child Performers

The state Department of Labor (DOL) is falling short in enforcing New York's laws to protect child performers, according to an audit released this week by New York State Comptroller Thomas DiNapoli.

State auditors found shortfalls with how work permits were given to children and employers, inadequate monitoring of work conditions, and insufficient enforcement of requirements to set aside some of the children's earnings in a trust.



"New York needs to do more to protect child actors, dancers, musicians and models," Comptroller DiNapoli said. "We have laws on the books to make certain that children are working with permits, and employers and parents are following the rules to protect the safety, health and financial rights of child performers. The state Department of Labor should hold the entertainment and modeling industries accountable to protect these children."

In response to the Comptroller's audit, DOL Commissioner Roberta Reardon issued a point-by-point rebuttal of the findings, charging that "... report contains serious factual errors and reaches conclusions that are erroneous."

In New York, the state Department of Labor (DOL) enforces the laws to protect child performers, including issuing work permits, observing working conditions and enforcing trust accounts. DOL issues one-year permits to performers under 18 years of age and certificates to employers every three years. From April 1, 2014 to October 31, 2016, DOL issued about 27,000 child performer permits including: about 8,000 temporary permits, 11,000 new annual permits, 4,500 annual permit renewals, and 3,500 permits not identified by type. For the same period, DOL issued 844 employer certificates.

The law also requires 15 percent of a child's earnings to be placed in a trust. In 2004, after laws were adopted to better protect child performers, the Comptroller's office established accounts for performers' earnings (deposits from employers) if parents or guardians failed to establish a trust account or to provide trust account information to the employer. Through October 2016, more than \$640,000 had been deposited with the Comptroller for about 5,600 child performers.

The Comptroller's auditors examined the period of April 2014 to March 2017 and found:

- DOL issued both annual permits and employer certificates without receiving all the documentation required, such as proof of a child's date of birth, evidence of the child's academic performance, health forms and trust account information. Auditors tested permit records and found more than half of the annual permits sampled were issued without Social Security numbers, trust information or other required documentation.
- At least 133 children were issued multiple temporary permits, which DOL failed to identify. Children are allowed only one temporary permit in a lifetime. One performer, who obtained a temporary permit which is only valid for 15 days, had 19 deposits into the trust held by the State Comptroller for multiple performances over a two-year period. Auditors found five performers without permits were paid over \$10,000 for a single performance, and three performers without permits were paid over \$20,000 each for a single performance.
- DOL did not conduct any site visits or assess workplace conditions during the audit period. Nor had it taken measures to proactively verify permits, certifications, and education or safety provisions for child entertainers.
- The numbers of annual deposits with the State Comptroller increased from 14 deposits in 2004 to 1,174 in 2016. Thirty-five percent of this money was deposited in just the last year. However, half of this money was deposited more than five years ago, and 29 percent over 10 years ago. In some cases, the funds have been held for so long that the performers are no longer children, having already attained the age of 18. Some accounts consist of multiple deposits over years, and some are for just one performance.
- The highest number of trust account deposits for one performer was 27, and the highest single deposit was over \$26,000. Accounts are as old as May 2004, with one having a balance over \$25,000. However, the amount owed to most child performers is small, ranging from \$1 to \$100.

Comptroller DiNapoli's auditors recommended DOL:

- Design and implement a system of internal controls to ensure that the laws governing the welfare of child performers are followed and that parents/guardians and employers comply with the requirements of the law.
- In conjunction with the Office of Information Technology Services, develop a system that can easily and readily store, access, and analyze required child performer and employer information and develop a process to identify and correct apparent system flaws.

Labor Commissioner Reardon rebutted the audit findings and defended the Department's field work.



“We urge the OSC to contact advocates and other organizations who work with child performers to obtain a complete picture of the Department's presence in the industry,” Commissioner Reardon asserted in related to the Comptroller's criticism of the Department's oversight. “The Department responds to almost 10,000 inquiries each year from employers, parents, agents, industry groups, and educators. The Department conducted 8 investigations during the audit period based on formal complaints, one of which will result in issuance of a penalty. These do not include informal complaints the Department proactively resolved though contact with employers, unions, or educators. Protecting children is a coordinated effort that brings the Department together with schools, employers, and health officials to ensure child performers are protected.”

The Comptroller's auditors followed-up to DOL's response, pointing out that DOL had numerous opportunities to comment on the audit's findings and did not provide any preliminary feedback and incorrectly read its own data.



Bills Signed by the Governor

Chapter 108 (Sponsored by M of A Cusick/Senator Lanza) -- Extends, until December 31, 2018, the authorization of residential property owners in high risk brush fire areas on Staten Island to cut and remove reeds

Chapter 116 (Sponsored by M of A Buchwald/Senator Bonacic) -- Relates to contracts for publication of official court reports.

Chapter 117 (Sponsored by M of A Peoples-Stoke/Senator Gallivan) -- To expand the list of enumerated, surviving family members eligible for reimbursement of crime scene cleanup expenses when a victim/family member is killed in a shared residence.

Chapter 119 (Sponsored by M of A Gottfried/Senator Hannon) -- Clarifies that any health care practitioner who has the necessary experience, prescribing authority, and scope of practice, may enter into a collaborative agreement with a person or entity seeking to possess and/or operate an automated external defibrillator.

Chapter 122 (Sponsored by M of A Blake/Senator Gallivan) -- Allows for county jails to contract with medical professional corporations for the provision of inmate health care services.

Chapter 98 (Sponsored by M of A Weinstein/Senator Golden) -- Relates to terms and conditions of employment of certain nonjudicial officers and employees of the unified court system

Chapter 141 (Sponsored by Senator Croci/M of A DenDekker) -- Allows towns to adopt a local law or resolution to include reserve veterans for the veteran alternative exemption.

Chapter 143 (Sponsored by Senator Amedore/M of A Santabarbara) -- Makes permanent the provisions of law authorizing the hunting of big game in the county of Schenectady with pistols, rifles, shotguns, crossbows and long bows

Chapter 148 (Sponsored by Senator Gallivan/M of A Weprin) -- Extends from September 1, 2017 to September 1, 2020, the expiration of provisions authorizing local correctional facilities to enter into agreements to take custody of out of state inmates.

Chapter 152 (Sponsored by Rules/M of A Levine) -- Relates to allowing certain special assessing units other than cities to adjust their current base proportions.

NYS to Study "Textalyzer" Technology

Technology Designed to Detect if a Cellphone was Used Immediately Before a Crash

Governor Andrew Cuomo this week directed the Governor's Traffic Safety Committee to study "Textalyzer" technology, which is designed to detect if a cellphone was used in the moments before a crash. The Committee will hear from advocates who support this technology along with other stakeholders and issue a report on their findings.



"Despite laws to ban cellphone use while driving, some motorists still continue to insist on texting behind the wheel -- placing themselves and others at substantial risk," Governor Cuomo said. "This review will examine the effectiveness of using this new emerging technology to crack down on this reckless behavior and thoroughly evaluate its implications to ensure we protect the safety and privacy of New Yorkers."

Among the issues to be considered by the Committee and its member are:

- Constitutional and legal issues associated with the implementation and use of technology.
- Implementation and use of technologies in other jurisdictions.
- Statutory amendments necessary for the implementation and use of technology in New York.

At the conclusion of the study, a report will be issued on their research and next steps. Meetings with interested parties will be scheduled by the committee.

From 2011-2015, 12 people were killed in New York State and 2,784 people were injured in cell phone crashes, according to a December 2016 report by The Institute for Traffic Safety Management and Research.

During that time, 1.2 million tickets were issued for cell phone violations. A total of 217,021 tickets were issued for cell phone violations in 2015, down 16 percent from 2011. Of the tickets given in 2015, 39 percent were for texting.

In the News – New York City



MTA Launches Chairman Lhota's NYC Subway Action Plan

In response to Governor Andrew Cuomo's "emergency declaration" and 30-day call for action, the Metropolitan Transportation Authority (MTA) has launched the first phase of its NYC Subway Action Plan. The first phase starts immediately and will deliver improvements within one year. It focuses on a better customer experience through increased reliability and capacity, enhanced stations and safety, and clear and accurate communication.

According to MTA Chairman Joseph Lhota, the two-phase plan addresses 79 percent of the major incidents that cause delays in the system, such as signal malfunctions, track issues, failing power infrastructure, water-related damage and corrosion, track fires, car breakdowns, police activity and station issues. This first phase targets components in the system that have the biggest impact on subway service. The second phase of the plan looks forward to the future of the system, in particular its modernization.

To address signal and track maintenance, MTA New York City Transit will expedite a signal repair program targeting 1,300 of the most problematic signals, go after water leaks with sealing and street grates to eliminate drain clogs, aggressively clean the entire underground subway network to remove debris and reduce fire hazards, and dispatch special teams to locations with the highest incident rate of track issues. NYC Transit will triple the rate of planned installation of continuous welded rail (CWR), which decreases the number of rail joints where failures are most likely and also provides smoother and quieter rides, as well as launching more Combined Action Teams (CAT) to decrease response times from 45 minutes to 15 minutes.

To improve car reliability, NYC Transit will expand the number of overhauls from 950 to 1,100 cars per year. Maintenance crews will prioritize the inspection and repair of doors, which cause 40 percent of car breakdowns, and interior upgrades will be added to the regular maintenance cycle to improve customer experience. For in-service breakdowns, NYC Transit will dispatch repair teams at certain locations for quicker access to on-site repairs.

The MTA's plan was met with support from both organized labor and the Cuomo administration.

"We're gratified the MTA in many areas has agreed with the men and women who know the subway the best – transit workers," said John Samuelsen, the president of the TWU Local 100. "We can and will do our part to end this reliability crisis. Our elected officials now have to step up and provide the necessary funding to get the job done. No more political games. No more shirking responsibility."

In response to TWU's call, Governor Cuomo "stepped up" and pledged to fund 50 percent of the plan.

"New York State commits itself to fund 50 percent of the plan. Why? Because it's smart... Its fair, it's right..." Governor Cuomo explained. "I want Mr. Lhota and Mr. Samuelsen to know, today I am making the state's funds available to begin the transformation of the MTA... To me, this is black and white, New Yorkers need help and they need it now. The fundamental responsibility of government is to respond in a timely and effective when people need help. And the current MTA situation is a crisis."

In addition, the Governor announced two public-private funding programs (see page 7) to spur the plan.

The details of the second phase will be outlined in the coming weeks, and will address long-term plans to improve the system, such as better subway cars, a new signal system, and modern communications technology. An Advisory Board of transportation and infrastructure experts will advise in the execution of the plan. The members are:

- David N. Dinkins, Former Mayor, New York City
- Kathryn S. Wylde, President and CEO, Partnership for New York City
- Daniel L. Doctoroff, CEO, Sidewalk Labs
- Peter Kalikow, President, Kalikow & Company
- John Samuelsen, President, TWU International & President, TWU Local 100
- Dennis Rivera, Senior Advisor to the President, SEIU & Founder and Former Chair, SEIU Healthcare
- Hector Figueroa, President, 32BJ Service Employees International Union
- Sarah Feinberg, Former Administrator, Federal Railroad Administration
- Gene Russianoff, Straphangers Campaign
- Mitchell L. Moss, Director, NYU Rudin Center for Transportation Policy and Management

NYS Launches of Subway Partnership Programs

Governor Andrew Cuomo yesterday announced two public funding opportunities to help the Metropolitan Transportation Authority (MTA) to spearhead redevelopment of the New York City subway system. The Subway Partnership Program would allow private corporations to invest in a fund to support the subway system and work closely with the MTA on issues affecting commuters. The Adopt-A-Station program would allow companies to enhance the maintenance and security at 72 subway stations throughout the City.

Subway Partnership Program

Companies participating in the Subway Partnership Program will help to further transform our stations and create a better commuter experience in New York's subway stations. A minimum commitment of \$250,000 to the Subway Partnership Sponsors Council will be required to join the partnership. The first partners in the Partnership Program:

- BlackRock, Inc.
- Blackstone
- The Estée Lauder Companies
- MasterCard
- Hearst
- Partnership for New York City
- Rudin Management Company, Inc

An Executive Director reporting directly to the MTA Chairman and to the Subway Partnership Sponsors Council will be appointed. The Council, representing contributors to the Partnership, will develop private-sector solutions to problems facing the system, specifically related to the rider experience, including staffing, technology, and communications practices. This will also include volunteer advisory opportunities for sponsor employees.

Adopt-a-Station Program

Separate the partnership program, a second component of the Governor's public-private partnership proposal allows businesses the opportunity to "Adopt-a-Station," with a contribution of up to \$600,000. Businesses that decide to adopt a station will fund enhanced maintenance efforts and additional security components and features at that specific station.

The program targets 72 eligible stations, 18 each in the Bronx, Brooklyn, Manhattan and Queens, were selected based on several factors including the highest number of customer complaints regarding station condition, high volume of traffic (ridership and tourist destinations) and intersections with several lines at transfer points.

For every station sponsored within the Borough of Manhattan, at least one station on the priority list outside of Manhattan must also be sponsored. Contributions shall be tax deductible pursuant to IRS code and applicable state laws.



Comptroller Stringer Releases Analysis of New York City's Fiscal Year 2018 Adopted Budget

The recently adopted NYC FY2018 budget places the City on “strong financial footing,” according to City Comptroller Scott Stringer. The FY 2018 budget will total \$87.96 billion, a “responsible” increase of 2.8% from the adjusted Fiscal Year 2017 budget.

“The Mayor has put money away in reserves and invested in critical programs. This budget helps ensure that we’re on strong fiscal footing,” NYC Comptroller Scott M. Stringer said. “While businesses are still growing and jobs are still on the rise, there are signs the economy is slowing. Of course, with chaos in Washington and the White House seeking to slash the safety net, we have to remain vigilant.”

Findings in the report include:

- In the first quarter of 2017, the City’s economy grew by 2.6 percent, outpacing national economic growth of 1.4% over the same time period.
- During the first six months of the year, the City’s unemployment rate averaged 4.3% — down from 5.3% over the same period in the previous year. Between January and June 2017, the number of payroll jobs in the City increased by 82,000, or 1.9%
- Approximately 72% of the FY18 budget is funded with City-generated revenue, followed by State categorical grants (17%), Federal categorical grants (9%), other categorical grants (1%), and Inter-Fund Agreements (1%).
- More than 80% of budgeted expenditures — nearly \$70 billion — are allocated to education, social services, public safety, and judicial, fringe benefit, pensions, and general government spending.

According to preliminary returns, the City Pension Funds’ investments grew by 13 percent in Fiscal Year 2017, above the actuarial interest rate assumption of 7 percent. Since 2014, the funds have averaged annual returns of more than 7 percent. These preliminary numbers may be revised up or down in the coming months, and the Comptroller’s Office expects that potential market declines in future years could lower returns.

On the downside, the Comptroller’s Office identified four main spending-based risks in the FY18 adopted budget: overtime, homeless services spending, Health + Hospitals payments, and special education Medicaid reimbursements. Specifically:

- Overtime (\$169 million) — The City’s FY18 overtime budget is 22% lower than the current year’s estimated overtime spending through June.

- Homeless Services (\$121 million) — Spending on shelter operations by the Department of Homeless Services (DHS) is projected in budget documents to fall from \$795 million in FY17 to \$694 million in FY18
- Health + Hospitals (\$165 million) — H + H is required to reimburse the City for debt service, judgements and claims settlements, and fringe benefit costs incurred on H + H's behalf. While the financial plan reflects the City's decision to waive H + H's debt service, it continues to assume the system will pay \$140 million for settlements and \$25 million for fringe benefit costs. According to Comptroller Stringer, H + H has only made one payment for these expenses in the last four years.
- Special Education Medicaid Reimbursements (\$70 million) — the Department of Education must cover any shortfall in Medicaid reimbursement for special education related services. The City's financial plan assumes reimbursements of \$97 million annually. According to Comptroller Stringer, the DOE has realized an average of \$15 million in annual reimbursements over the last six years.

Briefs

First Span of the New Tappan Zee to Open August 25

Governor Announces Tolls will Fund Project Completion

The first span of the new Tappan Zee Bridge, which has been renamed after Governor Mario Cuomo, will open on August 25, Governor Andrew Cuomo announced Thursday morning at an Association for a Better New York event in Manhattan. In addition, in response to questions, Governor Cuomo said the project will be funded by Thruway tolls after 2020.

“It's part of the Thruway Authority, all the tolls are frozen through 2020,” the governor said. “We have used cash to pay for part of the bridge over the past two years and the remainder after 2020 will be paid with toll revenue from the entire system.”

Executive Order Directs Agencies to Offer Voter Registration

Governor Andrew Cuomo recently signed Executive Order #169, which directs every state agency to make available voter registration forms and to offer assistance in filling them out.

Under current state and federal law, forms are available at the Department of Motor Vehicles and certain social service agencies. This order expands the forms to agencies which interact with the public through professional licensing, recreational activities, and other avenues. Additionally, under this order all agencies are directed to mail or provide electronically voter registration forms to members of the public whose contact information they maintain.

The Governor also established the State Agency Voter Registration Task Force, which is composed of Alphonso David, the Counsel to the Governor and Jamie Rubin, the Director of State Operations, as well as various agency commissioners. The Task Force will oversee administration of the state agency voter registration program in consultation with the State Board of Elections.

The Task Force will also explore ways to implement the reforms laid out in this Executive Order with the use of electronic signatures and how to set up secure online voting registration systems, similar to the one currently in place at the Department of Motor Vehicles, through additional state agencies.

Comptroller Stringer Updates Transparency Website to Show More Subcontracting

New York City Comptroller Scott Stringer announced this week that his office is modifying [Checkbook NYC](#), the website showing city spending, to include more information on sub-vendors.

The site, which consists of a series of interactive charts and graphs displaying city agency spending and contracts, already features a dashboard of sub-vendors with information on payments by agency, contract, and primary vendor. The Comptroller is adding information on the number of contracts that require sub-vendor data and how many have submitted it; the number of proposed sub-vendors approved or rejected by agency chief contracting officers (CCOs); the numbers of sub-vendors at different stages of approval at each agency; and the general number of sub-contracts by prime vendors by agency.

In addition, the entry for each individual contract will indicate whether the contractor is required to report sub-vendor information, if that information has been submitted, and where proposed sub-vendors are in the approval process.

Coming Up

New York State

No meetings scheduled.

New York City

Wednesday August 2nd

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

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