



This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

December 15, 2017 Edition



In the News – New York State



State Fulfills Promise to Families of Fallen NYC Sanitation Workers

Governor Signs Legislation Providing Accidental Death Pension Benefits

The family members of New York's Strongest who lost their lives in service to the City of New York will receive long-deserved accidental death pension benefits based on 100% of the decedent's salary under legislation signed this week by Governor Andrew Cuomo (Chapter 457/2017).

Sponsored by Senator Martin Golden and Assemblyman Michael DenDekker, the bill provides Special Accidental Death Benefits to eligible beneficiaries of employees of the Uniformed Force of the Department of Sanitation who die as a natural and proximate result of an accident sustained in the performance of duty. The measure is retroactive to November 1, 1996, providing benefits to both current and future beneficiaries.

According Harry Nespoli, president of the Uniformed Sanitationmen's Association, IBT Local 831, the legislation is the culmination of decades of negotiations between the IBT Local 831, the City of New York, and the State.

"This legislation fulfills a promise to remember and support the families of those who have died in the service of New York City and it mirrors the benefits received by other City uniformed services," President Nespoli explained. "Sanitation workers are good, hard working people. They have families. They support their communities. They strive to make New York City a better place to live and work. This legislation is long overdue."

Earlier versions of the initiative were vetoed in 2006 (Veto 410) and 2007 (Veto 147) by Governor George Pataki and Governor Eliot Spitzer.

Prior to the enactment of Chapter 457, eligible beneficiaries received an annual death benefit of one-half the member's salary. In addition, widows and widowers who remarried would lose the benefit.

Chapter 457 provides the beneficiaries with a benefit totaling 100 percent of the worker's salary, subject to cost of living adjustments, less any applicable social security or workers compensation benefits. In addition, the bill prospectively allows a surviving spouse to remarry without losing his or her right to accidental death benefits.

Since November 1996, the New York City Sanitation Department has averaged approximately one accidental death per year. According to the Chief Actuary of the City, as of June 30, 2016, there are 24 Sanitation beneficiaries currently in receipt of applicable accidental death benefits, including surviving children.

To follow are a few of the stories of fallen IBT 831 members:

On November 12, 1996, Michael Hanly died after he inhaled the fumes of corrosive hydrofluoric acid from a discarded container that burst under the compacting blades of his garbage truck. The 22-year Sanitation veteran was making routine collections near 8161 New Utrecht Avenue at 84th Street, in a light-industrial area of Bensonhurst. A Brooklyn resident, Mike was survived by his wife Cathy and four daughters. <http://www.nytimes.com/1996/11/17/nyregion/a-death-reminds-sanitation-force-of-its-unseen-hazards.html>

In February 2000, Frank Consalvo, 47, of Staten Island, died of injuries after being struck by a van on 40th Street in Borough Park. Frank was alone, driving his truck to a transfer station in Brooklyn when he was told to pick up a dead cat on 40th St. near 14th Ave. He double-parked his truck and had apparently wrapped the cat in plastic seconds before he was struck by the van. A passer-by noticed Frank's body and called the police shortly before 10 p.m. Frank was holding down two jobs to help put his sons through college. He and his wife, Diane, were married 27 years. (<http://www.nydailynews.com/archives/news/sanitation-worker-dies-hit-and-run-article-1.867931>).

In January 2004, Eva Barrientos, a nine year veteran of the force, then 41, was crushed by a lever lifting a steel trash bin and became perhaps the first female sanitation worker in the city to be killed on the job. Eva had apparently tried to clear some trash that had jammed the truck's compactor. She was survived by three children: a son and two daughters. Her neighbors recalled Eva as a friendly, outgoing woman who paid attention to her appearance, never leaving home without doing her hair. At the time, family members said that the challenge of raising Ms. Barrientos's daughters would now fall to her 77-year-old grandmother, Lydia Hernandez. <http://www.nytimes.com/2004/01/27/nyregion/city-sanitation-worker-killed-in-a-freakish-truck-accident.html?mcubz=1& r=0>

In January 2010, Frank Justich was killed when a milk delivery truck making a right turn onto Ditmars Boulevard near 35th Street, pinned him against his sanitation truck. Frank had just emptied a trash bin near the Astoria street corner. An 11-year veteran sanitation man, Frank left behind a wife and two children, 1 and 4-year-old daughters. At the time, his cousin, Maco Brito, said "He lived for his kids...He treated everybody else's kids like they were his own, too." <https://cityroom.blogs.nytimes.com/2010/01/26/sanitation-worker-is-killed-in-queens>

The legislation received a Home Rule Message from the New York City Council, was passed unanimously by the State Senate, and was approved by the State Assembly 128-13. All expenses resulting from this legislation will be paid by the New York City Employees Retirement System funded by the City. Chapter 457 was effective immediately upon signature.

The Pitta Bishop & Del Giorno team is proud of the lobbying role we played in supporting the enactment of Chapter 457. We are very appreciative of the support received from Governor Cuomo, Mayor Bill de Blasio, Senator Golden, Assemblyman Den Dekker, City Council Members Melissa Mark-Viverito and Karen Koslowitz, and all of those who voted for the legislation. We are especially appreciative of the efforts of President Nespoli, Cathy Hanly, and Rosanne Guglielmino who channeled their grief and passion into a campaign to help the entire Sanitation family.



Governor Unveils First Proposal of 2018 State of the State Address: Remove Firearms from Domestic Abusers

New York to Require Mandatory Surrender of Firearms After All Domestic Violence Convictions, Including Misdemeanors

Governor Andrew Cuomo this week unveiled the first proposal of the 2018 State of the State Address (to be delivered on January 3rd): remove all firearms from those who commit domestic violence crimes. The legislation would require all domestic violence crime convictions, including misdemeanors, to result in the immediate removal of all fire arms and will add measures to keep firearms out of the hands of those who commit domestic violence.

"This year will be remembered as the year of reckoning, when both the tragedy of mass shootings and cultural and institutional harassment of women became impossible to ignore," Governor Cuomo said. "Building on the Women's Equality Agenda, we are continuing our mission for progressive values and women's rights with this legislation to target the unquestionable relationship between domestic violence and gun violence."

This proposal builds on legislation previously advanced by Senator Diane Savino and Assemblymember Amy Paulin.

"A glaring loophole exists that permits convicted domestic violence perpetrators to possess firearms, putting the lives of women and the public at serious risk," Senator Savino explained. "Most recently, the madmen responsible for mass shootings in Las Vegas, Northern California and Sutherland Springs had records of domestic violence. We must take aim at this flaw in the law and ensure firearms never wind up in the hands of domestic abusers in our state."

Specifics of the legislation include:

All Domestic Violence Convictions Result in the Loss of Firearms

New York law prohibits the possession of firearms for individuals convicted of felony or "serious" offenses. However, this excludes certain misdemeanor offenses involving domestic violence, such as assault and battery crimes or strangulation. To ensure that all domestic violence offenders are held to the same standard, Governor Cuomo will advance legislation to include all domestic violence misdemeanors on the list of prohibited offenses.

Rifles and Shotguns Are Also Required to be Surrendered to Law Enforcement

Currently, New York State requires surrender of hand guns for either (1) an order of protection issued by a judge; or (2) a firearm license suspension/revocation due to a felony or "serious" offense conviction or a mental health disqualification by a health professional.

However, this surrender does not always apply to long guns, such as rifles and shotguns. To correct this loophole, Governor Cuomo will be proposing legislation to apply the same surrender procedures to long guns.

For an Order of Protection, Judges Must Order a Defendant to Surrender Any Type of Firearm

According to Governor Cuomo, currently, judges issue orders of protection in domestic violence cases after an individual is arrested, but before they are convicted. These orders result in the suspension of firearm licenses. However, these orders are issued at the judges' discretion and may not occur in every domestic violence case. To ensure consistency, the State proposes legislation requiring that all judges mandate the surrender of all firearms and suspend any firearm license until the case is resolved.



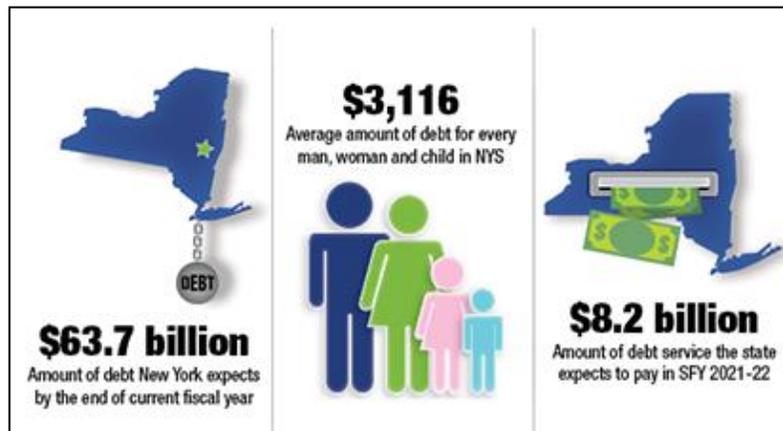
Comptroller DiNapoli: New York Ranks Second Nationally in Debt

New York's state-funded debt is projected to reach \$63.7 billion at the end of the current fiscal year and to increase over the following four years to \$71.8 billion, according to a report issued this week by New York State Comptroller Thomas DiNapoli. New York's total debt ranks second only to California.

"New York faces tremendous infrastructure challenges and the wise use of debt can be an essential part of the financing picture," Comptroller DiNapoli said. "Still, backdoor borrowing imposes significant costs on taxpayers, lacks transparency, and may limit flexibility in providing important services and programs."

New York's per capita debt is \$3,116 or three times the median for all states. The annual debt service payments are projected to exceed \$8.2 billion by the end of State Fiscal Year 2021-22. New York's debt includes (as of March 31, 2017):

- \$61.4 billion in state-funded debt outstanding, an increase of \$8.9 billion, or 17 percent, from SFY 2007-08.
- \$2.46 billion in voter-approved, General Obligation debt.
- \$47.2 billion of state-supported debt issued by public authorities.
- \$11.7 billion of debt "which is not counted as state-supported debt but is part of total state-funded debt outstanding."



Comptroller DiNapoli explained that state-funded debt is a measure developed by the Office of the State Comptroller to provide a more comprehensive description of the state's debt burden than the statutory measure of state-supported debt. The \$61.4 billion in state-funded debt outstanding at the end of SFY 2016-17 included \$49.6 billion of state-supported debt. Examples of such additional debt include bonds issued by the Tobacco Settlement Financing Corp. and certain bonds issued in recent years to pay for State University of New York dormitories.

Total state-funded debt is projected to increase by \$10.4 billion, or 17 percent, over the state's current five-year capital plan period. Comptroller DiNapoli's report notes:

- New York's current debt total is second only to California's \$87 billion.
- New York's debt as a percentage of personal income, at 5.1 percent, more than two times the national median of 2.5 percent.
- New York's debt per capita of \$3,116 was three times the national median of \$1,025.

The report also included proposals for debt reform. Comptroller DiNapoli called for a New York State Capital Asset and Infrastructure Council to provide an inventory and monitor the status of all capital assets of the state and its public authorities and a Statewide Capital Needs Assessment and require a comprehensive 20-year long-term strategic plan to guide the five-year Capital Plan.



Bill Signed by the Governor

Chapter 452 – M of A Buchwald/Senator Ranzenhofer – Relates to the publication of the proposed capital program plan by the Metropolitan Transportation Authority.

Chapter 453 – M of A Paulin/Senator Gallivan – Relates to freedom of information requests and attorney's fees.

Chapter 454 – M of A Glick/Senator LaValle – Relates to admission requirements for graduate-level teacher and educational leader programs for certified teachers already holding a graduate degree.

Chapter 455 – M of A Simotas/Senator Jacobs – Relates to the comment period for proposed rules.

Chapter 456 – Senator Felder/M of A Kavanagh – Grants a personal income tax deduction for any student loan that is discharged as the result of the death or permanent and total disability of the borrower.

Chapter 457 – Senator Golden/M of A DenDekker – Relates to pension benefits of widows or widowers of sanitation workers.

In the News – New York City



NYC Department of Finance Makes Strides to Collect Property Taxes

The New York City Department of Finance (DOF) has closed holes in its property tax exemption collection program which improperly granted nearly \$60 million in property exemptions between FY 2012 and FY 2017, according to a follow-up review by City Comptroller Scott Stringer.

A July 16 audit found that the improper exemptions were going to corporate entities and deceased homeowners. Comptroller Stringer found the department has taken steps toward corrective action and, as a result, the City will receive receiving an additional \$9 million in revenue in the current fiscal year.

DOF is responsible for implementing and monitoring tax benefits granted under the Senior Citizen Homeowners' Exemption – or SCHE – which provides a partial property tax exemption for those 65 or older whose primary residence is a one, two, or three family home, a condominium, or a cooperative apartment in New York City. However, the 2016 Comptroller Stringer audit showed that 3,890 properties improperly received a SCHE tax break between FY 2012 and FY 2017, resulting in a loss of close to \$50 million in City property tax revenue. The prior audit also found 3,317 properties of deceased homeowners and corporate-owned properties had been improperly credited with an Enhanced School Tax Relief – or STAR – exemption worth more than \$10 million. That initial audit recommended that the Department of Finance take steps to recoup lost revenue as a result of its wrongful application of those property exemptions.

DOF has removed the SCHE from over 2,000 properties where the homeowner had died, and also removed the Enhanced STAR exemption from more than 1,500 properties that did not qualify. As a result, the City will realize a gain of \$9,201,392 in additional revenue for FY 2018 alone.

During the follow-up review, DOF indicated to the Comptroller's Office that the agency will remove or prorate the SCHE from an additional 576 ineligible properties and remove the Enhanced STAR exemption for 403 of those properties. Removing or prorating the SCHE and Enhanced STAR exemptions for these properties will result in a gain of \$1,292,820 in additional revenue.

“We do this work to make government function better for New Yorkers, and to ensure that dollars that should go to our kids, our infrastructure, and services for those who need them most aren't wasted. When government makes mistakes, New Yorkers expect agencies to respond – not with excuses, but with action. That's exactly what happened here... The Department of Finance deserves recognition for doing the right thing,” said Comptroller Stringer. “The Department reviewed our initial audit, recognized their errors, and took responsible steps to fix the problem. That's why we do audits: to induce corrective action. Now, millions of dollars of revenue will be collected. That's a win for taxpayers and a step forward for accountability.”

Bills Passed by the City Council

Introduction 752-C, sponsored by Public Advocate Letitia James, would require contractors employed to work on city-funded construction projects to disclose certain information regarding the demographics of employees working on those projects, in addition to other administrative information.

Introduction 1186-A, sponsored by Council Member Daniel Dromm, would update the language in the Human Rights Law, to better capture the current understanding of sexual orientation and gender, recognizing that sexual orientation ranges along a continuum.

Introduction 1382-B, sponsored by Council Member Robert Cornegy, would require certain contractors employed to work on city-funded construction projects to disclose to an agency designated by the mayor, the zip code of their employees' primary address; the address, block, and lot number of the city-funded construction project; and whether such contractor is certified as a minority-owned or women-owned business enterprise.

Introduction 1538-A, sponsored by Council Member Daniel Dromm, would require the Department of Education (DOE) to post on its website information regarding how to report incidents of bullying, harassment, intimidation or discrimination. It would also require DOE to include on each individual school's website information regarding how to report incidents of bullying, harassment, intimidation or discrimination.

Introduction 1611-A, sponsored by Council Member Ritchie Torres, would require the NYPD to report on a quarterly basis the number of index crimes by borough where at least one person has been arrested and charged with the commission of the offense.

Introduction 1618-A, sponsored by Council Member Vincent Gentile, would require annual public outreach campaigns, to educate the public on how to identify and submit complaints regarding different forms of government corruption, fraud, and waste.

Introduction 1633-A, sponsored by Council Member Vincent Gentile, would require that whenever practicable, DOI must complete a Vendor Name Check of a prospective vendor for a City contract, 30-days prior to the commencement of the contract between the City agency and the vendor.

Introduction 1651-A, sponsored by Council Member Costa Constantinides, would require the Department of Citywide Administrative Services (DCAS) to provide an annual report on electricity and fossil fuel use in certain City-owned buildings, including identifying whether such buildings have been fitted with equipment for monitoring energy usage in near real-time.

Introduction 1664-A, sponsored by Council Member Rory Lancman, would require the NYPD to report on a quarterly basis the number of theft of services arrests and fare evasion offenses returnable to the Transit Adjudication Bureau that occur in the New York City subway system.

Introduction 1678-B, sponsored by Council Member Peter Koo, would expand the definition of harassment to include threats based on a person's actual or perceived status in a protected class, including threats to report immigrant tenants to ICE.

Introduction 1696-A, sponsored by Council Member James Vacca, would require the creation of a task force that provides recommendations on how information on agency automated decision systems, otherwise known as algorithms, may be shared with the public. The task force would also provide recommendations on how agencies may address instances where people are harmed by agency automated decision systems.

Introduction 1757-A, sponsored by Council Member Mark Treyger, would require the Department of Education (DOE) to report every six months on the number of material incidents of student-to-student bullying, harassment, intimidation or discrimination, as well as the number of complaints received, disaggregated by community school district and individual high school.

Introduction 1764-A, sponsored by Council Member Barry Grodenchik, would increase the assessed value limitation for eligibility of J-51 improvements to \$32,000 per dwelling unit, and would increase each year by the cost-of-living adjustment percentage.

Briefs

NY's Freedom on Information Law Expanded

New York State agencies would be required to pay attorneys' fees and other legal costs if a court determines the entities had not basis for denying Freedom of Information Law (FOIL) requests under legislation (Chapter 453 of the Laws of 2017) approved this week by Governor Andrew Cuomo.

Under the new law, courts will now be able to award attorneys' fees if an individual who submitted a FOIL request is denied access to information and if the agency failed to respond to a request for information or an appeal within the mandated time period. Specifically, attorneys' fees will also be awarded if a court determines a state agency "had no reasonable basis" for denying access to information.

Governor Cuomo vetoed similar legislation in 2015. He noted in the approval memo that he still have reservations regarding the bill and called for comprehensive review of FOIL.

"The bill before me continues to perpetuate a fractured and inequitable system of transparency by only applying to the Executive, and intentionally excluding other branches of government," he explained. "Specifically, this bill would remove judicial discretion and mandate the award of attorney's fees against the State. Notably, current law already provides courts with discretion to award attorney's fees in such situations, but they are not required to do so...signing this bill does not address the need for comprehensive FOIL reform."

NYS Consumer Protections in Wake of Equifax Data Breach

The New York Department of State this week issued emergency regulations aimed at protecting New York consumers by increasing credit agency accountability to the Department of State's Division of Consumer Protection. The new regulations:

- Require a timely response—within 10 days—by consumer credit reporting agencies to information requests made on behalf of consumers by the Division of Consumer Protection.
- Require consumer credit reporting agencies to file with the Division of Consumer Protection, and to plainly disclose to consumers all fees associated with the purchase or use of products and services marketed as identity theft protection products, including when those products are originally offered for "free."
- Require consumer credit reporting agencies to identify dedicated points of contact for the Division of Consumer Protection so the Division can obtain information necessary to assist New York consumers.
- Require consumer credit reporting agencies to file with the Division of Consumer Protection a list and description of all business affiliations and contractual relationships they have with companies marketing credit monitoring and related products.

The Division of Consumer Protection will also issue a demand letter to Equifax for vital information necessary to help the Division properly assess the damage and risk of identity theft to New York State consumers resulting from the data breach.

Flu Is “Prevalent” In New York State

State Health Commissioner Dr. Howard Zucker this week declared that influenza is now “prevalent” in New York State and put into effect a regulation requiring that health care workers who are not vaccinated against influenza wear surgical or procedure masks in areas where patients are typically present.

According to Dr. Zucker, this influenza season, New York has had 1,820 laboratory-confirmed cases of influenza in 54 counties and all boroughs of New York City. During this period, there have been 612 influenza-related hospitalizations reported and no reports of pediatric deaths from influenza. Over the last three seasons, there have been 19 pediatric influenza deaths in New York and an average of 11,183 influenza-related hospitalizations each season.

Study Shows New York is Among the Healthiest States

According to a study by the United Health Foundation, New York is the 10th healthiest state in the nation. Massachusetts, Hawaii, Vermont, Utah and Connecticut came in one through five; Mississippi, Louisiana, Arkansas, Alabama and West Virginia were the bottom five.

The 2017 report analyzes the physical, mental and social well-being of the citizens of the nation and each state, as well as factors like pollution, lack of disease, infant mortality, and availability of healthcare providers.

New York ranked No. 40 in 1990 and has risen 30 spots. New York's rise in the rankings is due to a decrease in premature deaths, cardiovascular deaths, and the infant mortality rate. The study also found that New York is tied with Montana for the 6th-lowest obesity rate and was 9th-lowest in number of deaths as a result of smoking.

Challenges New York faces include a high rate of physical inactivity and a disparity in health status based on educational attainment.

MTA Awards \$1.8 Billion Contract to Expand Long Island Rail Road

The Metropolitan Transportation Authority (MTA) board this week approved a \$1.8 billion design-build contract with 3rd Track Constructors (3TC) for the Long Island Rail Road (LIRR) expansion project. A joint venture, 3TC includes Dragados USA Inc., John P. Picone Inc., CCA Civil Inc., Halmar International LLC, Stantec and Cameron Engineering.

The project calls for adding a third track to LIRR's high traffic corridor, enhancing stations, installing new signal equipment and switches, improving seven bridges and eliminating seven grade crossings. The 9.8-mile third track will be installed within existing right of way on a mainline between Floral Park and Hicksville.

Regional Economic Development Council Competition: 2010-2017

Central New York - \$615.5 million funding - 617 projects

Long Island - \$570.8 million funding- 688 projects

Finger Lakes - \$570.1 million funding - 715 projects

Mid-Hudson - \$560.7 million funding - 687 projects

North Country - \$549.5 million funding - 537 projects

Southern Tier - \$547.9 million funding - 554 projects

Mohawk Valley - \$529.6 million funding - 563 projects

Capital Region - \$521.9 million funding - 718 projects

Western New York - \$487.2 million funding - 663 projects

New York City - \$465.1 million funding - 573 projects

Coming Up

New York City

Monday December 18th

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

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

Committee on Cultural Affairs, Libraries & International Relations, Council Chambers - City Hall, 12:45 p.m.

Subcommittee on Libraries, Council Chambers – City Hall, 1 p.m.

Tuesday December 19th

City Council State Meeting, 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