

# This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

February 17, 2017 Edition

## *In the News – New York State*

### **Comptroller DiNapoli: Executive Budget Reduces Out-Year Gaps, Diminishes Independent Oversight**

The \$162.2 billion Executive Budget includes proposals to address infrastructure needs while reducing out-year gaps, but shifts some spending off-budget and would expand Executive authority to reshape spending and programs without legislative input, according to a report released this week by New York State Comptroller Thomas DiNapoli.



"The 2017-18 Executive Budget seeks to balance spending and revenue and proposes much needed capital investments in clean water projects while increasing funding for education, health care and other programs," Comptroller DiNapoli said. "Still, several proposals raise issues regarding checks and balances over use of the public's dollars and would diminish independent oversight."

According to the Comptroller, the budget projects total All Funds spending of \$162.2 billion in state fiscal year (SFY) 2017-18, up 3.8 percent from the current year. These figures include federal aid associated with the Affordable Care Act and disaster-related assistance, which the Division of the Budget (DOB) excludes from its primary presentation of \$152.3 billion in All Funds spending.

Comptroller DiNapoli explained the risks surrounding the federal budget. Specifically, the federal portion of the budget includes \$54.3 billion in federal assistance (one in every three dollars in total). These funds help pay for investments in human services, transportation, education, environmental programs and health care.

DOB projects that spending will exceed revenues in the General Fund by an average of \$2.1 billion in the three years starting in SFY 2018-19. These projected gaps are substantially reduced from earlier projections in large part because of the Executive's proposal to extend the higher personal income tax (PIT) rate for upper-income earners for an additional three years and various spending shifts which change reported expenditure levels and growth.

The Comptroller echoed concerns similar to those of City Comptroller Scott Stringer and State legislators in relation to budget language that authorizes the Director of the Budget to reduce planned spending if receipts – including but not limited to federal aid – are lower than projected.

Certain other aspects of the Budget raise concerns with respect to transparency, accountability and oversight. These include: Continued use of lump-sum appropriations; and Additional proposed limits on the Comptroller's independent oversight of the use of public resources, including review of various contracts and debt issuances.

General Fund reserves at the end of the current fiscal year are projected to total \$6.8 billion, down by \$2.1 billion from a year earlier. They are projected to decline by another \$1.2 billion by the end of SFY 2017-18. DOB anticipates a \$150 million deposit to the Rainy Day Reserve in SFY 2017-18, if fiscal conditions permit.

The budget proposes increased bonding authorization for state-supported debt of nearly \$8.9 billion, or 6.8 percent, over existing authorizations. None of these authorizations would require voter approval. Spending under the proposed five-year Capital Program and Financing Plan is projected to total \$66.2 billion, an increase of \$2.8 billion, or 4.4 percent, from the current Plan.



## **State Public Service Commission Approves \$153.3 Million Settlement with Con Ed Related to East Harlem Gas Explosion**

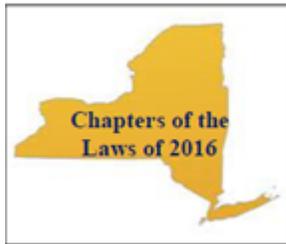
Governor Andrew Cuomo this week announced a \$153.3 million settlement stemming from the investigation of the East Harlem gas explosion in 2014. The agreement, reached and approved by the New York State Public Service Commission and Consolidated Edison, is the largest gas safety-related settlement in New York history.

The \$153.3 million settlement approved this week by the Commission is a result of a 2015 Department of Public Service report that found that Con Edison had violated State safety regulations that led up to and followed the natural gas explosion that occurred on March 12, 2014 in East Harlem. These violations include the failure to properly qualify employees and contractors to perform plastic gas pipe fusions and supervise their work, inadequate record-keeping, and installing valves capable of shutting down the gas system during emergencies. Eight people died and 50 people were injured in the explosion as a result of these safety violations.

The settlement includes a fund of over \$25 million specifically designated to benefit Con Edison gas customers. The Commission will determine how the \$25 million will be used after Con Edison has conducted outreach to gas customers to develop ideas for the best use of the funds. The rest of the settlement will cover costs related to leak response-related activities, gas safety public education programs, emergency payments to residents and businesses immediately following the incident, and expenses related to remediating leak-prone gas pipes.

As a result of this settlement, Con Edison's shareholders will pay for the inspection and repair of gas pipes improperly installed in the utility's natural gas distribution system. The company has also agreed to implement measures that improve the safety of its distribution system by reducing the time needed to complete an emergency shut-down of parts of the system. The company will also work with New York City to identify roadway depressions that could indicate problems below ground with infrastructure.

To settle the Commission's proceeding, Con Edison also agreed not to seek reimbursement from its customers for the more than \$125.5 million spent on gas leak response-related activities since the East Harlem explosion. Additionally, the settlement does not resolve outstanding civil actions brought by individuals against Con Edison related to the explosion.



## *In the News – New York City*

### **The States of New York City**



**Mayor de Blasio & Council Speaker  
Melissa Mark-Viverito  
Outline Their Visions for NYC**





THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, NY 10007

## Mayor de Blasio Apollo Theater, Harlem

**Legal Representation:** Mayor de Blasio outlined his plan to fund universal access to legal services for tenants facing eviction in New York City Housing Court. A \$93 million allocation doubles the Administration's existing funding for tenant legal services. The new funds are on top of the City's \$62 million-a-year commitment to expand legal services for tenants, which launched in 2014. The new funds will be phased in over the next five fiscal years, starting with \$15 million in Fiscal Year 2018, to reach \$93 million by 2022. At full implementation, the City's investment in anti-eviction legal services will total \$155 million. New York is the largest city to offer universal access, available at the City's Housing Court and through 311. The City Council has agreed to enact the legislation.

**Job Creation:** Mayor de Blasio committed to creating 40,000 new jobs over the next four years, and 100,000 over the next decade. The Mayor explained that 1,500 of those jobs would come out of a \$136 million investment in an industrial campus in Sunset Park that will produce food, fashion, TV shows and films starting in 2020. The 'Made in New York' Campus at Bush Terminal will be housed in the Sunset Park buildings which will be transformed into a hub for garment manufacturing and film and television production. The build out of modern garment manufacturing space, sound stages, and other campus improvements is expected to create more than 800 construction jobs.

**Housing:** Mayor de Blasio detailed two initiatives to help seniors, veterans and other low-income families afford rent in New York City. The first will increase by 10,000 the number of apartments in Housing New York serving households earning less than \$40,000—5,000 of which will be dedicated to seniors and 500 for veterans. The second is a new Elder Rent Assistance program to be funded by the City's proposed Mansion Tax, in Albany, that will serve more than 25,000 seniors with monthly rental assistance of up to \$1,300.

**Mansion tax;** The Mayor advocates a tax on homes valued at \$2 million or more. Proceeds of the tax, which the city estimates at \$336 million per year, would go to lower the cost of rent for 25,000 seniors.



## Council Speaker Melissa Mark-Viverito Kings Theater, Brooklyn

### Protecting Immigrants

- **Prohibit Law Enforcement from Acting as Immigration Officers.** Legislation to limit the Department of Probation's cooperation with immigration authorities and pass legislation that bars the NYPD, the Department of Correction, and the Department of Probation from entering into 287(g) agreements that permit them to carry out immigration enforcement activities.

- **Block Access to Certain Areas of City Property.** Prohibit City agencies from granting immigration authorities access to areas of City property where public access is normally restricted, unless they have a judicial warrant.
- **Blocking Access to DOE Schools, Students, and Records.** The Council will require the Department of Education to refuse ICE access to school property without a warrant and inform parents when ICE officials request to interview a student or request student information.

### **Criminal Justice Reform**

- **Clear low level, nonviolent Summons Warrants.** The Council will work with Brooklyn District Attorney Eric Gonzalez, Bronx District Attorney Darcel Clark, Manhattan District Attorney Cyrus Vance Jr., and Queens District Attorney Richard A. Brown, the Administration and the NYPD to clear low level, nonviolent summons warrants that are 10 years or older..
- **Decrease Admissions to Rikers by Reducing Bail Processing Time.** The Council will pass legislation requiring the DOC to accept cash bail at or near all courthouses, and to release those who post bail within a few hours.

### **Establishing Data Privacy Standards and Protocols**

- **Personal Information Confidentiality.** Legislation to require that every City employee and contractor protect sensitive information like sexual orientation, religion, and immigration status by limiting its disclosure, except where required by law. Further, the Council will require that each agency review its data collection, retention and disclosure policies.

### **Supporting Women's Reproductive Rights & Racial/Gender Equity**

- **Ensuring Access to Free Birth Control for All Women in New York City.** The Council will work to provide all women in New York City with free access to birth control, including City workers who are currently in “grandfathered” plans. The Council will also continue its support of a stand-alone fund for birth control.
- **Require City agencies to set racial/gender equity goals & provide equity training.** City agencies will be required to set goals to address the findings of their racial and gender equity assessments, and be required to provide their employees with trainings on implicit bias, structural racism, cultural competency and gender inequity.

### **Tenants Rights**

- **Adding common sense presumptions for harassment cases.** The Council will amend the harassment laws to require landlords to prove that acts were justifiable and not intended to force the tenant to leave. In addition, the City Council will also pass legislation allowing groups of tenants to band together and show that a landlord has engaged in a campaign of building-wide harassment, even where an individual tenant may not be able to prove harassment alone.
- **Expanding harassment protections.** The Council will expand harassment protections to these tenants of one and two-family homes.
- **Expanding what constitutes harassment.** The Council will expand the definition of harassment to include behaviors that were not necessarily contemplated when the original law was passed,

such as contacting or visiting tenants at odd hours or adding unexplained (and unapproved) fees to rent bills.

## **Bills Signed by the Governor**

**Chapter 2 – sponsored by M of A Rosenthal/Senator Amedore** -- Relates to requiring certain persons providing substance abuse treatment on counseling to complete training in medication assisted treatment.

**Chapter 3 – Sponsored by M of A Magnarelli/Senator DeFrancisco** -- Relates to recording taxes.

**Chapter 4 – Sponsored by M of A Abinanti/Senator Hannon** -- Relates to the state medical indemnity fund; repealer.

**Chapter 6 – Sponsored by Senator Hannon/M of A Simotas** -- Relates to the processing and maintenance of sexual offense evidence kits

**Chapter 7 – Sponsored by Senator Felder/M of A Cusick** -- Relates to establishing a moratorium on the adoption or implementation of any local law, ordinance, rule or regulation related to charging a fee for carryout merchandise bags or a fee of similar effect

## **Bills Passed Both Houses of the Legislature**

**A368 – Sponsored by M of A Sepulveda/Senator Rivera** -- Relates to the appointment of interpreters to be used in parole board proceedings

**A376 – Sponsored by M of A Cahill/Senator Hannon** -- Relates to the state insurance advisory board

**A377 – Sponsored by M of A Dinowitz/Senator Klein** -- Relates to the protection of water supplies

**A379 – Sponsored by M of A Crespo/Senator Klein** -- Relates to access to the special supplemental nutrition program for women, infants and children relating to specialty formula

**A380 – Sponsored by M of A Moya/Senator Klein** -- Relates to employment agencies

**S976 – Sponsored by Senator Ortt/M of A Englebright** -- Relates to notification requirements of the division of criminal justice services

**S4067 – Sponsored by Senator Amedore/M of A Abbate** -- Relates to the compensation, benefits and others terms and conditions of employment of certain state officers and employees; repealer; appropriation

## Bills Signed by the Mayor

**Intro. 436-A, Sponsored by Council Member Espinal** Allows supermarkets and retail stores to correct first-time price-labeling violations before paying a civil penalty.

**Intro. 570-A, Sponsored by Council Member Williams,** Reduces regulation for van operators to obtain or renew a licenses.

**Intro. 860-A, Sponsored by Council Member Miller,** Requires that the Taxi and Limousine Commission annually prepare a review and report for the City's commuter van industry and make recommendations for its improvement.

**Intro. 861-A, Sponsored by Council Member Miller,** Increases penalties and establishes new penalties for operating an unlicensed commuter van.

**Intro. 865-B, Sponsored by Council Member Van Bramer,** Requires the Department of Cultural Affairs to annually report on educational partnerships, programs, and visitors to City-owned cultural institutions.

**Intro. 1024-A, Sponsored by Council Member Cabrera,** Requires relevant agencies to distribute information to potential clients regarding enrollment for Senior Citizen Rent Increase Exemption (SCRIE).

**Intro. 1052-A, Sponsored by Council Member Vacca,** Requires that City agencies erase all data and information when disposing of electronics.

**Intro. 1164-A, Sponsored by Council Member Johnson,** Requires the Human Resources Administration to provide rental subsidy recipients with a written statement explaining protections of Section 26-521 of the Administrative code of New York City which prohibits unlawful evictions.

**Intro. 1166-A, Sponsored by Council Member Richards,** Requires quarterly reports on violations issued to three-quarter housing.

**Intro. 1167-A, Sponsored by Council Member Torres,** Removes the time limitation for applying for relocation assistance and make clear that any tenet who moves out while a vacate order is in effect is entitles to appropriate relocation assistance from HPD. Requires the posting of a sign at properties subject to a vacate order.

**Intro. 1168-A, Sponsored by Council Member Torres,** Prohibits landlords from mandating medical treatment as a condition of occupancy, except for family members and legitimate programs.

**Intro. 1171-A, Sponsored by Council Member Williams,** Relates to verification of occupancy for relocation services.

**Intro. 1276-B, Sponsored by Council Member Van Bramer,** Requires the Public Design Commission to annually report on previous year's work.

**Intro. 1281-A, Sponsored by Council Member Mark-Viverito,** Relates to the evaluation of economic development tax expenditures.

**Intro. 1290-A, Sponsored by Council Members Cumbo, Van Bramer,** Requires that the panel that recommend art for the Percent for Art program be comprised of members who are knowledgeable about public art, about the project, and about the community in which the project will be located.

**Intro. 1294-A, Sponsored by Council Member Crowley,** Requires that the Fire Department report on the use and type of smoke detectors and smoke alarms in fire-related deaths.

**Intro. 1295-A, Sponsored by Council Members Cumbo, Van Bramer,** Requires that the Department of Cultural Affairs publish demographic information on its website about the artist whose work has been commissioned by the Percent for Art program.

**Intro. 1296-A, Sponsored by Council Members Cumbo, Van Bramer,** Provides that one percent of the first \$50 million appropriated for public-facing capital projects must be allocated for public art, replacing the existing rule that only one percent of the first \$20 million would be allocated for public works of art.

**Intro. 1297-A, Sponsored by Council Members Cumbo, Van Bramer,** Requires the Department of Cultural Affairs to educate the public about how to submit artwork to the Percent for Art program through a citywide outreach.

**Intro. 1309, Sponsored by Council Member Chin,** Extends increases to income eligibility limits for the City's Rent Freeze Program.

**Intro. 1371, Sponsored by Council Member Ferreras-Copeland,** Allows for the extension of the DUMBO Business Improvement District.

## **Briefs**

### **New York's Cybersecurity Regulations Take Effect March 1<sup>st</sup>**

New York's cybersecurity regulation to protect New York's financial services industry and consumers from the ever-growing threat of cyber-attacks will take effect on March 1, 2017. The final regulation requires banks, insurance companies, and other financial services institutions regulated by the Department of Financial Services to establish and maintain a cybersecurity program designed to protect consumers' private data and ensure the safety and soundness of New York's financial services industry.

The final risk-based regulation includes certain regulatory minimum standards while encouraging firms to keep pace with technological advances. The new regulation provides important protections to prevent and avoid cyber breaches, including:

- Controls relating to the governance framework for a robust cybersecurity program including requirements for a program that is adequately funded and staffed, overseen by qualified management, and reported on periodically to the most senior governing body of the organization;
- Risk-based minimum standards for technology systems including access controls, data protection including encryption, and penetration testing;
- Required minimum standards to help address any cyber breaches including an incident response plan, preservation of data to respond to such breaches, and notice to DFS of material events; and
- Accountability by requiring identification and documentation of material deficiencies, remediation plans and annual certifications of regulatory compliance to DFS.

The regulation will become effective upon publication in the New York State Register on March 1, 2017.

## **Comptroller DiNapoli: State Pension Fund On Track to Meet 7% Target**

State Comptroller Thomas DiNapoli projected that the State's Pension Fund will meet its target rate of return this year, according to published reports.

"I think after a positive performance last year but certainly not a strong one, this year, barring anything unforeseen, we're going to have a very good number. I hope it would be in excess of seven percent. While you're right, there is volatility in the markets and that affects us, we take a very long-term and patient view in terms of how we manage our asset allocation and all of the assumptions" Comptroller DiNapoli said in an interview this week on WCNY.

The State fiscal year ends March 31<sup>st</sup>.

## **Mayor de Blasio Appoints Grace Bonilla as Administrator of Human Resources Administration**

Mayor Bill de Blasio this week appointed Grace Bonilla as Administrator of the Human Resources Administration (HRA), which is now part of the Department of Social Services. She will report to Department of Social Services Commissioner Steven Banks.

Grace Bonilla was most recently the President and CEO of the Committee for Hispanic Children and Families (CHCF), a non-profit which combines education and advocacy to expand opportunities for children and families. From 2012 to 2014, Bonilla served as Deputy Commissioner of the Office of Community Affairs and Immigrant Services. Prior to this, she spent 10 years in senior roles at HRA. From 2011 to 2012, Bonilla was Assistant Deputy Commissioner of the Office of Constituent Services at HRA. From 2009 to 2011, Bonilla served as Director of Legislation and Policy in the Office of Child Support Enforcement at HRA. She is a graduate of St. Johns University and Brooklyn Law School.

This week the Mayor also appointed Lorraine Cortés-Vázquez as a Senior Advisor. As Senior Advisor, Ms. Cortés-Vázquez will advise and assist the Mayor's Office, the Community Affairs and Public Engagement Units, and agencies across the Administration to expand their community outreach

across the five boroughs. She will specialize in engaging the Latino community around issues related to immigration; Universal pre-K; criminal justice reform; housing and economic development; M/WBE contracting and outreach; economic justice; and job creation.

Ms. Cortés-Vázquez will be working within the Mayor's Office of Intergovernmental Affairs.

## ***Coming Up***

### ***New York State***

#### ***Wednesday February 22<sup>nd</sup>***

***Assembly Hearing, Assembly Hearing Room 19<sup>th</sup> Floor, 250 Broadway, New York City 11 a.m.***

Purpose: To examine the growing need for home care and personal care, and to examine the obstacles to recruiting, employing, and retaining an adequate home care workforce.

### ***New York City***

***No meetings scheduled this week.***

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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