



This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

April 21, 2017 Edition



In the News – New York State



2017-2018 NYS Budget Enacted

Governor Andrew Cuomo put the finishing touches on New York's 2017-2018 spending plan, giving final approval last night to the State's \$151 billion budget.

In reviewing the bills, the Governor issued 154 line item vetoes of the appropriation bills. The vetoes ranged from appropriations vetoed on constitutional grounds such as that the purpose of the reappropriation was changed, to those more than seven years old with no recent activity, to proposals that were being funded under other initiatives.

The Senate and Assembly return to Albany on Monday, April 24th to begin to address the remaining items for 2017. The Legislature is scheduled to adjourn June 21st.

To follow is a rundown of budget highlights:

Raising the Age of Criminal Responsibility

The FY 2018 State Budget raises the age of criminal responsibility to 18-years-old. The new measures will be phased in, raising the age of juvenile delinquency from age 16- to 17-years-old beginning on October 1, 2018, and subsequently raising the age of criminal responsibility to 18-years-old on October 1, 2019.

Further, young people will no longer be permitted to be housed in adult facilities or jails. Young people under the age of eighteen will no longer be placed or held at Rikers Island in New York City no later than October 1, 2018. They are to be placed in specialized juvenile detention facility certified by the New York City Administration for Children's Services and the State's Office of Children and Family Services, and in conjunction with the State's Commission of Correction and the New York City Department of Corrections.

The State will also create a Raise the Age implementation task force, with committee members designated by the Governor. Additionally, individuals who have been crime free for ten years after serving a sentence will be able to apply for the sealing of previous criminal convictions.

Recording Police Interrogations and Improving Witness Identification Procedures

Legislation included in the Budget requires law enforcement to video-record custodial interrogations in cases involving serious offenses. Additionally, the legislation allows the use of photo identifications made by witnesses at trial when the identification procedures were conducted using proper safeguards, such as a ‘blind’ or ‘blinded’ administration. According to Governor Cuomo, this legislation will allow juries the opportunity to consider the most reliable form of identification evidence – those obtained closest in time to a crime.

Allocating \$10 Million to Liberty Defense Project

The Budget invests \$10 million to establish an immigrant legal defense fund. The initiative is a public-private partnership between the New York Department of State, the Carnegie Corporation of New York and the Ford Foundation, and a statewide coalition of 182 advocacy organizations and legal entities. Private sector law firms, legal departments at universities, bar associations and advocacy organizations will be coordinated by the State’s Office for New Americans to provide pro bono legal and additional resources for immigrants threatened by recent changes in immigration policies.

Extending Hurrell-Harring Settlement Reforms for Indigent Defendants across New York

The FY 2018 Budget includes resources to develop the framework through which the state will fund 100 percent of the costs necessary to extend the reforms provided for in the *Hurrell-Harring* settlement to all 62 counties in New York.

Design-Build

The Adopted Budget extends current design-build authorization for an additional two years.

Additionally, the Enacted Budget provides new authorization for the following specifically itemized projects, so long as the costs are no less than \$5 million: Frontier Town (Empire State Development/Urban Development Corporation); Life Sciences Laboratory (Dormitory Authority & Urban Development Corp); Whiteface Transformative Projects (NYS Olympic Regional Development Authority); Gore Transformative Projects (NYS Olympic Regional Development Authority or “NYSORDA”); Belleayre Transformative Projects (NYSORDA); Mt. Van Hoevenberg Transformative Projects (NYSORDA); State Fair Revitalization Projects (Office of General Services); State Police Forensic Laboratory (Office of General Services).

No authorization was provided for the City of New York or other local governments.

Excelsior Scholarship Program

The new public college tuition initiative will be phased in over three years, beginning for New Yorkers making up to \$100,000 annually in the fall of 2017, increasing to \$110,000 in 2018, and reaching \$125,000 in 2019. New Yorkers must be enrolled in college full-time, averaging 30 credits per year and completing their degree on-time. Students must also maintain a grade point average necessary for the successful completion of their coursework. Under the program, New Yorkers will be required to live and work in-state for the number of years after they received the Excelsior Scholarship.

Under the FY 2018 Budget, a new Enhanced Tuition Award will also enable students attending private not-for-profit colleges. The program provides a maximum award of \$3,000, requires private colleges to provide a match and freeze student tuition for the duration of the award.

Potential Loss of Federal Aid

If federal support is reduced by \$850 million or more, the enacted budget provides that the New York State Director of the Budget will develop a plan to make uniform spending reductions. This plan would take effect automatically unless the legislature passes its own plan within 90 days.

Ride Sharing for Upstate New York

The FY 2018 Budget authorizes Transportation Network Companies, such as Uber and Lyft, to operate across New York and creates uniform licensing standards. The Department of Motor Vehicles will have oversight of rideshare companies and will ensure compliance with all laws, rules, and regulations required as part of a TNC's operational license. Necessary workers' compensation coverage will be provided to rideshare drivers through enhancements to the Black Car Fund.

TNC companies will be required to maintain minimum insurance coverage levels of \$1.25 million while a TNC driver is traveling to pick up a passenger and until the drop-off is completed. The state will also establish minimum standards to ensure passenger safety, including mandatory background checks, ongoing monitoring for traffic safety, anti-discrimination protections, and zero-tolerance drug and alcohol policies.

The Budget also establishes a statewide task force to study and deliver recommendations on accessibility needs to protect and provide transportation to vulnerable populations. Finally, a statewide board will be established to review the impact of this newly authorized industry across the state.

Clean Water Infrastructure Act:

The Budget initiates the \$2.5 billion Clean Water Infrastructure Act. These funds will help local governments address water emergencies, pay for local infrastructure construction projects, underwrite land acquisition for source water protection, and investigate and mitigate emerging contaminants in drinking water. These projects will improve the quality and safety of municipal drinking water distribution, filtration systems, and wastewater treatment infrastructure.

Opioid Epidemic

The FY 2018 Budget invests over \$200 million to support prevention, treatment and recovery programs targeted toward chemical dependency, residential service opportunities, and public awareness and education activities.

Increasing Direct Care Professional Salaries

The Enacted Budget will provide New York's 120,000 direct care professionals with a 6.5 percent raise over the next two years. The wage increases begin January 1, 2018.

Providing Funding for Essential Health Care Providers

The Budget provides \$500 million in additional capital support for essential health care providers, including a minimum of \$75 million directed to community-based providers, to support capital projects

and other initiatives that facilitate health care transformation. Included in this amount is \$50 million that is directed to Montefiore Medical Center to expand the availability of affordable healthcare.

Local Government Shared Services

The budget requires counties to assemble local governments to find efficiencies for “real, recurring taxpayer savings.” To ensure transparency and an active role for citizens in reducing their tax burden, public hearings and input will be required as part of the development of the shared services plans.

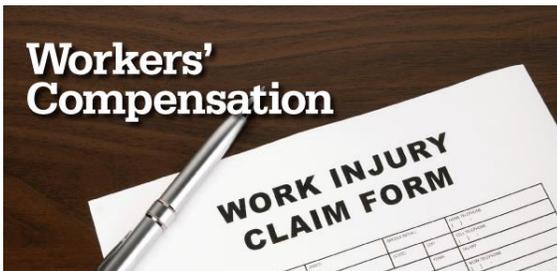
Creating New Independent Inspector General of New York for Transportation

The Budget includes measures to establish a new Office of Inspector General of New York for Transportation that would be responsible for investigating and prosecuting any criminal and unethical actions as it pertains to senior level officers and employees of transportation entities.

A Transportation entity is defined as a public entity located within a city of a population of one million or more involved in the transportation of persons, goods or other items within or to and from the state where at least one individual involved at a senior level in operations, financing or management of such entity is appointed by the Governor. In addition to investigatory and prosecutorial powers, this new Inspector General may refer any findings to another investigatory or prosecutorial body, as well as prepare and release public reports related to its findings.

Reprivatizing the New York Racing Association

The Budget re-establishes a privately controlled board of directors for NYRA. The new board will have 17 members: the CEO, eight executive committee members, and two individuals each appointed by the Governor, the Senate and the Assembly. Breeders and horsemen each will have a member.



Workers' Compensation Reform

New York's 2017-2018 budget included workers' compensation reforms that provide cost savings for businesses and better protections for injured workers.

According to Governor Andrew Cuomo, the new reforms ensure that the most significantly injured workers have the right to be considered for lifetime benefits. The reforms will also ensure swift access to hearings for injured workers not receiving benefits, create a clear formulary for prescription drugs, and provide relief for first responders exposed to a traumatic event at work. Concurrent with expanded worker protections, businesses will be achieving overall savings, bringing much needed relief to municipal and private employers. Changes include establishing more definitive limits on caps and updating medical guidelines to reflect advances in modern medicine.

Specifics of the reforms include:

- ***Detachment from Labor Market***- Removes the requirement that injured workers remain attached to the workforce after being classified with a permanent disability.
- ***Durational Caps***- Permanent partial disability award caps will be triggered within 2.5 years from the date of injury, regardless of whether a beneficiary has reached Maximum Medical Improvement.
- ***Safety Net Permanent Disability***- Expands the safety net threshold from above 80% to above 75% impairment, to allow the most seriously injured workers to petition to continue receiving benefits after the PPD caps have been met.
- ***Safety Net Report***- Moves the responsibility for annual safety net reporting from the Department of Labor to the Workers' Compensation Board.
- ***Impairment Guidelines***- The Board will produce a report by September 1, 2017 through the state administrative procedures process, to be adopted on January 1, 2018, on revising impairment guidelines. The guidelines will be used to determine awards for various soft-tissue injuries based on loss of use.
- ***Drug Formulary***- The Board shall establish a prescription drug formulary list, which will provide direct access to pre-approve drugs for various conditions.
- ***Expedited Hearings***- A beneficiary may petition for a hearing within 45 days if: a claim is filed with medical evidence of work-related injury; the claimant is disabled and not working; and the employer is not making payment but has not controverted the claim.
- ***Independent Medical Examiner Study***- The Board will study the utilization of independent medical examiners, and establish a report in 2018.
- ***First Responder Mental Health Workers' Compensation Benefits***- A new standard of disability for first responders who are affected by work-related stress is established. An officer could file a claim upon a factual finding that the stress was greater than that which usually occurs in the normal work environment.
- ***Hearings on Insurance Rates***- A hearing by the Compensation Insurance Ratings Board would be held when an increase of 5% in rates is approved.
- ***Public Actuary***- A Public Actuary, appointed by joint agreement between a labor and management representation on Compensation Insurance Rating Board, would be installed to indicate the overall savings in the 2017 reforms on a yearly basis.

In the News – New York City

Painters & Laborers Launch Multi-Faceted Construction Safety Campaign to Urge NYC Council to Act in Wake of Yet Another Preventable Construction Fatality

Building Blocks NYC Is a Campaign Dedicated to Protecting NYC Construction Workers and Passing Intro 1447



Members of the Greater New York Laborers-Employers Cooperation and Education Trust (GNY LECET) and District Council 9, International Union of Painter and Allied Trades launched the Building Blocks NYC campaign to urge the City Council to take action in the wake of rising construction fatalities in New York City. Just last week a 59-year-old worker fell from a beam on the second floor of a building in Times Square and passed away from his injuries. This marked the 33rd fatality in the construction industry in just over two years, and is yet another example of a preventable death.

Sponsored by Council Members Williams and Menchaca (by request of the Manhattan Borough President Gail Brewer), Intro 1447 would require that construction workers be participants in an apprenticeship program, graduates of an apprenticeship program, or have commensurate work experience and training. Workers on smaller sites would have the option of completing a DOB-approved training course. This bill would take effect 120 days after enactment.

Building Blocks NYC is dedicated to ending the epidemic of construction fatalities in New York City by setting rigorous safety training standards for all construction workers through passing Intro 1447. With twenty-nine bill sponsors, Building Blocks NYC is calling on the remaining twenty-two Council Members to put aside politics and support the legislation.

“If the remaining twenty-two Council Members needed another call to action to protect their constituents with Intro 1447, they got one last week when we lost our 33rd construction worker in yet another preventable construction accident,” Patrick Purcell, Executive Director of Greater New York LECET and Davon Lomax, Political Director of District Council 9, explained. “With Building Blocks NYC, we will be running an aggressive and strategic campaign aimed at promoting construction safety and setting stringent safety standards that will protect workers for years to come with Intro 1447.”



De Blasio Administration, City Council Members and Elected Officials Announce Legislation to Curb Smoking, Tobacco Usage

Mayor Bill de Blasio this week announced a series of legislative proposals to reduce the number of smokers in New York City by 160,000 over the next three years.

According to the Mayor, the five bills will put New York City at the forefront of smoking and tobacco control nationally by: (1) raising the minimum prices for all tobacco products, including cigarettes, and imposing a new 10% local tax on other tobacco products; (2) reducing through attrition the number of tobacco retailers citywide; (3) creating a retail license for e-cigarettes, and capping the number of e-cigarette retailers; (4) requiring all residential buildings to create a smoking policy and disclosing it to both current and prospective tenants; (5) and banning the sale of tobacco products at pharmacies.

The legislation was introduced by Council Members Corey Johnson, Brad Lander, Fernando Cabrera and Ritchie Torres, and the bills will be heard by the Health Committee on April 27, 2017.

Advancing Public Health through Higher Minimum Prices on Tobacco

This bill (Int. 1544, Councilmember Johnson) raises the minimum price of cigarettes and little cigars to \$13 a pack from \$10.50 and sets a first-ever price floor and tax for other tobacco products, such as cigars, smokeless tobacco, loose tobacco and tobacco-containing shisha. Increasing the cigarette price floor to \$13 is projected to lead to a 6.4 percent decline in adult cigarette smoking, decreasing adult prevalence from 14.3 percent to 13.9 percent. The bill also imposes a tax of 10 percent on other tobacco products for the first time, which is expected to generate revenue of \$1 million annually dedicated for public housing.

Limiting Tobacco Retail Licenses

This bill (Int. 1547, Councilmember Lander) will reduce the number of stores that can sell tobacco products by capping the tobacco retail dealer licenses in each community district at 50 percent of the current number of licenses. No new tobacco retail dealer licenses will be issued in a community district until its total decreases through attrition below the cap. No current tobacco retail dealers will lose their license as a result of this proposal.

Creating a Retail License for E-Cigarettes

This bill (Int. 1532, Councilmember Cabrera) creates a separate license for the retail sale of e-cigarettes and caps the number of these licenses. E-cigarette retailers may apply for the new license during an open enrollment period; qualified applicants will demonstrate they were already selling e-cigarettes at the time

the bill is voted into law, allowing retailers that currently sell e-cigarettes to continue operating. After the open enrollment period for e-cigarette licenses expires, no new licenses will be issued.

Smoking Disclosure Policy

This bill (which will be introduced by council member Councilmember Torres on April 25) requires owners of residential buildings to create a policy on smoking and disclose it to both current and prospective residents. All residential buildings with three or more units will be covered, including rentals, condominiums and cooperatives. Buildings will not be required to adopt complete no-smoking policies.

Disclosure of a building's policy on smoking will be required annually and if a building changes its policy at any time. If an owner fails to disclose the policy, he/she may face a \$100 civil penalty. Tenants would not be fined for smoking in non-smoking areas of buildings.

Pharmacy Ban

This bill (Intro 1131-A, Councilmember Lander) prohibits pharmacies, or retail stores that contain pharmacies, from selling tobacco products, including cigarettes.

Comptroller Stringer Audit: Public Denied Required Amenities at Public Spaces as City Enforcement Lags

According to a new audit released by Comptroller Scott M. Stringer, developers and building owners are not providing the required public spaces and public amenities such as bike racks, seating, trees, and drinking fountains in line with their City agreements. The report found the Department of Buildings (DOB), the agency principally responsible for evaluating and ensuring compliance, hasn't inspected most of these locations in years.

Privately owned public spaces – known as POPS – are outdoor or indoor spaces that are built for public use, for taxpayers' benefit, by the developers of private buildings. In exchange for creating that public space, those developers are allowed to construct buildings higher and denser than would otherwise be allowed by applicable zoning regulations.

Currently, according to the report, New York City property owners benefit from approximately 23 million square feet of additional zoning floor area in their buildings, in exchange for providing public space at 333 locations. Yet, the majority of property owners have been financially rewarded without fully meeting the obligations of their zoning agreements.

The Comptroller's Office's inspected all 333 New York City POPS locations as part of the audit, and found conditions at 182 of them – or 55 percent of the total – that violated requirements and had been “largely ignored by DOB,” the report found.

Briefs

Governor Directs Investigation into Con Edison Equipment Failure Affecting MTA Subway Service

Governor Andrew M. Cuomo today directed the New York State Department of Public Service and the Metropolitan Transportation Authority to conduct an immediate investigation into Con Edison's equipment failure that led to significant delays across MTA New York City Transit subways this morning.

New York City Transit subways experienced a loss of station power at the Seventh Avenue Station in Manhattan due to a Con Edison equipment failure. The outage resulted in the loss of signals, escalators, communications and station lighting. MTA New York City Transit immediately deployed MTA generators to the station to restore the signals allowing trains to bypass the station. Service has resumed with residual delays.

Health Care Helpline Recovers \$3 million for NYers

AG's Health Care Bureau's Free Investigative Helpline Resolved Approximately 3,000 Cases For New Yorkers Improperly Billed And Denied Benefits In 2016

The State Attorney General's Health Care Bureau's Helpline, a free service that has investigated and resolved nearly 3,000 consumer complaints during the past year, has saved or returned approximately \$3 million in health care expenses to consumers. The service has also helped New Yorkers access medically necessary care or prescription medication previously denied to them.

The Health Care Bureau's 2016 Annual Report, *Real Solutions for Real New Yorkers*, details the work of Helpline advocates to resolve consumer complaints, as well as major cases handled by the bureau. The Attorney General's toll-free HCB Helpline – 800-428-9071 – is available for New Yorkers to report and resolve health care complaints and concerns ranging from simple payment processing errors to complex deceptive business practices.

During 2016, Helpline staff resolved 2,917 consumer complaints and provided another 2,773 Consumers with information or referred them to an appropriate agency for assistance. These consumer complaints include issues such as incorrect medical billing, wrongful health plan rejection, improper processing of health insurance claims, and wrongful termination of health insurance.

Governor Cuomo Announces Janno Lieber Appointed MTA Chief Development Officer

Lieber Will Manage MTA Capital Construction Company and Oversee Major Strategic Capital Initiatives that Expand MTA Capacity

Governor Andrew Cuomo and Metropolitan Transportation Authority Interim Executive Director Ronnie Hakim this week announced that Janno Lieber, current President of World Trade Center Properties, will join the senior executive ranks of the MTA as Chief Development Officer. In this newly created position, Lieber will oversee capital initiatives focused on increasing the capacity of the system.

Specifically, Mr. Lieber will head up the MTA Capital Construction Company and will manage the MTA's major capital projects that expand capacity:

- Second Avenue Subway Phase II – extending the line to 125th Street;
- East Side Access – connecting Long Island Railroad to Grand Central Terminal;
- Penn Station Access – bringing Metro-North Railroad into Penn Station;
- Improved Rail Mass Transit Access to JFK Airport with a focus on developing a one-seat ride;
- LIRR Third Track – expanding capacity on the Railroad's main line; and
- LIRR Double Track – improving service and reliability on the LIRR's Ronkonkoma Branch.

His oversight will include the following initiatives:

- Signalization priorities – Communication Based Train Control and Positive Train Control;
- MTA Real Estate – Real Estate Development; and
- Alternate Project Delivery – including in particular expanded use of Public Private Partnerships.

Coming Up

New York State

Legislature is in session Monday, April 24th through Wednesday, April 26th

New York City

Monday April 24th

Committee on Women's Issues, Committee Room – City Hall, 10 a.m.

Int 1500-2017 in relation to contracting practices and budgeting.

Int 1512-2017 in relation to training on implicit bias, discrimination, cultural competency and structural inequity.

Int 1520-2017 in relation to information on gender and racial equality in the annual report.

Res 0542-2015 Resolution calling upon Senate to ratify UN Convention on Elimination of Discrimination Against Women.

Committees on Public Housing & Oversight & Investigations, Committee Room – 250 Broadway, 10 a.m.
T2017-5852 Oversight-Examining DOJ's report on NYCHA's Permanent Exclusion Policy.

Int 1207-2016 in relation to reporting on persons who have been permanently excluded from public housing.

Committee on Environmental Protection, Committee Room – City Hall, 1p.m.
phasing out use of fuel oil grade no. 4.

Int 1503-2017 in relation to exemptions from air conditioning prohibitions.

Committee on Small Business, Council Chambers – City Hall, 1 p.m.

Int 1499-2017 in relation to creating a list of violations for which civil penalties may be waived.

Int 1501-2017 in relation to reducing civil penalties where retailers agree to make restrooms publicly available.

Int 1504-2017 in relation to creating an energy efficiency program for multiple dwellings.

Int 1507-2017 in relation to creating an onsite compliance consultation program for multiple dwellings.

Int 1508-2017 in relation to enabling compliance with the City's record keeping requirements.

Int 1515-2017 in relation to creation of an energy efficiency program for businesses.

Int 1516-2017 in relation to creating an onsite compliance consultation program for businesses.

Int 1518-2017 in relation to waiving civil penalties for housing code violations.

Int 1521-2017 in relation to reducing civil penalties on food service establishments.

Int 1526-2017 in relation to reducing civil penalties on food service establishments.

Committee on Technology, Committee Room – 250 Broadway 16th Floor, 1 p.m.
T2017-5799 Oversight-Privacy of City Data.

Tuesday April 25th

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

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

Wednesday April 26th

Committees on Civil Rights and Veterans, Committee Room – 250 Broadway 16th Floor, 10 a.m.

Int 1259-2016 in relation to prohibiting discrimination based on uniformed service.

Res1412-2017 Declaring June 22 Veterans Tribute and Advocacy Day in NYC.

Res1420-2017 Recognizing May as Military Appreciation Month in NYC.

Committee on Aging and Subcommittee on Senior Centers, Committee Room – City Hall, 10 a.m.
Int 1259-2016 in relation to posting of performance summary card for social adult day cares.

Int 1521-2017 in relation to supplemental nutrition assistance program.

Res0112-2014 in relation to meals on wheels program.

Res0262-2014 in relation to availability of halal meals.

Res1225-2016 in relation to long term care Ombudsman program.

Res1226-2016 in relation to violations of safety conditions in adult care facilities.

Committees on Immigration, Public Safety and Education, Council Chambers – City Hall, 10 a.m.

Committee on Recovery and Resiliency, Committee Room – 250 Broadway 14th Floor, 1 p.m.
T2017-5798 Oversight-Resiliency of NYC’s Electric Power.

Committee on Sanitation and Solid Waste Management, Committee Room – City Hall, 1p.m.
Int 1439-2017 in relation to food rescue organizations.

Int 1514-2017 in relation to facilitating food donations.

Committee on Consumer Affairs, Committee Room – 250 Broadway 16th Floor, 2 p.m.
Int 1539-2017 in relation to sale and financing of used automobiles.

Int 1540-2017 in relation to used car sales bill of consumer rights.

Thursday April 27th

Committees on Contracts, Committee Room – 250 Broadway 16th Floor, 10 a.m.

Committee on Fire and Criminal Justice Services, Committee Room – 250 Broadway, 10 a.m.
Int 1531-2017 in relation to processing of bail payments.

Int 1541-2017 in relation to delaying formal admission of inmates.

T2017-5877 in relation to requiring DOC to facilitate payment of bail or bond.

T2017-5876 in relation to requiring NYPD to allow arrestees access to contact information.

T2017-5878 In relation to posting of information in court rooms regarding posting of bail.

Committee Health, Council Chambers – City Hall, 10 a.m.

Committee on Housing and Buildings, Committee Room – 250 Broadway 16th Floor, 1 p.m.
T2017-5812 Oversight-Tenant Interim Lease Program.

Committee on Governmental Operations, Committee Room – 250 Broadway 14th Floor, 1 p.m.
Int 1130-2016 in relation to increasing the cap on public funds available.

Committee on Civil Service and Labor, Committee Room – City Hall, 1p.m.
Int 1536-2017 in relation to reporting of pay and employment equity data.

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