

This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop Del Giorno & Giblin LLC
December 19, 2014 Edition



In the News – New York State



New York's Casinos

Break Ground

State Gaming Location Board Select Three Destinations

Less than 48 hours after being selected as one of the three bidders approved to be New York's inaugural gaming facilities, the developer of Lago Resort & Casino Hotel in Seneca has his shovels poised.

Construction equipment began moving in yesterday according to Thomas Wilmot, head of Wilmorite, with digging to begin today.

"They are moving equipment on the site as we speak," Mr. Wilmot said at a rally Thursday at the Finger Lakes Regional Airport, according to published reports. The rally was one of three arranged by Governor Andrew Cuomo to launch the casino era in the State. Others were held in Schenectady and the Catskills.

"It's full bore ahead, and hopefully, our guys can deliver, and in 12 months, we'll be open," Mr. Wilmot projected.

On Wednesday, the NYS Gaming Facility Location Board met in Albany and recommended that the State approve the proposals by Montreign Resort Casino / Empire Resorts in Sullivan County; Rivers Casino & Resort at Mohawk Harbor in Schenectady County; and Lago Resort & Casino / Wilmorite Casino & Resort by Wilmorite, Inc. in Tyre. The Board opted not to award a fourth license.

The full Gaming Commission will now conduct its own final review and grant the licenses. The Commission is scheduled to meet on December 22nd to begin its discussions on the following proposals:

Region One: Montreign Resort Casino in the Town of Thompson proposed by Montreign Operating Company LLC (“Montreign”)



Adelaar would be a \$1.1 billion investment by Empire Resorts, Inc. and EPR Properties, and would include an 18-story casino, hotel and entertainment complex titled the "Montreign Resort Casino," with 2,150 slot machines, 61 table games, and 391 hotel rooms. They would also construct an 80,000 square foot indoor waterpark lodge, 200,000 square foot entertainment village, and golf course.

Montreign’s total proposed capital investment is \$630 million. According to the selection board, the company committed to pay \$1 million in addition to the required \$50 million licensing fee which will enhance State revenue accordingly.

Montreign projects gross gaming revenues and gaming tax revenues in 2019 of \$301.6 million and \$103.4 million, respectively. It anticipates creating 1,209 full-time and 96 part-time permanent jobs.

Region Two: Rivers Casino & Resort at Mohawk Harbor in the City of Schenectady proposed by Capital Region Gaming, LLC (“Rivers”)



Rivers, owned by affiliates of casino and real estate developer Neil Bluhm, proposes to develop the Rivers Casino & Resort at Mohawk Harbor on the Mohawk River in the City of Schenectady in Schenectady County. The Rivers facility would reside on a 60-acre waterfront location. The facility is proposed to include a 50,000-square-foot casino featuring 1,150 slot machines and 66 gaming tables, a high-end steakhouse and other casual and light fare restaurants, an entertainment lounge, a banquet facility and a spa.

The Rivers facility is part of Mohawk Harbor, a mixed use waterfront development being completed by The Galesi Group, which combines residential, commercial and retail uses as well as a new harbor, riverfront trails and open spaces. According to the company, The Galesi Group will develop a hotel at Rivers’ facility with 150 rooms in addition to another planned 124-room hotel being developed on the northern portion of the Mohawk Harbor project.

Rivers projects gross gaming revenues and gaming tax revenues in 2019 of \$222.5 million and \$82.1 million, respectively, and anticipates supporting approximately 877 full-time and 193 part-time jobs in central Schenectady.

Region Three: Lago Resort & Casino in the Town of Tyre proposed by Lago Resort & Casino, LLC (“Lago”)



Lago, a partnership of Wilmot Gaming, LLC and PGP Investors, LLC, proposes to develop the Lago Resort & Casino in the Town of Tyre in Seneca County. Lago’s facility would include a 94,000 square foot casino with 2,000 slot machines and 85 gaming tables, 207 hotel rooms, multiple restaurants and lounges featuring local fare, and a spa. Lago’s total proposed capital investment is \$425 million. Lago projects gross gaming revenues and gaming tax revenues in 2019 of \$282 million and \$80 million,

respectively. Lago anticipates creating approximately 1,250 to 1,500 jobs. The gaming facility will be operated by JNB Gaming, LLC.

Management/Confidential Wage Veto: Take II

Taking a page from his 2013 playbook, Governor Andrew Cuomo again vetoed legislation to establish a wage commission to recommend a salary schedule for the State’s management confidential work force.

Again citing that “restructuring of compensation is better raised in the context of the State Budget process (Veto #550),” Governor Cuomo again sent the Organization of Management/Confidential Employees (OMCE) into the budget fray for relief. Despite a similar directive in last year’s veto message, Governor Cuomo did not include the issue in the budget, opting to issue a 2 percent across-the-board raise to the workers.

OMCE reiterated its pledge to continue to work with the Legislature and administration.

“Quite simply the proposed and ultimately enacted budget must include the authorization and funds to pay M/C employees and those who retired since April 2009, the statutory salary increases authorized in the Laws of 2008, Chapter 10 that were administratively withheld in 2009 and 2010, which resulted in the M/C’s being paid seven to ten percent less than their union represented co-workers and subordinates,” according to a statement related by the organization.

Recently, State Budget Director Bob Megna sent OMCE a letter acknowledging the wage issue and indicating that the Administration is looking at the situation.

“I can assure you that we are aware of the disparity in pay between M/C employees and their unionized counterparts,” the Budget Director wrote. “We are exploring ways to address the issue in the context of the upcoming Executive Budget and, as always, we are working with all of the state agencies to ensure that they have the staff that they need to meet their agency’s mission”, there can be no further delay.”

In other action this week, the Administration moved to reclassify about 1,000 current Public Employees Federation represented workers as management-confidential. According to published reports, the Administration sent notices Monday to about 1,000 members of the Public Employees Federation, indicating that the state is seeking to reclassify them as non-union workers. The notices involved workers in dozens of state agencies, including the departments of Environmental Conservation, Labor, Health, Housing and Motor Vehicles, the Office of General Services, and the Office for People with Developmental Disabilities.

Yesterday, PEF released a note to its membership asserting that the reconsideration may impact up to 2,500 workers.

Board of Regents Recommends \$2 Billion School Aid Increase

The New York State Board of Regents gave final approval to its 2015-2016 State School Aid proposal, calling for a \$2 billion increase in state aid, more equitable funding for high need school districts, funding directed to restoration of the Gap Elimination Adjustment (GEA), and increased investments in programs to ensure that school districts can improve performance consistent with the goal of college and career readiness for all students.

According to the Board, the State Aid Proposal reflects several emerging policy issues, including:

- Support for the high quality Career and Technical Education programming that will create new opportunities under the Multiple Pathways initiative.
- A more coordinated early childhood system that enhances access to high-quality education programs statewide.
- Improved services for English Language Learners (ELLs).
- Support for the education of recent immigrants.
- The need to invest in new instructional materials that reflect college and career ready standards.
- Professional development for teachers that relies on teacher leaders with proven classroom success to serve as coaches and mentors for their colleagues.
- Encouraging regionalization efforts where appropriate.

Also, the Regents State Aid proposal recommends two areas in which the State can make one-time investments from the State's \$4.8 billion in bank settlements. First, the proposal recommends that a portion of the settlement funds be used to eliminate the current lagged reimbursement process that limits the ability of many upstate districts to participate in the new Statewide Universal Full-Day Prekindergarten program. Second, the Regents recommend that a portion of the funds be used to support an accelerated payment of certain already-approved school district aid claims for past years (referred to as "prior year adjustments").

The Regents also call for investing capital funds in BOCES Career and Technical Education Centers in order to support the Multiple Pathways initiative.

Actions by the Governor

Bills Signed by the Governor

Chapter 479 (sponsored by M of A Rosenthal/ Senator Libous) -- Prohibits companion animal piercing and tattooing except done in conjunction with a medical procedure for the benefit of a companion animal.

Chapter 485 (sponsored by M of A Kavanagh/ Senator Serrano) -- Relates to animal control and licensing of animals; makes various amendments to dog licensing laws in N.Y. city; establishes an animal population control fund.

Chapter 486 (sponsored by M of A Braunstein /Senator Marchione) -- Relates to the investigation of crimes and crime reporting on college and university campuses.

Chapter 492 (sponsored by M of A Gunther/ Senator Carlucci) -- Grants employees of employers, which provide services pursuant to the mental hygiene law, protection from retaliatory actions for the reporting of certain violations.

Chapter 493 (sponsored by M of A Hooper/ RULES) -- Requires signatures of mayors of the villages of Hempstead and Freeport for payments in lieu of taxes from town of Hempstead and Nassau IDA's.

Chapter 505 (sponsored by Rules (M of A Weinstein) /Senator Farley) -- Relates to revising and modernizing the uniform commercial code.

Chapter 507 (sponsored by M of A Englebright / Senator Griffio) -- Relates to the disposal of counterfeit products.

Chapter 515 (sponsored by M of A Abbate/ Senator Lanza) -- Prohibits cost recovery of medical assistance paid to retirees and former employees of the New York city off-track betting corporation, and their dependents.

Chapter 516 (sponsored by M of A Ryan /Senator Gallivan) -- Relates to including probation officers with respect to the confidentiality of personnel records of police officers, firefighters and correction officers.

Chapter 519 (sponsored by M of A Brennan / Senator Ranzenhofer) -- Relates to claims and actions against the New York city school construction authority arising out of contracts.

Chapter 522 (sponsored by M of A Abbate /Senator Martins) -- Relates to providing certain accidental disability retirement benefits for Nassau county ambulance medical technicians.

Chapter 528 (sponsored by M of A Rosenthal / Senator Valesky) -- Requires an veterinary examination of all cats prior to their sale to determine if the animal has any adverse medical conditions.

Chapter 529 (sponsored by M of A Schimel / Senator Martins) -- Authorizes the county of Nassau to alienate certain parcels of land used as parkland.

Bills Vetoed by the Governor

Veto 527 (sponsored by M of A Skoufis/Senator Latimer) -- Creates a task force on disasters.

Veto 528 (sponsored by M of A Colton/ Senator Avella) -- Mandates NYC Transit Authority to produce annual reports concerning actions to reduce noise.

Veto 531 (sponsored by M of A Weisenberg/ Senator Carlucci) -- Requires sunscreen products to be labeled with best if used before dates and storage recommendations.

Veto 532 (sponsored by M of A Abbate /Senator Martins) -- Enacts the "Steven Kovacs Law" to impose an affirmative duty upon a host to render assistance to a guest on private premises in the event of a medical emergency.

Veto 533 (sponsored by M of A Pretlow/ Senator Klein) -- Authorizes the care and treatment of injured employees by duly licensed social workers under the workers' compensation program.

Veto 550 (sponsored by M of A Farrell/ Senator DeFrancisco) -- Establishes a special commission on compensation for state employees designated managerial or confidential and provides for its powers and duties.

Veto 551 (sponsored by M of A Abbate/Senator Golden) -- Establishes procedures for the order of suspension or demotion of employees in certain occupations.

Veto 552 (sponsored by M of A Farrell/ Senator DeFrancisco) -- Increases the portion of public pension fund assets that may be invested according to the prudent investor standard.

Veto 557 (sponsored by M of A Abbate/ Senator Golden) -- Relates to the deferral of vacation days for certain members of the retirement systems.

Veto 562 (sponsored by M of A Abbate/ Senator Golden) -- Relates to accidental disability retirement for uniformed court officers and peace officers employed in the unified court system.

Veto 565 (sponsored by M of A Abbate/ Senator Golden) -- Relates to extending the filing deadline for active and retired firefighters to file for accidental disability retirement for certain injuries.

Veto 568 (sponsored by Rules (M of A Abbate)/ Senator Golden) -- Relates to age and services eligibility requirements for ordinary retirement for members of the unified court system.

In the News – New York City

City Council Approves Pet Shop Regulations

The City Council this week approved a package of bill aimed at addressing humane treatment of animals in city pet shops.

“After years of tireless work, the passage of today’s historic legislative package will make New York City a national leader in animal rights,” said Council Member Elizabeth Crowley. “Often, pet owners are given misleading information when buying a pet from a pet shop. Today’s bills will help ensure humane treatment and breeding of all new pets purchased in New York City and establish much-needed transparency for concerned consumers.

According to the Council, pet shops that sell cats, dogs, and rabbits in New York City too often obtain the animals they sell from distant breeders who they have never met, whose facilities they have never inspected, and with whom they have had no direct contact. Many pet shops rely on brokers who sell animals from unregulated sources and breeding facilities that have been cited for violations of the Animal Welfare Act. The legislative package which aims to curb these abuses includes:

Introduction 55-A, sponsored by Council Member Elizabeth Crowley and Council Member Corey Johnson, would require that pet shops obtain their dogs and cats directly from breeders licensed by the United States Department of Agriculture(USDA). The bill would prohibit the sale of dogs and cats obtained from breeders who have recently been cited or penalized by the USDA for serious violations of the Animal Welfare Act. Additionally, all pet shops in New York City would be required to obtain an operating permit issued by the Department of Health and Mental Hygiene. In order to obtain a permit, the applicant would be required to certify that during the two years preceding the date of the application, the pet shop in question had not sold any animals prohibited under this bill. The bill would also require pet shops to provide USDA inspection information about the breeder of any animal upon the request of a purchasers or prospective purchasers.

The legislation would take effect on June 1, 2015. However, the requirement to obtain a permit would take effect on January 1, 2016.

A violation of any provision of this law or of the permit would be subject to a \$500 fine. Violations that continue for more than one day would be considered a separate violation for each day. A violation in connection with the sale of more than one animal would be considered a separate violation with for each animal. Animals in pet shops obtained from prohibited sources and animals in pet shops operating out with the required permit would be subject to seizure and forfeiture.

The Animal Abuse Registry Act mandates the establishment of an animal abuse registry listing persons 18 or older who reside in New York City and have been convicted of animal abuse crimes. The act prohibits pet shops from selling animals to a person whose name appears on the registry.

Introduction 73-A, sponsored by Council Member Johnson, would change the definition of “pet shop” in the Animal Abuse Registry Act to include shops that sell cats and dogs, reflecting the change to State law that now gives the City jurisdiction over pet shops that sell cats and dogs.

Introduction 136-A, sponsored by Council Member Elizabeth Crowley and Council Member Corey Johnson, would amend the Animal Shelters and Sterilization Act to prohibit the sale of any dog or cat in any pet store unless such animal has been spayed or neutered. The legislation would require that such procedures be performed by a licensed veterinarian and that the animals be no younger than eight weeks and weigh no less than two pounds. The bill would also prohibit a pet shop from releasing any dog to a customer who resides in New York City, unless such customer first completes a dog license application and tenders to the pet store the dog license application fee. Pet shops would be required to report information about all dogs sold to the Department of Health and Mental Hygiene on a monthly basis.

A pet shop that violates this law would be subject to a penalty of \$500 per violation.

Introduction 146-A, sponsored by Council Member Corey Johnson, would amend the Animal Shelter and Sterilization Act to prohibit a pet shop from releasing a cat or dog to a purchaser until such dog or cat has been implanted with a microchip, either by the source where the pet shop obtained such animal or by a licensed veterinarian at the direction of such pet shop, and such microchip has been registered with the purchaser’s contact information. The legislation would require pet shops to maintain records of the date of sale and the microchip registration information for a period of ten years.

Pet shops that allow shelters and non-profit rescues to use their property for the purpose of making animals available for adoption would be exempt from the regulations and penalties within these four bills only with respect to those animals, provided such shop does not have an ownership interest in the animals available for adoption, and does not derive a fee for providing such adoption services.

The legislation goes to Mayor Bill de Blasio for consideration.

Briefs

Administration Departures

Two members of Governor Andrew Cuomo’s cabinet have made moves to leave the administration. Kristin Proud, Commissioner of the State Office of Temporary and Disability Assistance will be stepping down, according to an email that was sent to staff on Tuesday. In addition, *Capital NY* reported this week that State Labor Commissioner Peter Rivera submitted his retirement papers to the State comptroller’s office. His retirement takes effect at the end of the year.

NY Releases Medical Marijuana Regulations

The New York State Department of Health released proposed regulations for the State's medical marijuana program as required by the Compassionate Care Act.

The proposed regulations require that medical marijuana certificates be issued only by physicians who have registered with the New York State Department of Health (DOH) and received DOH-approved training. Entities that wish to manufacture and distribute medical marijuana would apply to DOH, providing detailed plans of their infrastructure and operations, and pay a \$10,000 application fee for the application review. Applicants selected for one of the five Registered Organization licenses would pay an additional \$200,000 registration fee. Registered Organization licenses will last for two-years. Registered organizations would be required to maintain separate facilities for manufacturing and dispensing medical marijuana and would have to meet strict security guidelines.

The DOH Commissioner would approve the forms and delivery systems through which medical marijuana could be offered, excluding smoking, which will be prohibited. Each registered organization would initially be permitted to produce up to five types of medical marijuana products. Independent laboratory testing would verify cannabinoid content to ensure consistency. DOH would approve pricing and any advertising.

The Medical Marijuana Program proposed regulations will be published in the December 31 New York State Register. The public then has 45 days to comment on the proposed regulations. A copy of the proposed regulations can be found on the Department of Health's website at http://www.health.ny.gov/regulations/medical_marijuana/docs/regulations.pdf.

NYS DOH Completes Fracking Review DEC to Issue a Findings Statement Early Next Year to Prohibit Fracking

The state Department of Health has completed its public health review of high-volume hydraulic fracturing (HVHF) and Acting DOH Commissioner Dr. Howard Zucker recommended that high-volume hydraulic fracturing should not move forward in New York State. As a result of Dr. Zucker's report, Commissioner Martens stated that he will issue a legally binding findings statement that will prohibit HVHF in New York State at this time.

DEC will incorporate the findings of the public health review into the Final SGEIS, which will be released with a response to public comments early next year. A minimum of 10 days later, Commissioner Martens will issue the findings statement prohibiting HVHF. This action will conclude the State Environmental Quality Review Act process for HVHF.

DOH's review found significant uncertainties about: the adverse health outcomes that may be associated with HVHF; the likelihood of occurrence of adverse health outcomes; and the adequacy of mitigation measures to protect public health. DOH's report concludes that it will be years until science and research provide sufficient information to determine the level of risk HVHF poses to public health and whether those risks can be adequately mitigated.

Given the red flags raised by current studies, absent conclusive studies that disprove health concerns, the report states the activity should not proceed.

Medicaid Exclusion Removed for Transgender Treatment

Governor Andrew Cuomo and the state Health Department announced a regulatory change that will remove a Medicaid exclusion that had denied transgender patients access to transition-related surgery and treatment. Removing the Medicaid exclusion does not apply to all treatment services or to those younger than 18. Last week, Cuomo sent a letter to commercial insurance companies requiring them to cover gender reassignment surgery, hormone therapy and other gender transition treatments

Coming Up

New York State

There are no meetings the week of December 22nd.

New York City

There are no meetings the week of December 22nd.

**Wishing you and your Families a Very
Happy Holiday Season!**

The next issue of *This Week in New York* will be published on January 9, 2015.

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 & Giblin LLC, or any of its members or employees or its clients. Neither Pitta Bishop Del Giorno & Giblin 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 & Giblin 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 & Giblin LLC professional with whom you usually work.

This Week in New York is a publication of Pitta Bishop Del Giorno & Giblin 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