



This Week in New York

Covering New York State and City Government

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March 6, 2020 Edition

In the News – State



NYS Mobilizes to Address Coronavirus (COVID-19)

Legislature Approves \$40 million Appropriation

Governor Given Emergency Executive Order Power

Governor Andrew Cuomo this week signed into law a \$40 million emergency management authorization for New York State's Coronavirus (COVID-19) response. This appropriation will allow the State to hire additional staff and procure equipment and any other resources necessary to respond to the evolving situation.

"As the situation with the novel coronavirus continues to evolve, I want the people of New York State to know that their government is doing everything possible to confront and contain it," Governor Cuomo said. "Last week I proposed a \$40 million emergency management authorization to ensure New York State has the resources necessary to most effectively respond. Last night, the Legislature voted to pass this measure, and I applaud them for their swift action that demonstrates their appreciation of the complexity of this situation and their commitment to responsive measures. While New York's overall risk level remains low, these actions will provide our doctors, hospitals and first responders with the tools they need to ensure the health and safety of all New Yorkers, and to prepare for any possible scenario."

The appropriation legislation also includes language to give the Governor the authority to issue Executive Orders, as necessary, including:

The governor, by executive order, may issue any directive during a state disaster emergency declared in the following instances: fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, disease outbreak, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse. Any such directive must be necessary to cope with the disaster and may provide for procedures reasonably necessary to enforce such directive.

The directive remains in effect through April 30, 2021 and the existing statute contains a provision that allows the Legislature to terminate orders by concurrent resolution.

The Governor also announced he will amend his Paid Sick Leave budget proposal to specifically protect from termination people who are required to stay home from work because they are being isolated or quarantined because of COVID-19.

The Governor has activated the statewide Emergency Operation Center (EOC) in Albany, as well as two Emergency Operations Centers in Westchester County: one in Hawthorne and one in New Rochelle. The EOC and EOC outposts serve as a central command center, where Office of Emergency Management and Division of Homeland Security and Emergency Services personnel can coordinate with Department of Health experts to more closely monitor and respond to the outbreak, provide real-time communications updates and coordinate response efforts with other agencies. The EOC and EOC outposts will remain operational until this outbreak subsides.

Additionally, the State will bring an EOC operation outpost anywhere it's needed when the situation calls for it. More information on New York State's response to COVID-19 is available here: <https://www.health.ny.gov/diseases/communicable/coronavirus/>.



Attorney General Releases Guidance on Coronavirus (COVID-19) Resources and Warnings about Consumer Scams

In conjunction with the State's health-related efforts to protect New Yorkers in relation to the spread of Coronavirus (COVID-19), State Attorney General Leticia James has released warnings about potential consumer scams, as well as guidance on employment resources.

Office of the Attorney General (OAG) is actively monitoring retailers for potential incidents of price gouging of necessary goods and entities selling bogus medical treatments that purport to effectively treat or cure COVID-19. This week, Attorney General James issued a “cease and desist” order to an entity that is marketing a product as a treatment for the coronavirus even though there is currently no FDA-approved vaccine to prevent the disease.

In order to effectively educate and prepare consumers, Attorney General James offers the following tips. If you believe that you have been the victim of a scam, price gouging, or sold a fake medical product, please report those incidents to the OAG.

Consumer Protection Tips

- Beware of scammers selling bogus medical treatments and learn the facts about the coronavirus. There is currently no FDA-approved vaccine to prevent the disease, so ignore offers promising otherwise. Stay informed about the disease by visiting the websites of the:
 - [U.S. Centers for Disease Control and Prevention](#)
 - [NYS Department of Health](#) or by calling a special COVID-19 hotline: 1-888-364-3065

- Report retailers that appear to take unfair advantage of consumers by selling goods or services that are vital to the health, safety, or welfare of consumers for an unconscionably excessive price. Report such [**incidents to the OAG**](#).
- Use caution when making charitable donations. You should never feel rushed or pressured to donate, and never make donations in cash, by gift card, or by money wire. If you receive a charitable solicitation, do some research to determine whether the charity is legitimate, here are some helpful resources that provide lists of reputable charities and those that adhere to accountability standards:
 - [**Charity Navigator**](#)
 - [**Better Business Bureau**](#)
 - You can report suspicious charitable solicitations and scams to the [**OAG's Charities Bureau**](#).
- Beware of Coronavirus-related investment scams. The U.S. Securities and Exchange Commission recently [**warned investors**](#) about coronavirus investment frauds. If investors are aware of or suspect securities fraud or wrongdoing, they can [**contact the OAG's Investor Protection Bureau**](#).

Health Insurance Questions

If you have questions or concerns about health insurance costs related to COVID-19 tests or care, please call the OAG's Health Care hotline: 1-800-428-9071.

Employment Protections

According to the Attorney General, you may need to take time off from work if you are sick or if a family member is sick. Your employer may have a sick leave policy that provides you with paid sick days or you may have paid sick days if you are union member. If your employer does not have a policy or contract guaranteeing you paid sick leave, you may still have protections under certain laws.

- If you work in New York City and your employer has five or more employees, you have five days of paid leave if you have a health condition or to care for a family member with a health condition. If your employer has less than five employees, you have five days of unpaid leave. For more information, please visit the [**NYC Department of Consumer Affairs**](#).
- Workers in New York State have up to 10 weeks of paid leave to care for a family member with a serious health condition. This leave may not be used for your own health condition. For more information, please visit the [**NYS Paid Family Leave**](#) resource site.
- The Family and Medical Leave Act provides for up to 12 weeks of unpaid leave if you have a serious health condition or are caring for a family member with a serious health condition. You must have worked for your employer for a year and your employer must have 50 or more employees. For more information, please visit the [**U.S. Department of Labor**](#).
- If you are sick, you may also be able to request unpaid leave as a reasonable accommodation under laws that prohibit disability discrimination. For more information, please visit the [**NYS Division of Human Rights**](#) or the [**NYC Commission on Human Rights**](#).

If you have questions about your rights in the workplace or if you believe your employment protections have been violated, please contact the OAG's Labor Bureau: 212-416-8700.

- **NYS Whistleblower Law for Health Care Providers** prohibits retaliation against an employee of an employer which provides health care services and who discloses or threatens to disclose to a supervisor or public body an activity, policy, or practice of the employer that the employee reasonably believes constitutes improper quality of patient care; or who objects to, or refuses to participate in any activity, policy, or practice of the employer that the employee reasonably believes constitutes improper quality of patient care. For more information, please contact the Labor Bureau of the OAG at 212-416-8700.
- **Unemployment Insurance** is potentially available to workers who are fired for taking time off from work due to illness and they may apply for unemployment insurance once they are able to work. For more information, please visit the [**NYS Department of Labor**](#).
- **Short term disability insurance** is potentially available to workers who take time off due to illness. For more information, please visit the [**NYS Workers' Compensation Board**](#).



Comptroller DiNapoli Faults Oversight at Public Service Commission of Orders and Agreements

The state Public Service Commission (PSC) is falling short in monitoring Charter Communications Inc. and other utilities across New York, according to an audit released this week by State Comptroller Thomas DiNapoli. Auditors found regulators lacked the equipment to measure Internet speeds, used inaccurate data to track service reliability, and imposed only four penalties in four years.

“My auditors found the state Public Service Commission was not doing enough to make sure utilities are holding up their end of the deal. PSC lacked critical equipment to do its job and rarely inflicted financial consequences when companies did not deliver,” Comptroller DiNapoli said. “This has to change.”

Comptroller DiNapoli’s office engaged the audit after lawmakers in the Hudson Valley raised concerns about poor Internet service. Assemblywoman Didi Barrett (D-Dutchess/Columbia) urged the Comptroller to look at Charter and growing problems with its service.

The audit examined how the PSC is overseeing utility compliance with commission agreements and orders, some stemming from mergers and acquisitions, from Jan. 1, 2015 to July 10, 2019, by four utility companies: Charter, Altice USA, FairPoint Communications Inc. and Rochester Gas & Electric Co. (RG&E).

The PSC, through the Department of Public Service (DPS), regulates 650 utilities responsible for electric, gas, steam, telecommunications, and water services for New York’s residential and business customers. The five-member PSC reviews and approves utility companies’ applications for mergers and acquisitions, rate cases, and other agreements.

Often, approval of these applications is based on conditions, such as pledges to replace or upgrade infrastructure, provide access to services to outlying areas, or enhance quality of service. These conditions are listed in commission orders, and any violation of an order's terms is grounds for the commission to seek reparations, terminate the approved acquisition or merger, or even revoke a utility's license.

In January 2016, the PSC approved the merger of Time Warner Cable and Charter, affecting approximately 2.6 million customers. The resulting order contained ten conditions. Comptroller DiNapoli's auditors found four of these conditions were either not fulfilled by Charter or were not sufficiently verified by regulators. The conditions involved a requirement to extend its network to underserved areas, invest in system upgrades to permit the transition to all-digital technology, provide free broadband service to 50 community locations, and invest \$50 million in service quality improvements over the two years following the approval of the merger.

Comptroller DiNapoli's auditors found problems with DPS's oversight Altice-Cablevision Systems Corp., Fairport Communications and RG&E reviewed as part of the audit.

Comptroller DiNapoli recommended the PSC:

- Actively monitor all conditions listed in orders to ensure all utilities are in compliance.
- Develop and issue orders that include well-defined, measurable and enforceable conditions. The orders should also include the consequences for non-compliance, as appropriate.
- Verify the accuracy of data submitted by utilities used by the commission or department to evaluate or make decisions concerning the utilities, including data submitted for performance metrics, safety standards and reports.

According to the Comptroller, PSC and DPS officials disagreed with many of the report's findings and conclusions, yet agreed with the report's recommendations.



Bills Passed Both Houses



A6163/S4336 Sponsored by M of A Mosley/Senator Carlucci -- Provides that no person sixteen years of age or over shall be a passenger in a motor vehicle unless such person is restrained by a safety belt approved by the commissioner of motor vehicles.

A6986A Sponsored by M of A Solages/Senator Benjamin - Requires the department of health of the state of New York to conduct a study of the effects of racial and ethnic disparities on breastfeeding rates and prepare and submit a report to the governor and the legislature.

S6252 Sponsored by Senator Gianaris/M of A Weprin --Extends the effectiveness of provisions related to licensing of establishments where animals or fowls are slaughtered.

S7088/A9129 Sponsored by Senator Addabbo/M of Pretlow -- Extends the provisions relating to the New York state thoroughbred breeding and development fund for an additional year.

In the News – City



NYC Responds to Coronavirus (COVID-19)

Mayor Bill de Blasio this week began instituting city-based measures to help reduce the spread of Coronavirus (COVID-19) including precautionary self-isolation for travelers to heavily impacted foreign areas and mandatory testing for certain City workers. In addition, he called upon the federal government to increase the City's testing capacity.

"As New York City continues to see more cases, I am reminding New Yorkers to remain vigilant, but not alarmed," said Mayor Bill de Blasio. "We are continuing to do everything in our power to keep New Yorkers safe and healthy, and are asking our federal partners to help us increase testing capacity so we can get the job done faster."

The City Department of Health is asking New Yorkers who return from the following countries to self-isolate for 14 days as a precaution: China, Iran, Italy, South Korea, and Japan.

In addition, the Health Commissioner has ordered any educator, healthcare worker, or first responder employed by the City of New York, New York City Department of Education, and the New York City Health + Hospitals Corporation who the Department determines presents a danger of infection to others, in accordance with accepted public health guidelines or information about the contagious period of COVID-19 shall submit to testing for COVID-19 by the Department or a medical professional. Criteria for Educators, First Responders and Health Care Workers Who are Employed by the City of New York Commissioner's Order to Test For COVID-19 Criteria for educators, first responders and health care workers who are employed by the City of New York identified or potentially identified as exposed to COVID-19: 1) Travel to China, South Korea, Japan, Italy or Iran; or 2) Close contact with confirmed case; or 3) Relevant symptoms for COVID-19 including fever, cough and shortness of breath.

If a worker declines testing, the City Health Commissioner may order any educator, healthcare worker or first responder to self-quarantine at home, or such other location determined by the Department, until the Department determines such person no longer presents a potential danger of infection to others.

The Department of Health is monitoring 2773 New Yorkers for home isolation, as of Thursday.

The Mayor has called on the federal government to provide more test kits to increase the City's testing capacity and allow private companies to develop alternative, automated testing approaches for COVID-19.

Briefs

New York Budget Officials Estimate an Extra \$700M in Revenue Due to Wall Street Bonuses

Bonuses from a booming Wall Street will generate an estimated \$700 million in additional revenue for New York State, according to the State Division of Budget.

Bonuses are being distributed to employees in the first quarter of 2020 based on 2019 profits. Last year, the S&P 500 index rose 28 percent, the Dow Jones index increased 22 percent, and Nasdaq rose 35 percent.

However, the potential impact of Coronavirus (COVID-19) creates risks for the State's financial plan.

"The uncertainty surrounding the spread and impact of the Coronavirus is an exceedingly significant downside risk to the economic and revenue forecasts, as it directly impacts the financial markets, global supply chains and trade and could severely restrain global and domestic growth," the budget forecasters said.

Executive Budget Seeks Additional Donor Disclosure

Governor Andrew Cuomo's 2020-2021 Executive Budget includes language to increase donor disclosure requirements for nonprofit and political advocacy organizations.

The proposal, included in the Public Protection and General Government Article VII bill, would require entities to publicize the names of their donors who give more than \$5,000. In addition, separate donor disclosure would be required for contributions of more than \$10,000 to political advocacy organizations. The Department of Taxation and Finance would be required to publicize the list of donors on its website.

Similar legislation, passed and enacted in 2016, was recently struck down in the courts over freedom of speech limitations.

According to published reports, the Governor's office asserts that the 2021 budget proposal addresses the issues raised by the courts. Stakeholders agree that the success of another court challenge would depend upon what language, if any, is included in the enacted budget.

Comptroller DiNapoli: New York State Pension Fund and Coca Cola Reach Agreement on Executive Pay

Coca Cola Co. will consider the wages it pays all of its employees when setting executive salaries, aiming to bring them into closer alignment, State Comptroller Thomas DiNapoli, trustee of the New York State Common Retirement Fund (Fund), announced today. In response to the agreement, the Fund withdrew its shareholder resolution with the Atlanta-based beverage giant.

"We are encouraging companies to adopt executive compensation policies that take their entire workforce into consideration," Comptroller DiNapoli said. "I commend Coca-Cola for taking this step to help ensure that pay for its top executives is in line with the company's overall compensation philosophy and long-term performance, not simply on what executives at other companies are making."

Coca-Cola agreed to add the following language to its proxy statement regarding CEO and NEO (named executive officer) pay:

"The compensation approach used to set CEO and NEO pay is the same approach used in determining compensation for the broader workforce, including pay competitiveness and the use of performance-based metrics that reward exceptional financial performance.

[The company] also can consider other factors which it regularly reviews, including shareowner and employee feedback; the advisory vote on compensation; the CEO pay ratio; global pay fairness; progress against diversity metrics; and others."

Coming Up

New York State

The Legislature is in session Tuesday March 10nd through Wednesday March 11th

New York City

Monday March 9th

Committee on Transportation, Council Chambers - City Hall, 10 a.m.
Preliminary Budget Hearing - Transportation

Committee on Transportation & Subcommittee on Capital Budget, Council Chambers - City Hall, 11 a.m.
Preliminary Budget Hearing - Capital Budget

Committee on Criminal Justice, Committee Room - City Hall, 1 p.m.
Preliminary Budget Hearing - Criminal Justice

Committee on Hospitals, Committee Room - City Hall, 2 p.m.
Preliminary Budget Hearing – Hospitals

Wednesday March 11th

Subcommittee on Zoning and Franchises, Committee Room - City Hall, 10 a.m.

Committee on Economic Development, Council Chambers - City Hall, 10 a.m.
Preliminary Budget Hearing - Economic Development

Subcommittee on Landmarks, Public Sittings & Dispositions, 250 Broadway - Committee Rm, 16th, 1 p.m.

Friday March 13th

Committee on Parks and Recreation, Council Chambers - City Hall, 10 am.
Preliminary Budget Hearing - Parks and Recreation

Committee on Immigration, Committee Room - City Hall, 10:30 a.m.
Preliminary Budget Hearing - Immigration

Committee on Public Housing, Committee Room - City Hall, 1 p.m.
Preliminary Budget Hearing - Public Housing

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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.

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