



# This Week in New York

Covering New York State and City Government

*A Publication of Pitta Bishop Del Giorno & Giblin LLC*

*November 13, 2009 Edition*



## *In the News – New York State*

### **Deficit Reduction Package: Take Two**

#### ***Legislature to be Back on Monday & Tuesday to Address Deficit & Outstanding Issues***

Restaurant owners, hotel owners, and gay activists head the very short list of individuals happy to see the State Legislature return to Albany next week. The influx of 211 legislators plus their traveling staff members give a much-needed boost to the Albany economy. And hope springs eternal for the same-sex marriage initiative while the Legislature is in session.

But what next week's session will hold for New Yorkers remains to be seen and is the subject of much debate, conjecture, and horror stories. The lack of specifics of an agreed-upon deficit reduction package allows for the resurrection of political specters including taxes and fees. In fact, today's *NY Post* tells New Yorkers to "Get Ready to Bleed," as it recounts Governor David Paterson's agreement to rescind the upcoming license plate fee if another source of revenue can be found.

Couple the license plate scenario with the Governor's statement during yesterday's telephone leaders meeting indicating that he would go along with what the Legislature agrees with and the rumor mill busily churns.

"I'm less and less ideological about deficit reduction," Governor Paterson told the leaders. "We just have to do it. In other words, if the four of you agreed on something that I don't right now, I'd be persuaded to go along with it."

Four of the five leaders have put forth deficit reduction proposals thus far. The Governor and the Senate and Assembly Republicans delivered their proposals in mid-October. The Senate Democrats introduced their bill over last weekend. The Assembly Democrats have yet to release a proposal.

► The Governor has called for:

- 10% cut across the board from State agencies;
- \$1.3 billion cut in local assistance funding (education, Medicaid, social services, transportation);
- Tax forgiveness program;
- Funding sweeps from various agencies;
- Video Lottery franchise payments; and
- Tier V pension legislation.

- ▶ The Senate Democrats have proposed:
  - \$500 million from refinancing tobacco settlement bonds (which the Governor dismissed when it was first floated two weeks ago);
  - \$250 million for a tax amnesty plan;
  - \$200 million transfer from Battery Park City;
  - \$200 million transfer from the Port Authority;
  - \$328 million in sweeps from various state agencies;
  - \$39 million from expanding the operation hours of VLTs; and
  - Authorizing NYSHIP to operate as a self-insured plan.
  
- ▶ The Senate Republicans put forth:
  - Cutting back the \$2.2 billion in general fund spending added to the 2009-10 budget;
  - Cutting state agency non-personal services by ten percent to save \$480 million;
  - Freezing state purchases of recreational lands to save \$78 million;
  - Freezing planned Medicaid expansions to save \$200 million;
  - Reinstating welfare and Medicaid anti-fraud protections to save \$34 million;
  - Cutting Medicaid optional services to save \$150 million; and
  - Cutting state agency contract balances by five percent to save \$300 million.
  
- ▶ Assembly Republican “conversation starters” included:
  - Across-the-board reduction in mid-year State Operating Funds (\$2.5 billion);
  - Consolidating certain administrative agencies (\$241 million);
  - Remove a state mandate from local governments so they can decide which optional Medicaid services to provide (\$1 billion);
  - Reduce non-personal services across all state agencies (\$500 million);
  - Reduce personal services across all state agencies, focusing on appointed administrative positions (\$175 million);
  - Eliminate legislative earmarks (\$100 million); and
  - Eliminate funding for state government to buy up more private land (\$30 million).

## *In the News – New York City*

### **End of an Era: NYC Wins Collateral Source Revision to End “Double Dipping”**

New York City Law Department’s “eight-plus” year push to reform the State’s collateral source law which allows public workers to collect disability pensions and sue for future lost earnings came closer to fruition on Tuesday.

One of the two bills passed by the Legislature this week would repeal the statute, as part of the State’s local government relief initiative.

The Court of Appeals, in the Iazzetti v. City of New York, 94 N.Y. 2d 183 (1999) decision, interpreted CPLR 4545 to allow a public employee the right to collect both a disability pension and to recover damages for loss of future earnings. Currently, collateral source offset is only allowed in private sector dealings.

Plaintiff Mario Iazzetti, an employee of the New York City Department of Sanitation, sustained a disabling back injury when he stepped into an unprotected drain opening at the garage where he worked. At the time of the injury, plaintiff was 40 years old and had worked at the Department of Sanitation for approximately 18 years. The Board of Trustees of the New York City Employees' Retirement System subsequently granted plaintiff Accident Disability Retirement status. Under the terms of his retirement plan, plaintiff receives a pension equal to three-quarters of his last annual salary, as well as an annuity based on his accumulated contributions to the retirement system. Mr. Iazzetti commenced a personal injury action against the City of New York, alleging that the Department of Sanitation had negligently created the dangerous condition that caused his injury. The jury found in favor of Mr. Iazzetti, awarding \$200,000 in past lost earnings and benefits, \$25,000 in past pain and suffering, \$750,000 in future lost earnings and benefits, \$250,000 in future lost pension, and \$25,000 in future pain and suffering. The jury apportioned 80 percent of the responsibility for the accident to the City and 20 percent to plaintiff. After the verdict, the City moved pursuant to CPLR 4545 for a reduction in plaintiffs' awards for past and future loss of earnings and pension. The City was awarded the reduction and the reduction was upheld in a series of court decisions. However, the Court of Appeals overturned the lower courts and upheld the original award.

Shortly following the Court of Appeals decision, the City embarked on a legislative campaign to repeal the statute. This legislative campaign became contentious and controversial at times within the State Legislature. In 2006, eyebrows were raised when three new members were appointed to the Assembly Judiciary committee on the morning the bill was to be considered. The Judiciary Committee, with its three new members, voted to hold the bill in committee.

This time the repeal language, blanketed with other local government reform initiatives, quietly passed the Senate and Assembly on Tuesday.

“This bill stops certain forms of double dipping, for example: when public workers collecting disability pensions sue for future lost earnings - and then collect damages in addition to the pension,” New York City Mayor Michael Bloomberg said. “This bill effectively puts a stop to taxpayers paying salaries twice, something that already exists in the private sector. In New York City alone, this change will save over \$14 million per year - money we need to pay our teachers, police officers and firefighters.”

Governor’s Program Bill #95 is currently under consideration by Governor David Paterson.

## ***In Brief***

### **Comptroller DiNapoli: Cash for Clunkers Helped Sales Tax Revenues but County Collections Still Down 7.2 Percent for 2009**

The Car Allowance Rebate System helped increase sales tax collections at auto dealerships across upstate New York and Long Island in the third quarter by \$17.1 million, an increase of 10.4 percent over the same period last year, according to an analysis released today by State Comptroller Thomas P. DiNapoli. However, sales tax collections outside of New York City are still down for the first nine months of the year by 7.2 percent. In New York City, auto sales tax collections increased 3.6 percent for the quarter and overall sales tax collections have declined 11.4 percent for the calendar year.

While every region of the state experienced an increase in auto sales tax collections in the third quarter, the Capital and Mid-Hudson regions saw the largest increases with 15 percent and 12.9 percent respectively. New York City saw an increase in auto sales tax revenues of 3.6 percent, or \$1.4 million for the same time period. Outside of New York City, Central New York saw its auto sales tax increase the least by 4.1 percent for the quarter.

## ***Coming Up***

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

***Monday, November 16<sup>th</sup>***

***Issues Related to Women Veterans, Including the Transition of Women Veterans from a Combat Zone to Civilian Life, the Availability of Benefits for Women Veterans and Reasons Why Women Veterans May Become Homeless***

Assembly Committees on Veterans' Affairs & Subcommittee on Women Veterans & Assembly Task Force on Women's Issues

Assembly Hearing Room, 250 Broadway, Room 1923, 19th Floor, New York, 10 a.m.

***Swine Flu Preparedness on College Campuses***

Senate Committee on Higher Education

Hamilton Hearing Room B, Legislative Office Building, 2nd Floor, Albany, Noon – 3 p.m.

***Tuesday, November 17<sup>th</sup>***

***Managing the State Information Technology Workforce***

Assembly Committees on Governmental Operations & Governmental & Labor

Hamilton Hearing Room B, Legislative Office Building, 2nd Floor, Albany, 10 a.m.

***Equine Drug Testing in New York State***

Assembly Committee on Racing and Wagering

Room 711-A, Legislative Office Building, Albany, 11 a.m.

***Thursday, November 19<sup>th</sup>***

***NYSDOT 5-Year Capital Plan***

Senate Committee on Transportation

Senate Hearing Room, 250 Broadway, Room 1920, 19th Fl, New York, 12 p.m – 4 p.m.

***New York City***

***Monday, November 16<sup>th</sup>***

***Subcommittee on Landmarks, Public Siting and Maritime Uses***, Committee Room, 9:30 a.m.

***Committee on Land Use***, Committee Room - City Hall, 10 a.m.

***Committee on Rules, Privileges and Elections***, Council Chambers, 10:30 a.m.,

T2009-1756 Nomination of Kimberley A. Hayes to the Youth Board

***Committee on Transportation***, Council Chambers - City Hall, 10:45 a.m.

Int 0662A-2007 In relation to clergy parking permits.

Int 0907-2009 In relation to establishing a grace period for certain parking violations.

Int 1017-2009 In relation to notification of changes in parking restrictions.

Int 1076A-2009 In relation to notification of changes in parking meter regulations.

***Committee on Finance***, Committee Room - City Hall, 11 a.m.

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

***Tuesday, November 17<sup>th</sup>***

***Subcommittee on Zoning and Franchises***, Council Chambers, City Hall, 9:30 a.m.

**Committee on Civil Service and Labor Council**, Council Chambers, City Hall, 1 p.m.

*Int 1059-2009* In relation to the provision of paid sick time earned by employees.

**Wednesday, November 18<sup>th</sup>**

**Committee on Consumer Affairs** 250 Broadway - Hearing Room, 14th Fl, 10 am

*Int 0913-2009* Licensing doorbuster sales. Introduction A Local Law to amend the administrative code of the city of New York, in relation to licensing doorbuster sales.

**Committee on Veterans** 250 Broadway - Hearing Room, 14th Fl. 1 p.m.

*Oversight - Employment Opportunities for Veterans in NYC.*

**Committee on Higher Education** Council Chambers - City Hall 1 p.m.

*Oversight - How the Governor's Deficit Reduction Plan Impacts CUNY.*

**Committee on Governmental Operations**, 250 Broadway - Hearing Rm, 16th Fl. 2 p.m.

*Int 1025-2009* Requiring the Corporation Counsel to submit quarterly reports to the City Council detailing the number and disposition of civil actions filed against the NYPD.

**Thursday, November 19<sup>th</sup>**

**Committees on Women's Issues & Public Safety & Transportation**, 250 Broadway, 14th Fl., 10 a.m.

*Oversight - Sexual Harassment and Assault on New York City Subways.*

**Subcommittee on Planning, Dispositions and Concessions**, Council Chambers, 10 a.m.

**Committee on Lower Manhattan Redevelopment**, 250 Broadway, 16<sup>th</sup> Floor, 10:00 AM

*Oversight - Lower Manhattan Emergency Preparedness.*

**Committee on Civil Rights**, 250 Broadway – 16<sup>th</sup> Fl. 1 pm.

*Oversight: Executive Order 127 of 2009 – Ensuring that New York City's Hard to Count Populations Are Identified and Encouraged to Participate in the 2010 Census.*

*Res 0190-2006* Proposed Res. No. 190-A Amend the Election Law so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in which they are detained.

*T2009-1758* Preconsidered Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the “one person, one vote” principle inherent in the Fourteenth Amendment of the Constitution

**Friday, November 20<sup>th</sup>**

**Committee on Technology in Government**, Committee Room – City Hall, 10 a.m.

*Oversight: Establishing Strong Network Neutrality Principles in Order to Protect the Internet.*

*Res 0712-2007* Proposed Res. No. 712-A Congress to codify strong network neutrality principles in order to insure that the Internet will continue to foster innovation, increase competition, and spur economic growth.

**Committee on Environmental Protection**, Council Chambers, 1 p.m.  
*Int 0935-2009* Backflow prevention device reporting and certification.

**Committee on Immigration**, 250 Broadway, Hearing Room, 16<sup>th</sup> Floor, 1 p.m.  
*Oversight: Executive Order 127 of 2009 – Ensuring that New York City’s Hard to Count Populations Are Identified and Encouraged to Participate in the 2010 Census.*

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*T2009-1758* Preconsidered Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the “one person, one vote” principle inherent in the Fourteenth Amendment of the Constitution.

**Committees on Health & Aging**, 250 Broadway, 14<sup>th</sup> Floor, 1 p.m.  
*Oversight - End of Life Care: What Everyone Should Know.*

**Committee on Youth Services**, 250 Broadway, 16<sup>th</sup> Floor, 2 p.m.

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