



This Week in New York

Covering New York State and City Government

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In the News – New York State

Senate Answers the Call of Early Intervention Advocates & Parents

Senate Revises Proposal to Regulate Child Developmental Programs to Include Business Corporations

State Senator Toby Stavisky this week responded to pleas on behalf of New York's developmentally delayed children by amending her legislation to avoid a potential threat to the availability of health-related services.

As reported last week, the Legislature is considering legislation aimed at resolving a conflict between New York's corporate practice statute and the corporate formation of entities providing services under the State's Early Intervention Program. In last week's version of the legislation, both the Senate and Assembly prohibited for profit entities from providing services to the program's children aged from birth to 3 years old. More than half of New York's 70,000 children receive services from for profit providers.

This week Senator Stavisky amended her bill to include "business corporations" to the list of entities that may provide services pending State regulator approval. Following the amendments, the Senator brought her bill before the Senate Higher Education Committee – which she chairs – for consideration. The Committee approved the amended legislation, sending it to the Senate calendar for consideration by the house possibly next week.



Senator Stavisky

Early intervention providers met with members of the State Senate this week as part of an aggressive educational outreach program. Members were provided "hard numbers," including data detailing the number of children receiving services by for profit providers in each of the areas across the state. The numbers topped almost 1,000 children in one downstate Senate district. In addition, the outreach yielded that all of the early intervention services in one Upstate Senate district were provided by for profit providers. Therefore the earlier version would effectively leave those children with no available provider.

Yesterday, Assembly sponsor Deborah Glick submitted amendments to her version of the legislation, the bulk of which dealt with technical issues surrounding the waivers and reporting requirements of the allowed entities. It did not include for profit companies in the definition of permitted entities.

As the regular legislative session quickly comes to a close (the session calendar marks June 21st as the last regular session day), the possibility of enactment becomes more and more complicated.

Senate Investigations Committee Finds Executive Passive Negotiations to Blame for Cigarette Tax Revenue Loss

The Senate Investigations Committee puts the blame for New York's inability to collect non-native cigarette taxes squarely on the shoulders of the State's Executive Branch in a report released today.

The report, entitled "Executive Refusal," backed New York's contention that it is entitled to collect taxes on these sales. However, it concluded that the main cause of the current stalemate is the Executive Branch's long-standing failure to engage in aggressive negotiations with New York's Native American nations.

"This is a decade-plus bi-partisan failure that has literally let billions of tax dollars go uncollected," said the Committee's Chairman, Senator Craig M. Johnson. "While we respect the sovereignty and history of New York's Native American Nations, the current state of affairs is simply unsustainable."

The committee also found testimony provided by Nation members that detailed past injustices and what they believe to be an historical lack of respect and consideration paid to them by the state was with merit.

Among the recommendations made by the Committee is that Governor David Paterson should rescind the administration's policy of "forbearance" which bars the state Department of Taxation and Finance from pursuing the collection of these taxes.

"The twin cancers of appeasement and benign neglect must be eradicated from the State's governmental playbook," the report stated. "If New York cannot quickly and effectively recapture a spirit of fair play and provide a level economic playing field, it will have suffered a devastating blow which every regulated licensee will know: New York enforces the law selectively, and only against those it can intimidate and overpower."

Following a series of violent confrontations on Seneca Nation land in the 1990s, Governor George Pataki instituted the forbearance policy. His successors – Eliot Spitzer and David Paterson -- upheld the policy.

According to the report, this policy went unchanged while other issues with Native American nations – such as a \$40 million dispute over the cost of state police security at Native American-owned casinos – arose, and members of one Nation, the Mastic-based Poospatucks, were implicated in unlawful smuggling and counterfeiting operations.

The report's full recommendations include:

- ▶ Lifting the forbearance policy and issuing tax exempt coupons to Native American retailers.
- ▶ Resolving the \$40 million unpaid charge for casino security and personal background checks performed on behalf of the Seneca casino operations in western New York State by implementing the arbitration clause contained in each applicable compact.
- ▶ Creating a "Native American Affairs Committee" in each house of the Legislature to address both short and long term legal and social issues between the State and the Bureau of Indian Affairs (BIA) recognized Native American tribes.
- ▶ Appointing a "Deputy Secretary for Native American Affairs" to address all issues affecting these nations, including, but not limited to, arbitration issues involving the collection of cigarette and petroleum taxes, the collection of revenues under the casino compacts and to resolve contested land claims.
- ▶ Revoking the recognition of the Poospatuck Tribe.

Governor Paterson Signs Health Insurance Reform

Governor David A. Paterson this week signed into law Governor's Program Bill No. 278, that reinstates the New York State Insurance Department's authority to review and approve health insurance premium increases before they take effect.

Since 2000, New York had regulated health insurance premiums under a "file and use" law that limited the State's ability to disapprove health insurance premium increases and allowed the insurance industry to self-regulate.

"Deregulation of health insurance premiums is a failed experiment leading to unjustified premium increases and more people losing their health insurance coverage," Governor Paterson said.

The new law requires health insurers and HMOs to make an application to the Insurance Department to implement premium increases. The Department would have the opportunity to review the rate applications, as well as the underlying calculations, to ensure that the rates are justified and may approve, modify or disapprove the rate application. The law would apply to all rate increases taking effect on or after October 1, 2010.

In addition, the legislation raises the "medical loss ratio" - the percentage of premium spent to provide medical care - from 75 percent to 82 percent for small businesses and from 80 percent to 82 percent for individuals.

Under the Federal Patient Protection and Affordable Care Act, health insurers will be required to report justifications for "unreasonable" rates increases as well as the percentage of premiums spent on claims, quality of care, taxes, and administrative costs.

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The legislation also provides an opportunity for policyholders and the public to provide comments to the insurer and the Insurance Department on the rate applications. The Insurance Department is required to post relevant comments on its website to provide a forum for public input and discussion. Small businesses and individuals will also receive longer notice of rate increases – 60 days instead of 30 days – allowing them more time to consider alternative coverage options if they cannot afford a rate increase.

In the News – New York City

Mayor's Citywide Campaign to Reduce Absenteeism and Truancy in City Schools Looks Outside of Schools for Solution

Mayor's Task Force Opts to Work with Community Based Organizations

The recently formed Mayoral Interagency Task Force to strengthen the City's response to chronic absenteeism and truancy at City schools will “work closely with community-based organizations” to develop a comprehensive set of initiatives to reduce truancy and chronic absenteeism.

The Task Force, to be headed by John Feinblatt, the Mayor's Chief Advisor for Policy and Strategic Planning, will address excessive absenteeism at all grade levels at schools with the most severe absenteeism problems, but will focus largely on early intervention initiatives in elementary and middle schools, according to the Mayor. It will be chaired by Leslie Cornfeld, a former federal prosecutor who served as Director of the Mayor's Interagency Task Force on Child Welfare and Safety. According to the Mayor, the Task Force will work closely with community-based organizations and organizations with records of success in this area, and will examine models of success from schools in NYC and throughout the country.

The Task Force will consist of the heads of the key stakeholder agencies responsible for these areas, including the Department of Education (DOE), ACS, New York City Police Department, DYCD, DOHMH, DHS and NYC Service.

According to Mayor Bloomberg, while attendance rates, which have been steadily increasing in recent years, averaged 90 percent last year in New York City, there are pockets of school children who miss far too much school. Nearly 20 percent of City elementary school students missed one month of school or more last year. Research shows that 3 out of 4 students who are chronically absent in the sixth grade never graduate from high school. In New York City, over 40 percent of children in the juvenile justice system have been chronically absent. Absenteeism rates are highest in low-income communities, where school offers students the best opportunity for future success. The Task Force will focus on developing responses to early warning signals in the early years – “before truancy is an entrenched habit,” the Mayor explained.

“Despite substantial success in improving educational outcomes for the students of NYC public schools, students can not take advantage of these opportunities if they don't show up,” explained Schools Chancellor Joel I. Klein. “We want to ensure that every student in NYC has the chance to take advantage of what our public schools offer. By partnering with other agencies citywide, we can ensure that all NYC students have a fair chance to attend and succeed in school, and in life.”

The Task Force will examine a broad spectrum of areas, including: developing a protocol for using absenteeism data to alert parents/guardians and other necessary stakeholders about absences; developing protocols for engaging and supporting targeted students and families; strengthening NYC's current truancy-related policies and practices; developing protocols to strengthen school partnerships with community-based organizations, service providers and law enforcement; and developing data-driven models for identifying and responding to students and schools at greatest risk of chronic absenteeism.

City Council Approves Legislation to Ensure Taxi Safety

In time for the summer tourists, the City Council this week approved a three-bill package to increase protections for taxi riders and make the Taxi and Limousine Commission (TLC) complaint process and enforcement actions more transparent.

The first bill would require all taxicabs to be outfitted with equipment that would record and store all fare data, and any other information required by the Taxi and Limousine Commission (TLC). The bill would also ensure that taxicab riders would be able to obtain their fare information free of charge. Specifically the bill would:

- ▶ Require that all taxicabs have equipment which stores or transmits storage fare data. This would include, but not be limited to, the fare rate, the times or locations such fare rates were in effect, and the pick-up and drop-off information.
- ▶ Require that all data, stored or transmitted by such equipment, shall be made available.
- ▶ Require that a licensed driver's fare information, including rate of fare and pickup and drop-off information, shall be made available to the driver by the vendors, at no charge to the driver.
- ▶ Allow the TLC to set by rule, contract or otherwise, responsibility for compliance with the legislation, and for penalties for non-compliance.

The second bill would also increase transparency by requiring the TLC to include additional information in its annual report. Specifically, under the legislation TLC would be required to include:

- complaints from the public on overcharging, as well as enforcement actions undertaken by the TLC, whether the enforcement action was dismissed or settled, or if a penalty was imposed on the subject;
- enforcement actions on illegal street hails, unlicensed vehicles, overcharging, and toll lane infractions; and
- complaint and enforcement action information in its annual report to be detailed by month, the type of license, subject matter, geographic location.

In addition, TLC would be required to post the complaint and enforcement information on its website, at least on a monthly basis. The information would not include the name of the parties that reported the complaint.

The third bill would amend the Taxicab Riders' Bill of Rights to inform passengers of their rights to a taxicab with a working E-Z Pass and the payment of tolls with the pass. According to the Council, this will help protect riders from some taxicab drivers who have used cash lanes, which move slower, resulting in higher fares for such riders.

The bills now go to Mayor Michael Bloomberg for consideration. He is expected to approve the measures.

Briefs

City Council Committee Approves Home Rule Messages

The City Council this week approved a home rule request asking for the passage of State legislation to provide health insurance coverage for surviving spouses or domestic partners of members of the New York City departments of Correction and Sanitation. Sponsored by Senator Andrew Lanza and Assemblymember Michael Cusick, the legislation would allow surviving spouses and domestic partners the option of continuing health insurance coverage at a cost of 102% of the group rate. This allowance is currently made for surviving family members of police officers and firefighters.

In addition, the Council agreed to call upon the State Legislature to enact legislation that guarantees a pension to any New York City police officer or firefighter who has attained twenty years of creditable service. Sponsored by Senator Diane Savino and Assemblymember Peter Abbate, the legislation gives New York City police officers and firefighters the same protection as State officers and firefighters.

Coming Up

New York State

Wednesday, June 16th

The Community Services Block Grant (CSBG) Program

Senate and Assembly Committees on Social Services, Children & Families, Finance, Governmental Operations, & Ways & Means

Roosevelt Hearing Room C, Legislative Office Building, 2nd Floor, Albany, New York, 10:30 a.m.

New York City

Monday, June 14th

Committee on Transportation Jointly with the Committee on Small Business, Council Chambers - City Hall, Noon.

Oversight - The 2nd Avenue Subway and the East Side – Is there light at the end of the tunnel?

Tuesday, June 15th

Committee on Civil Service and Labor, 250 Broadway - Hearing Room, 14th Fl., 1 p.m.

An Update of the Department of Citywide Administrative Services' Implementation of the Provisional Employee Reduction Plan: Is it Working?

Subcommittee on Landmarks, Public Siting and Maritime Uses, 250 Broadway, 16th Fl., 11 a.m.

Subcommittee on Zoning and Franchises, 250 Broadway - Hearing Room, 16th Fl., 9:30 a.m.

Subcommittee on Planning, Dispositions and Concessions, 250 Broadway, 16th Fl., 1 p.m.

Wednesday, June 16th

Committee on Consumer Affairs, 250 Broadway - Hearing Room, 16th Fl., 10 a.m.

Int 0272-2010 In relation to revoking food vendor permits for parking violations.

Committee on Governmental Operations, Council Chambers - City Hall, 1 p.m.

Int 0260-2010 In relation to requiring the City Clerk to provide the public with certain information regarding same sex marriages.

Committee on Housing and Buildings, Council Chambers - City Hall, 10 a.m.

Int 0224-2010 In relation to the establishment of a pilot program for the remediation of mold and vermin conditions in certain multiple dwellings.

Committee on Women's Issues, 250 Broadway - Hearing Room, 14th Fl., 10 a.m.

Oversight - Closing the Gender Wage Gap.

Committee on Immigration, 250 Broadway - Hearing Room, 16th Fl., 1 p.m.

Oversight - A Review of Governor Paterson's Immigrant Pardon Board and its Potential Impact on Immigrant New Yorkers Facing Deportation.

Thursday, June 17th

Committee on Finance, Council Chambers - City Hall, 1 p.m.

Int 0172-2010 Introduction A Local Law to repeal Local Law 41 for the year 2009.

Committee on Land Use, 250 Broadway - Hearing Room, 16th Fl., 10 a.m.

Committee on Youth Services, Council Chambers - City Hall, 10 a.m.

Oversight: Teen Fatherhood Initiatives.

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

Oversight - Clearing the Air: Greening New York City's Working Waterfront.

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