



# This Week in New York

Covering New York State and City Government



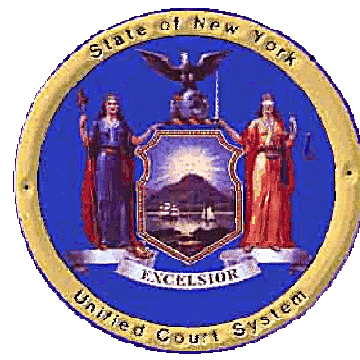
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December 2, 2011 Edition

## In the News – New York State



### ‘Tis the Season for Austerity

*Judiciary 2012-2013 Budget Comes in Lower Than 2011-2012*



Armed the gift of hindsight, New York’s Judiciary submitted a 2012-2013 spending plan which represents a reduction in both appropriations and cash, hoping to avoid the cuts of last year’s budget negotiations.

According to Chief Judge Jonathan Lippman, the Judiciary’s budget request for Fiscal Year 2012-2013 reflects the court system’s continuing commitment to work with the other branches of government in addressing the State’s fiscal crisis, while ensuring that the courts are able to provide timely and fair justice to all New Yorkers.

“The current economic recession has presented the New York courts with a daunting challenge: the need to achieve austerity comes at a time when the courts are continuing to experience record-level caseloads,” Judge Lippman wrote in his budget submission.

The General Fund appropriation request for 2012-2013 is \$2.30 billion, a \$3.9 million (or .17 percent) decrease from current year funding. The General Fund cash disbursement requirement for 2012-2013 is \$2.31 billion, a \$3.5 million (or .15 percent) decrease from the current year cash level.

The budget addresses \$70 million in mandated increases, including \$27.7 million for the first judicial pay increase in more than 13 years, and more than \$21.3 million for contractually-required increments for eligible non-judicial employees.

Judge Lippman noted that the court system’s ongoing operational review and cost-cutting measures provide the necessary funding to fulfill the mandates. For example, over the past two fiscal years the non-judicial workforce of the court system has been reduced by more than 1,300 positions as a result of participation in the Early Retirement Incentive Program, targeted layoffs, and a hiring freeze.

In addition the courts have enacted specific money saving initiatives and cuts including:

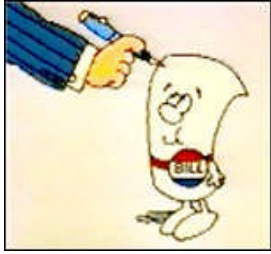
- Modification of court operations, including restructuring of weekend arraignment shifts in New York City, and a reduced number of evening sessions for Small Claims Court.
- Administrative functions have been streamlined, and offices and programs that provide services to the courts and the public, such as law libraries and court interpreters, have been reorganized or consolidated.
- Funding was eliminated for a number of programs that were important, but not essential, such as the Parent Education Program and the Lawyers Assistance Trust Program.
- Funding for other programs, such as the Children's Centers and the Alternative Dispute Resolution Program, was reduced.
- Funding for Judicial Hearing Officers was dramatically decreased.
- Leases have been terminated and court personnel have been consolidated to reduce real estate costs.

Judge Lippman asserted that the budget provides the minimum funds the Judiciary needs and that any further reduction would "seriously jeopardize the ability of the courts to fulfill their core mission." In addition, the budget would permit the courts to modify at least some of the measures that had the most immediate and direct negative impact on court users, including backlogs and delays. For example, this budget will permit some relaxation of the early closing times that were implemented this year.

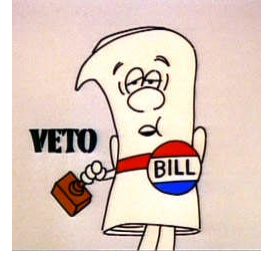
The State Legislature also unveiled its budget proposal Thursday, holding its funding request steady from 2011-2012, according to published reports. In 2012-2013, the Senate and Assembly are seeking the same \$194 million in funding that was allocated in the current year.

On the State agency front, the agency heads continue to implement Governor Andrew Cuomo's "restacking" initiative. This week the 750 employees at the Division of Criminal Justice Services were notified that they would be moving to the Alfred E. Smith Building in downtown Albany. The Division currently leases space west of the Capitol area in Stuyvesant Plaza.

*Judiciary Budget Proposal:* <http://www.nycourts.gov/admin/financialops/BGT12-13/Final2012-13Budget.pdf>.



## Governor Considers Pharmacy Bills



The fate of the much-publicized prescription drug bill is now in the hands of Governor Andrew Cuomo. The legislation was delivered to Governor Cuomo on Wednesday, giving the Governor until December 12<sup>th</sup> to consider the legislation.

Sponsored by Senator George Maziarz (R Buffalo) and Assemblyman Carl Heastie (D – Brooklyn), the bill would require any policy which provides coverage for prescription drugs to allow participants to fill any mail order covered prescription, at his or her option, at any mail order pharmacy or network participating non-mail order retail pharmacy. The network participating non-mail order retail pharmacy would be required to accept a price that is comparable to that of the mail order pharmacy.

Proponents of the legislation promote the bill as an effort to protect “freedom of choice,” as well as a protection for the consumer, especially senior citizens, who rely on local pharmacists to assist in monitoring drug regimes.

Several business groups and health providers have called upon the Governor to veto the legislation, asserting the bill would prohibit discounts for mail order prescriptions and would lead to a 10 percent increase in the cost of prescription drugs in New York State. The U.S. Federal Trade Commission indicated that by reducing competition between pharmacies, the legislation could also reduce access to prescription drugs.

Among the groups that have publicly called for a veto include the Business Council of New York, the National Federation of Independent Businesses (NFIB), the Federal Trade Commission, and the American Postal Workers Union, AFL--CIO.

"The mail pharmacy provides an excellent alternative for rural and homebound patients and sending prescriptions via the mail also supports local jobs like those of the 17,659 APWU workers across the state of New York," according to the American Postal Workers Union, AFL—CIO.

A second pharmacy-related bill was also delivered to Governor Cuomo this week. Sponsored by Assembly Speaker Sheldon Silver (D Manhattan) and Senate Majority Leader Dean Skelos (R Nassau), the bill would require all policies that provide coverage for fertility drugs to cover prescription fertility drugs purchased at a non-mail order pharmacy without any additional cost sharing to the covered individual.

In this instance, proponents of the legislation assert that the effectiveness of many fertility drugs relies on a strict treatment regimen that is often difficult or impossible to maintain when using a mail order pharmacy.

## *In the News – New York City*



### **NYC is No Stranger to “Living Wage”**

More than \$1 billion in New York City contracts are already subject to the New York City’s Living Wage Law, according to the Independent Budget Office (IBO). In fact, the IBO asserts, New York City had one of the first living-wage laws in the country.

Passed in 1996, over the veto of then-Mayor Rudolph Giuliani, the first Living Wage legislation was spearheaded by organized labor. It required that private firms contracting with the City to provide food services, security guards, cleaners, and temporary office workers pay their employees a living wage that ranged from about \$7.25 to \$12 an hour.

The 1996 initiative was expanded in 2002 when Mayor Michael Bloomberg signed a law that extended living-wage provisions to home health care and child care workers whose agencies had contracts with the city.

According to the New York City Comptroller §6-109 Living Wage Schedule:

- ❑ A city service contractor or subcontractor that provides homecare services, day care services, head start services or services to persons with cerebral palsy must pay its covered employees that directly render such services in performance of the city service contract or subcontract no less than the living wage and must provide its employees health benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate. This requirement applies for each hour that the employee works performing the city service contract or subcontract.
- ❑ A city service contractor or subcontractor that provides building services, food services or temporary services must pay its employees that are engaged in performing the city service contract or subcontract no less than the living wage or the prevailing wage, whichever is greater. Where the living wage is greater than the prevailing wage, the city service contractor or subcontractor must either provide its employees health benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate. Where the prevailing

wage is greater than the living wage, the city service contractor or subcontractor must provide its employees the prevailing wage and supplements. These requirements apply for each hour that the employee works performing the city service contract or subcontract.

According to the IBO, 437 New York City contracts for fiscal year 2011 are subject to the existing living-wage law. These contracts were valued at \$533 million, according to an annual report by the Mayor's Office of Contract Services. Over the past four fiscal years, the City has signed nearly 1,100 contracts worth more than \$1.5 billion that must comply with living-wage rules.

The proposed living-wage bill would cover all workers in projects that receive certain public subsidies worth \$1 million or more. It would exempt businesses with revenues of less than \$5 million a year, manufacturing firms, and nonprofits. In testimony submitted at last week's City Council hearing, the IBO estimated that six or seven projects a year would be affected by the proposed rules, based on the economic development projects subsidized by the City in 2002-2008.



## **Comptroller DiNapoli: NYC Buildings Department Must Improve Follow-Up on Hazardous Code Violations**

The New York City Department of Buildings has allowed major code violations that could pose immediate and severe threats to life and safety to linger unfixed for months, according to an audit released this week by New York State Comptroller Thomas P. DiNapoli.

Under the City's current system, when a building inspector discovers violations, the responsible party is cited with a Notice of Violation. There are three classes of violations, with the most serious being Class 1, which covers immediately hazardous situations that present a severe threat to life. A violation does not carry a fine or penalty but can be used as the basis for a criminal court summons or prosecution.

The law requires the Department to re-inspect Class 1 violations within 60 days if the owner has not formally notified the department that issues have been remediated. The Comptroller's auditors found that Department managers do not begin scheduling re-inspections until 120 days after the citation.

According to the auditors, a review of 1,206 open violations written in April 2010 showed that 1,063 re-inspections had been performed by December 2010. However, 94% of these inspections did not actually occur until four to six months after the citations were written. In addition, inspectors found the conditions had not been corrected and continued to pose an immediate threat in almost half of the

cases. In one case, inspectors found a partial roof collapse in Queens that remained unfixed for more than four months after the initial inspection.

Auditors also randomly selected 50 out of 57,338 Class 1 violations that were issued between July 1, 2008 and August 4, 2010 and reviewed when follow-up actions were taken. Of the 50 violations, 66 percent were still open, with four open for more than 700 days.

According to the Comptroller, the Buildings Department generally agreed with the audit's recommendations and has begun addressing the problems identified in the Comptroller's audit.

## ***In Brief***

### **“Charity Corps” To Provide Counsel To Nonprofits**

Charity Corps, a partnership between the State Attorney General's Office and the New York State Bar Association, was launched this week, offering legal counsel to nonprofit organizations. Charity Corps will begin as a pilot program, serving up to 50 nonprofits in its first year. Ultimately, the program is expected to be expanded across New York State. To be eligible, an organization must have a 501(c)(3) nonprofit status. It must also lack in-house counsel and be unable to afford outside counsel. Organizations interested in participating in the program must file their applications by December 31, 2011.

The Attorney General's Charities Bureau, led by Bureau Chief Jason R. Lilien, will support the initiative by providing training and guidance to volunteer attorneys and nonprofits. For additional eligibility information, including applications and volunteer attorney forms, please visit [www.nysba.org/CharityCorps](http://www.nysba.org/CharityCorps).

### **Thanksgiving Texting Tickets**

New York State Police issued 816 tickets for texting-while-driving violations over the Thanksgiving holiday, according to Governor Andrew Cuomo's office. Approximately 330 of those were issued as part of “Operation Hang-Up,” conducted from November 23<sup>rd</sup> through 27<sup>th</sup>.

During the period of January through June, approximately 429 tickets were issued per month to motorists for using a handheld electronic device while driving. Since the new law was signed in July, at least 1,000 tickets have been issued each month.

### **Fracking Delay**

The State Department of Environmental Conservation (DEC) has extended a public comment period on its proposed rules for hydraulic fracturing for natural gas, the agency announced Wednesday.

The extension was announced in Manhattan at the DEC's final public hearing on its 1,500-page environmental review and proposed regulations.

The comment period will now close on January 11th. It had been slated to end on December 12th.

## **Elks, Moose, and Eagles Call for More Gaming**

Charitable organizations and gaming interests were in Albany this week testifying before the Assembly Racing & Wagering committee in relation charitable gaming in New York State. Representatives of the Benevolent & Protective Order of Elks, the Loyal Order of Moose, the Fraternal Order of Eagles, and the Ancient Order of Hibernians joined representatives of the National Association of Fundraising Ticket Manufacturers to discuss the effectiveness of the current system regarding charitable gaming and discuss whether changes to current law should be explored.

Among the issues promoted were the authorization of charity poker tournaments and New York State approval of VSweeps, a form of an electronic bell jar currently allowed in other states across the country. Advocates assert that expansion is necessary to overcome the loss of traditional fundraising revenue due to the State's economy.

## **NYC Hotel Tax Extended**

The New York City Council voted this week to extend Local Law 65 of 2008, which increased the City's tax on hotel rooms from 5 percent to 5.875 percent, effective until November 30, 2011. The legislation, which was signed by Mayor Michael Bloomberg, extends the rate for an additional two years.

According to the Council, the higher rate will add about \$2 to the average daily hotel room rate - \$265 per night as opposed to \$263. It will raise an additional \$30 million for the remainder of Fiscal Year 2012 and a projected \$56 million in Fiscal Year 2013.

## **Ari Hoffnung: Deputy Comptroller for Public Affairs**

City Comptroller John C. Liu this week announced the appointment of Ari Hoffnung as Deputy Comptroller for Public Affairs. Hoffnung, who most recently served as Assistant Comptroller of Budget & Chief Policy Officer, will assume his new role on December 19th. He replaces Alan van Capelle who is departing the Comptroller's Office.

Deputy Comptroller Hoffnung will oversee all operations pertaining to the Public Affairs Bureau of the New York City Comptroller's Office, which includes the Community Action Center, Public Affairs, and Communications departments. He will also retain his oversight of the Comptroller's Policy Bureau.

He currently serves as Comptroller Liu's representative at the Office of Payroll Administration (OPA) and the Financial Information Services Agency (FISA). In addition to FISA and OPA, Deputy Comptroller Hoffnung also serves as Comptroller Liu's representative on the New York City Banking Commission.

Deputy Comptroller Hoffnung holds an MBA in Finance from New York University's Stern School of Business and a bachelor's degree from Queens College.

## *Coming Up*

### *New York State*

#### *Monday, December 5<sup>th</sup>*

##### *The Regulation of Toxic Chemicals in Children's Products*

Assembly Committees on Environmental Conservation, Health & Consumer Protection  
Assembly Hearing Room, 250 Broadway, Room 1923, 19th Floor, New York, 10 a.m.

#### *Tuesday, December 6<sup>th</sup>*

##### *Mental Health Treatment in Prison*

Assembly Committees on Correction & Mental Health  
Roosevelt Hearing Room C, Legislative Office Building, 2nd Floor, Albany, 11 a.m.

##### *Examination of Programs that Support Seniors in the Community*

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

#### *Wednesday, December 7<sup>th</sup>*

##### *Local Governments, Real Property Taxation and Cities Budget Implementation Hearing*

Assembly Committees on Local Governments, Real Property Taxation, & Cities  
City Hall Council Chambers, 3rd Floor, 233 East Washington Street, Syracuse, 11 a.m.

#### *Thursday, December 8<sup>th</sup>*

##### *Potential Closure of Indian Point Energy Center (IPEC)*

Assembly Committees on Energy & Corporations, Authorities and Commissions  
Assembly Hearing Room, 250 Broadway, Room 1923, 19th Floor, New York, 10 a.m.

#### *Friday, December 9<sup>th</sup>*

##### *"DREAM Act" Legislation*

Assembly Committees on Governmental Operations & Higher Education  
Assembly Hearing Room, 250 Broadway, Room 1923, 19th Floor, New York, Noon.

## *New York City*

### *Monday, December 5<sup>th</sup>*

*Committee on Veterans Jointly with the Committee on Mental Health, Mental Retardation, Alcoholism, Drug Abuse and Disability Services, 250 Broadway - Committee Rm, 14th Fl., 10 a.m.*

*Oversight: Improving Access to Mental Health Services for Veterans*

*Res 0958-2011 - Resolution urging the United States Congress to pass and the President to sign H.R. 930, a bill to amend Title 38 of the United States Code to improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with post-traumatic stress disorder or mental health conditions related to military sexual trauma, and for other purposes.*

*Committee on Juvenile Justice, Jointly with the Committee on Women's Issues, and the Committee on Youth Services, 250 Broadway - Committee Rm, 14th Fl., 10 a.m.*

*Oversight: Implementation of the Safe Harbor Act.*

### *Tuesday, December 6<sup>th</sup>*

*Committee on Transportation, 250 Broadway - Committee Rm, 14th Fl., 10 a.m.*

*Oversight: MTA Readiness for Winter 2011-2012.*

*Committee on Land Use, 250 Broadway - Committee Rm, 16th Fl., 10 a.m.*

### *Wednesday, December 7<sup>th</sup>*

*Committee on Small Business Jointly with the Committee on Economic Development, 250 Broadway - Committee Rm, 14th Fl., 1 p.m.*

*Oversight: Industrial Business Zones and Retaining Small Manufacturing Businesses.*

*Committee on Civil Service and Labor, 250 Broadway - Hearing Rm, 16th Fl., 1 p.m.*

### *Thursday, December 8<sup>th</sup>*

*Committee on Finance, 250 Broadway - Committee Rm, 16th Fl., 10 a.m.*

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

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