



# This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop Del Giorno & Giblin LLC

December 16, 2011 Edition



## In the News – New York State

### A Critical First Step to Revealing the “Six Degrees” of Albany’s Political Culture

On Monday, New York’s Joint Commission on Public Ethics (JCOPE) took over the reins in Albany’s efforts to peel away the layers of governmental advocacy.

Established by Chapter 399 of the Laws of 2011, the Public Integrity Reform Act is Governor Andrew Cuomo’s vehicle to “make disclosure of whom the legislators are doing business with, how much money they are getting, disclosure on the lobbying groups.” In a radio interview this week, Governor Cuomo promoted JCOPE as a means of “shedding light on that whole maze” which he characterized as “troublesome, deceptive and highly effective.”

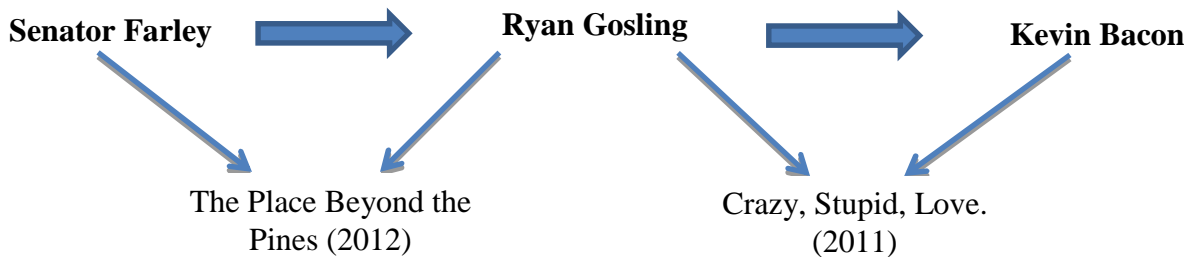
Specifically, Governor Cuomo noted the role of “not-for-profits” in New York’s lobbying system particularly in relation to the media.

“It is the lobbying system. It blends into these not-for-profits that give press releases to the press,” Governor Cuomo explained. “They are demonstrators that are paid for by special interests, but quoted as if they are champions of democracy. “

Borrowing a convention from pop culture, the art of deciphering the levels and players of advocacy can be likened to a round of the *Six Degrees of Kevin Bacon*. Based upon the Six Degrees of Separation concept (which refers to the idea that everyone is approximately six steps away, by way of introduction, from any other person on Earth), the Six Degrees of Kevin Bacon is a trivia game based on the assumption that any individual involved in the Hollywood film industry can be linked through his or her film roles to actor Kevin Bacon within six steps.

For example, Schenectady Senator Hugh Farley, has a Bacon number of 2:

1. Senator Farley will appear in *The Place Beyond the Pines* (2012) with Ryan Gosling.
2. Ryan Gosling was in *Crazy Stupid Love* (2011) with Kevin Bacon.



This phenomenon can be applied to the Albany political culture. This week the Lawsuit Reform Alliance of New York (LRANY) issued a press release heralding that New York City and Albany are among the nation's worst civil court jurisdictions and have been deemed "judicial hellholes" by the American Tort Reform Association (ATRA). The classification is based on an ATRA report which analyzes and quantifies "the ridiculous lawsuits which clog our courts, drag down our economy and which ultimately put us as the sixth worst 'Judicial Hellhole' in the nation."

The Lawsuit Reform Alliance of New York is defined on its website as a "broad based coalition of hardworking New Yorkers, large and small business groups, and medical professionals who are committed to changing New York's burdensome and expensive legal system to help create more jobs and energize our economy." Its membership includes the Business Council of New York State, National Federation of Independent Business (NFIB), Unshackle Upstate, Farm Bureau of New York, American Congress of Obstetricians and Gynecologists, and the Associated General Contractors.

The extent to which the Public Integrity Reform Act will be able to cull through the relationships remains to be seen. According to memoranda in support of the legislation, the Act "sheds sunlight on the activities of lobbyists and clients of lobbyists that devote substantial resources to such activities" by requiring that they disclose each source of funding over \$5,000 used for such lobbying. "Appropriate" exemptions to this requirement are made for 501(c)(3) organizations and those 501(c)(4) organizations for whom such disclosure could lead to harm to or harassment of their donors.

The Act's proponents assert that in light of the impact of the U.S. Supreme Court's decision in *Citizens United v. Federal Election Commission* (which threatens to open the door to corporations and other entities spending money to advocate for or against candidates) New York State must enhance disclosure of the sources of funding for advocacy across numerous areas of public concern. This bill would take "a critical first step" to provide such disclosure with respect to lobbying so that the public could better understand the real parties in interest behind substantial lobbying initiatives.

The Governor and legislative leaders announced their appointments to the Commission this week. The Commissioners have met in private and will hold their first public meeting on December 21<sup>st</sup>. The newly-appointed commissioners are:

**Janet DiFiore**, Commission Chair, Westchester County District Attorney (Governor).

**Vincent A. DeIorio**, Chair of the New York State Energy Research and Development Authority (NYSERDA) Board of Directors (Governor).

**Mitra Hormozi**, Chairperson of the New York State Commission on Public Integrity and partner at Kirkland & Ellis LLP (Governor).

**Daniel J. Horwitz**, partner at Lanker & Carragher, LLP (Governor).

**Gary J. Lavine**, counsel with Green & Seifter (Governor).

**Seymour Knox IV**, CEO of Knox International, LLC, a New York based private equity firm (Governor).

*Mary Lou Rath*, former NYS Senator (Senate Majority).

*Judge Joseph Covello*, former justice of the New York State Appellate Division (Senate Majority).

*George Weissman*, former Counsel to the Dormitory Authority and Office of the Comptroller (Senate Majority).

*Pat Bulgaro*, former NYS Budget Director (Assembly Majority).

*Marvin Jacob*, retired attorney and former partner in the Business and Finance & Restructuring Department of Weil, Gotshal & Manges (Assembly Majority).

*Ellen Yaroshefsky*, law professor at the Benjamin N. Cardozo School of Law & co-executive director of the Jacob Burns Ethics Center in the Practice of Law (Assembly Majority).

*Ravi Batra*, private attorney, formerly a professor at Pace University and Chair of the Judicial Independence Committee of the New York State Trial Lawyers Association. (Senate Minority).

*David A. Renzi*, partner in the law firm of Brown, Dierdorf and Renzi (Assembly Minority).

## ***MRT Readies Recommendations for the Governor***

New York's Medicaid Redesign Team ("MRT") held its final public meeting in Albany this week, preparing to submit its final recommendations to Governor Andrew Cuomo by the end of the year. The Governor will consider the recommendations for inclusion in his upcoming Executive budget.

The MRT is completing the second of its almost two-year charge to revamp New York's Medicaid system. The first phase was approved in the 2011-2012 budget and is currently being implemented. The second (and final phase) will be part of the 2012-2013 budget, with implementation scheduled to take place over the next five years. With the end-of-year submission, the MRT will conclude its work. At this point, there is no mechanism for future meetings or workgroups.

Among the proposals recommended are:

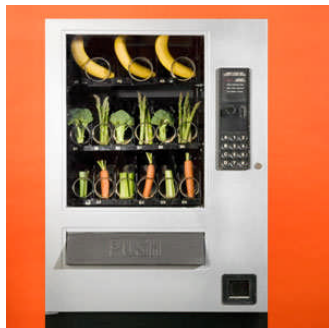
- Allow adult Medical Assistance (MA) patients who have a diagnosis of diabetes to obtain care from a private practicing podiatrist.
- Permit nurses to orient/direct home health aides and personal care aides to provide nursing care as is currently allowed in the consumer-directed personal assistance program.
- Allow hospitals to provide practitioner home visit services to chronically ill, homebound, and other patients. Physicians employed by Article 28 licensed hospitals are prohibited from providing

services to patients in their homes (including those residing in a nursing home) because of facility licensure restrictions.

- Remove the requirement that nurse practitioners enter into a written collaborative agreement with physicians.
- Articulate training from a personal care aide to a home health aide to certified nurse assistant.
- Extend the current mental health service related exemptions in state agencies through 2016.
- Remove the physician supervisory ratio of physician assistants.
- Establish Workforce advisory committee to the Office of Professions.
- Limit coverage for arthroscopic knee surgery when primary diagnosis is osteoarthritis of the knee (without mechanical destruction of the knee).
- Expand coverage to include coverage intensive behavioral therapy for treatment of obesity.
- Reduce payment for elective C-section deliveries or elective induction of labor less than 39 weeks unless a documented medical indication is present.

## *In the News – New York City*

### **Vending Machines in City Buildings Go Healthy to Combat Obesity**



Starting this week, food vending machines in City buildings will be stocked with healthier options, under an initiative announced by Mayor Michael Bloomberg. Only snacks with fewer than 200 calories and less than 7 grams of fat will be offered.

According to the Mayor, calories from snacks comprise 24% of daily calorie intake for adults, on average. These new standards, which the Mayor hopes will serve as an example to the private sector, will limit calories, saturated fat, trans fat, sodium and sugar in products and increase the availability of healthier options in machines.

The new initiative was announced in conjunction with the release of a report which found that obesity rates among New York City public elementary and middle school students have decreased over the past five school years across all race and ethnic groups.

The Department of Health report measured childhood obesity through the NYC FITNESSGRAM, a fitness assessment and reporting program for New York City youth in kindergarten through twelfth grade. It shows that the overall obesity rates among NYC kindergartners through eighth graders (children ages 5 through 14) decreased 5.5 percent from 21.9 percent in 2006-07 to 20.7 percent in 2010-11. The sharpest decline was seen among children ages 5 to 6 years old, with a close to 10 percent drop to 18.2 percent in 2010-11 from 20.2 percent in 2006-07. The findings were released in the Centers for Disease Control's Morbidity and Mortality Weekly Report.

The Mayor also announced the creation of a multi-agency task force charged with recommending innovative solutions for further progress in combating obesity. The task force will be considering a variety of strategies, including increasing the use of public spaces for physical activity and urban agriculture; health and wellness programs and opportunities for City employees; reducing consumption of items linked to obesity; and increasing outreach to encourage the adoption of model employer policies around food. With the goal of ensuring full city-wide and agency participation, the task force will include ten commissioners, including members of Health and Education Departments, Health and Hospitals Corporation, Human Resources Administration, Parks Department, Department of Transportation, Department of Design and Construction, Department of Buildings, New York City Housing Authority, and City Planning.

## **Wall Street Downturn Adds to Fiscal Pressure on NYC Budget**

Faltering returns from Wall Street, an uncertain economic recovery and the threat of further cuts in federal and state aid could mean that New York City's budget, while balanced in the current fiscal year, will face increasingly larger budget gaps in the years ahead, according to a review released this week by New York State Comptroller Thomas P. DiNapoli.

"Significantly lower Wall Street profits will make balancing New York City's budget more difficult," Comptroller DiNapoli explained. "The pace of the economic recovery and how the state and federal government manage their own budgets also pose significant risks to the City's financial plan. While the City has taken steps to narrow next year's budget gap, the projected out-year gaps are considerably larger and will be more difficult to close."

The City projects budget gaps of \$2 billion in fiscal year (FY) 2013, rising to \$4.9 billion by FY 2015, but these estimates do not reflect the potential for further cuts in federal and state funding. While the national and local economies are growing slowly, they remain vulnerable, the Comptroller asserted. For example, the European sovereign debt crisis poses a significant risk to both the national and city economies.

According to the report, the securities industry lost nearly \$3 billion in the third quarter of 2011, reducing year-to-date profits to \$9.6 billion. This sector's profits are likely to fall significantly short of the city's forecast of \$20 billion for 2011. With its prospects dimming, the industry has begun to

cut costs and reduce employment and employee compensation, actions which will ripple through the New York City economy. Cash bonuses paid to securities industry employees in the city are likely to be substantially smaller than last year.

The Comptroller also noted the uncertainty of the City's receipt of \$1 billion in FY 2013 from the sale of taxi medallions.

The Comptroller's analysis also found that:

- ❑ In the past two fiscal years the city has generated surpluses averaging \$3.7 billion, but for FY 2012 it projects a surplus of only \$12 million.
- ❑ City fund revenues are forecast to grow by 3.9 percent in FY 2012, but spending is projected to rise by 12.5 percent largely due to expiring federal stimulus aid and an increase in city funds to replace cuts in state aid. The budget was balanced with last year's surplus of \$3.7 billion.
- ❑ The number of city-funded employees declined by 13,878, or 5 percent, from FY 2008-2011 and is projected to decline by another 4,213 by the end of FY 2013.

## ***In Brief***

### **Governor Signs Pharmacy Bills**

Governor Andrew Cuomo this week signed legislation that will prohibit insurers from requiring their policyholders to use mail order pharmacies for prescription medications. The legislation (Chapter 597 of the Laws of 2011) was sponsored by Assemblyman Carl Heastie and Senator George Maziarz.

In signing the legislation, Governor Cuomo noted the need for revisions to the bill. "While I support their objectives, I have concerns with these bills," he explained. "To address these concerns, both houses of the Legislature have agreed to pass amending legislation making several changes, including providing that the retail pharmacy must agree in advance to accept the same reimbursement rate and applicable terms and conditions established for mail order pharmacies."

In addition, Governor Cuomo signed legislation (Chapter 598 of the Laws of 2011) requiring insurance coverage for prescription fertility drugs purchased at non-mail order pharmacies to be the same as for prescription fertility drugs purchased at mail order pharmacies. The legislation was sponsored by Senate Majority Leader Dean Skelos and Assembly Speaker Sheldon Silver.

## **San Francisco's Minimum Wage Exceeds \$10 per hour January 1<sup>st</sup>**

On January 1<sup>st</sup>, San Francisco will become the first city in the nation to scale its minimum wage above \$10 per hour. The city's hourly wage will increase to \$10.24, more than \$2 above the California minimum wage and almost \$3 more than the federal working wage.

In 2003, San Francisco residents passed a proposition requiring the city to increase the minimum wage each year, using a formula tied to inflation and the cost of living. In addition, the proposition requires business owners to pay an additional \$1.23 to \$1.85 an hour per employee for health-care coverage if they don't offer health insurance. The city also imposes a payroll tax of 1.5 percent and requires nine paid sick days annually per employee.

## **New York State Economy Adds 34,400 Private Sector Jobs in November**

New York State's economy gained 34,400 private sector jobs in November 2011, the State Labor Department reported this week. Since the state's economic recovery began in November 2009, New York has recouped 61%, or 202,700, of the private sector jobs lost during the 2008-2009 recession.

The state's unemployment rate increased over the month, from 7.9% in October to 8.0% in November 2011. One factor contributing to the increase in the state's unemployment rate was an increase in the size of the statewide labor force, which grew by 9,900 as more people re-entered the job market to look for work.

"The New York State economy added 34,400 private sector jobs in November 2011," said Bohdan M. Wynnyk, Deputy Director of the Division of Research and Statistics. "This was the state's second largest monthly gain in private sector jobs since our economic recovery began in November 2009,"

## **Mario Cilento Elected President of the New York State AFL-CIO**

Mario Cilento today was unanimously elected President of the New York State AFL-CIO by the organization's Executive Council. He assumes leadership immediately and succeeds Denis Hughes who announced his retirement plans last month.

Upon taking office, Cilento said, "I am honored, humbled and feel incredibly privileged to have been elected President of the New York State AFL-CIO. The labor movement in this state has always risen to the challenges laid before us. Together, as one movement, we will once again meet those challenges, and provide a brighter economic future for all working men and women."

Cilento said his focus will be harnessing the collective power of the labor movement's 2.5 million members statewide. "Make no mistake about it, this is a statewide movement. From Buffalo to Montauk and everywhere in between we will create a groundswell of activism to educate our members on the issues of the day, and as a result, be better able to mobilize them."

“The framework for our political campaigns is already in place. That framework will serve as a model for a year-round legislative action network to educate our members, as well as elected officials in their home districts on a regular basis, on the issues important to working men and women. We will use traditional methods like member-to-member initiatives, but also employ technology and social media to reflect the modern political landscape.”

President Cilento thanked the Executive Council and laid out some of his priorities. “The growing disparity between the haves and the have-nots is economically unsustainable. Our state and our country rises and falls with the strength of the middle class. We must create and retain good jobs that provide financial security both now and in retirement. We must also ensure that there is adequate state revenue to support economic development and new construction, education, health care, and other vital services upon which working people rely.”

“All too often the cynics will focus on what makes us different,” Cilento said. “We will focus on what unites us: the belief that all workers deserve a decent living for their hard and honest labor. When we work together, members from the public sector, private sector and building trades, and members from all regions of this state, we are an unstoppable force.”

Cilento, a member of the Newspaper Guild-CWA since 1990, has been with the NYS AFL-CIO for nearly 20 years. As Chief of Staff for the last 12 years, Cilento coordinated the day-to-day and long-term political, legislative, communications, and grassroots strategies of the organization, as well as the overall policy development by its staff departments.

## *Coming Up*

### *New York State*

*Monday, December 19<sup>th</sup>*

*Medicaid Managed Care Prescription Drug Carve-In Implementation*

Assembly Standing Committee on Health

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

*Tuesday, December 20<sup>th</sup>*

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

Assembly Standing Committees on Local Governments, Real Property Taxation, and Cities

City Hall Council Chambers, 3rd Floor, 233 East Washington Street, Syracuse, New York, 11 a.m.

### *New York City*

*Monday, December 19<sup>th</sup>*

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

*T2011-4115 Resolution concerning the establishment of the Westchester Square Business Improvement District in the Borough of the Bronx and setting the date, time and place for the public hearing to hear all persons interested in the establishment of such district.*



T2011-4116 Land Use Application: Plaza Borinquen, Block 2282, Lots 45, 75, Block 2283, Lot 40, Bronx, Council District No. 8.

**Committee on Rules, Privileges and Elections, 250 Broadway - Committee Rm, 16th Fl., 11 a.m.**

T2011-4094 Mayor's Message: Submitting the name of Susan Bellinson to the Council for its advice and consent regarding her appointment to the Waterfront Management Advisory Board, Pursuant to Sections 31 and 1303 of the City Charter.

T2011-4096 Mayor's Message: Submitting the name of Carl Weisbrod to the Council for its advice and consent regarding his appointment to the Waterfront Management Advisory Board, Pursuant to Sections 31 and 1303 of the City Charter.

T2011-4098 Mayor's Message: Submitting the name of Robert Yaro to the Council for its advice and consent regarding her appointment to the Waterfront Management Advisory Board, Pursuant to Sections 31 and 1303 of the City Charter.

**City Council Stated Meeting, Council Chambers - City Hall, 2:30 p.m.**

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