



This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop Del Giorno & Giblin LLC

February 3, 2012 Edition



In the News – New York State

State & Local Officials Rally to Protect New York’s Strongest



Bronx Sanitation worker Faith Flemister recounts how she was assaulted on the job.

Pledging that within 30 days the New York State Senate will act to protect Sanitation workers, Senator Martin Golden called upon his colleagues in the Assembly to join him in backing his bill to raise the penalty for assault on a sanitation worker.

The legislation (A6062/S3809), sponsored by Assemblymembers Joseph Lentol, Rory Lancman, and Michael DenDekker, would raise assaulting a New York City sanitation worker to assault in the second degree, a Class D felony. State law already provides these protections for many high-risk jobs including traffic enforcement agents, registered nurses, emergency medical service personnel, firefighters, and police officers.

"As District Attorney of Kings County, I have zero tolerance for violent attacks against the City's uniformed civil service workers while they are trying to do their jobs," said District Attorney Charles J. Hynes. "It's time for the State Legislature to pass this bill and send a message that assaulting a sanitation worker will result in the most serious penalties."

Council Member Elizabeth S. Crowley, Chair of the Criminal Justice Committee, this week introduced a City Council Resolution calling on the state legislature to pass the bill.

"It's time we give New York's Strongest the same legal protections as the Bravest, Boldest and Finest," Council Member Crowley said. "This legislation would strengthen the message that sanitation workers are a valued part of our City and that assaulting a member of the department will result in severe consequences."

As a former sanitation worker and NYC Department of Sanitation supervisor, Assemblyman Michael DenDekker explained the dangers inherent in performing the job. He recounted how motorists have threatened or assaulted workers and asserted that "for too long the professional performance of our DSNY workers and supervisors has been negatively impacted by the threat of assault by residents."

According to Uniformed Sanitationmen's Association President Harry Nespoli, there has been an increase in the number of sanitation workers assaulted while performing their duties. In one incident, a motorist attacked sanitation worker Juan Ramos with a shovel because the motorist could not pass the sanitation truck. Mr. Ramos suffered extensive injuries including multiple broken ribs.

Another incident involved sanitation worker Vincent DeBlasio who was assaulted in Brooklyn following a verbal fight between a man and Mr. DeBlasio's partner.

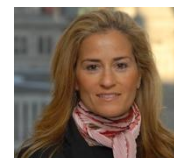
"We expect our Sanitation workers to do the hard work of enforcing the laws we pass—even against individuals who can become abusive and violent," Assemblyman Joseph Lentol explained. "These workers need the protection of the law for themselves as well."

Inspector General to Head JCOPE

New York State Inspector General Ellen Biben was appointed this week to head the newly formed New York Joint Commission on Public Ethics (JCOPE).

Created by the 2011 Public Integrity Reform Act (Chapter 399 of the Laws of 2011), JCOPE oversees Executive Branch officers and employees, Legislative officials and employees and registered lobbyists and their clients. It replaced the New York State Commission on Public Integrity.

Ms. Biben is currently New York State's eighth Inspector General. She was appointed by Governor Andrew M. Cuomo effective January 1, 2011. Prior to becoming Inspector General, Ms. Biben worked for four years at the New York State Attorney General's Office as the Special Deputy Attorney General for Public Integrity. Before joining the Attorney General's Office, Ms. Biben served for more than ten years as an Assistant District Attorney in the New York County District Attorney's Office, rising to Deputy Bureau chief of Rackets, a position she held her last five years. As a Deputy in the Rackets Bureau, she investigated and prosecuted organized crime, money laundering, tax evasion, public corruption cases, and other forms of racketeering.



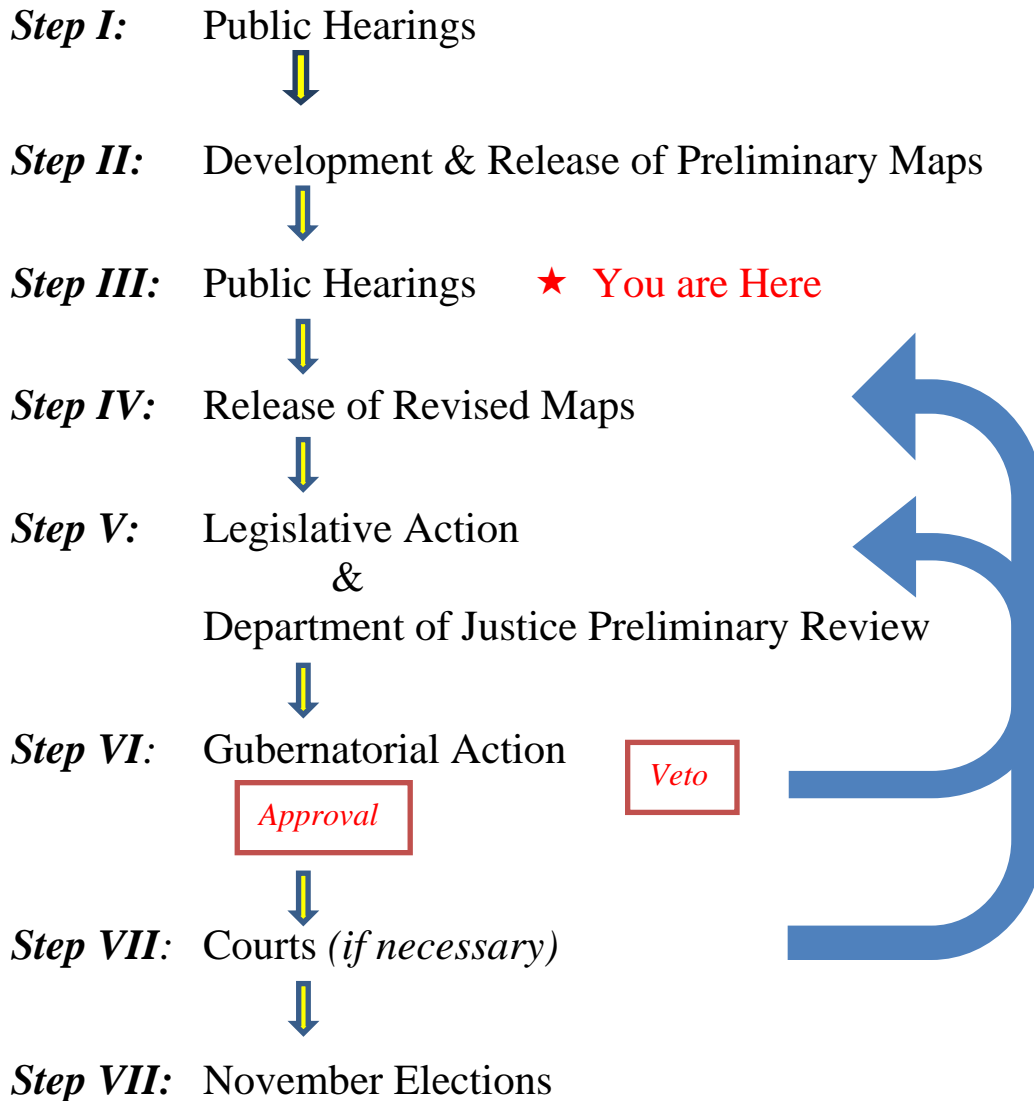
Inspector
General Biben

Ms. Biben received her Bachelor of Arts degree from Wesleyan University and her law degree from the University of Southern California Law Center.

JCOPE has jurisdiction to investigate and impose penalties on executive branch employees and lobbyists. JCOPE also has jurisdiction to investigate potential violations of law by legislators and legislative employees and, if violations are found, issue findings to the Legislative Ethics Commission, which will have jurisdiction to impose penalties. Any potential violations of federal or state criminal laws will be referred to the appropriate prosecutor for further action.

Ms. Biben will earn \$148,000 as Executive Director of the Commission.

The Long & Winding Road to Legislative Redistricting





Associated Builders and Contractors Calls for Reform of Prevailing Wage, Wicks, & Scaffold Laws

Associated Builders and Contractors' (ABC) Empire State Chapter released its 2012 legislative agenda this week, calling for reforms of New York's Prevailing Wage, Wicks, and the Scaffold laws.

"Unemployment rates for construction workers have been in the double digits since the start of the recession in 2008," said Steve Lefebvre, president of the ABC Empire State Chapter.

According to Mr. Lefebvre, the "Rebuilding New York" agenda is a direct result of input from member construction firms, suppliers and affiliated professional services companies that serve the construction industry.

"Rebuilding New York"

(Source: Associated Builders and Contractors' (ABC) Empire State Chapter)

Public Construction Savings Act (S. 4121/A. 7855)

ABC asserts that the Public Construction Savings Act would bring neutrality into the procurement process for public works projects and allow contractors to submit bids regardless of whether they choose to use a PLA.

Sections 240/241 "Scaffold Law" Reform

According to ABC, the law exposes property owners and contractors to unfair strict liability, "which makes insurance prohibitively expensive and ultimately drives up the cost of construction in New York." ABC calls on state leaders to establish a "more sensible and balanced negligence-based standard."

Diesel Retrofit (S. 2369C/A. 6899B)

ABC explained that a 2011 amendment postponed implementation of the diesel retrofit requirement for many on-road and off-road heavy-duty vehicles until the end of 2012. Similarly, the state courts have limited prior efforts to expand the applicability of the retrofit requirement by regulation to subcontractors and suppliers of materials. "While these victories have provided some reprieve," ABC asserts postponing implementation of the mandate until the end of 2014 would give contractors, as well as state agencies, a "more realistic" timetable with which to phase out ageing fleets of non-compliant vehicles.

Repeal of the Wage Theft Reporting Act Repeal (S. 4452/A. 7756)

According to ABC, the new requirements and significant penalties in this law, which took effect last April, are "ill timed" for employers.

Annualization Reform (S. 4018-A/A. 4810)

ABC asserts that current NYS Department of Labor calculations annualize both private and public benefits by the same method, resulting in costs to contractors already providing benefits to their workers. Because of these calculations, many contractors are eliminating traditional benefit packages and offering the benefits as a cash supplement in the employee's paycheck. This growing practice eliminates double payment of previously offered benefits by contractors, but exposes the employee to higher taxes without receiving benefits. This bill would allow contractors to provide, and employees to receive, benefits without penalty.

Prevailing Wage Rate Reforms

According to ABC, prevailing wage rates far exceed the market wage rate. ABC is calling for reform to the wage mandate system "that would do away with the current practice of requiring the union wage the prevailing wage."

Apprenticeship Council Enhancement (S. 3748/A. 7372)

ABC supports the "work and purpose" of the State Apprenticeship Council. This bill would require that one of the three representatives from employer organizations be a sponsor representative of an exclusively merit shop apprenticeship program. According to ABC, this amendment would reflect the current status of apprenticeship programs, as there are now more than 100 apprenticeship programs individually sponsored by nonunion companies statewide, with more currently pending approval by the Department of Labor.

In the News – New York City

Financial Balance: One Nickel & Dime at a Time

Budget Mirrors November's PEG – No New Taxes, But Fee Increases



Mayor Bloomberg

Minus the fanfare of his State of the City address, Mayor Michael Bloomberg released New York City's \$68.7 billion Preliminary Budget for FY 2013. The budget relies on \$6 billion in savings for FY 2013 generated through eleven rounds of deficit closing actions taken by City agencies since 2007. It includes no new taxes, no new teacher layoffs, and no layoffs in the uniformed forces. The Mayor's budget includes the cuts laid out when he updated his budget in November, much to the "concern" of the City Council.

"The Council is concerned that the proposed budget would again result in the closure of 20 fire houses, along with major cuts to public libraries and cultural institutions, to after-school programs, and to the Chief Medical Examiner's crime fighting resources, among other areas," Speaker Christine Quinn outlined. "As we have said before, we are fully committed to protecting the essential services that New Yorkers depend on."

The Speaker also questioned the use of fees and fines as “revenue-raising tools,” citing that the City should not be “harassing business and property owners with frivolous violations to bring in more revenue.”

Fees proposed in the Mayor’s FY 2013 budget include:

Fire Department

- Increase the Plan Review Fee from \$210 to \$420.
- Raise EMS ambulance transport rates.
- Charge a fee for Building Inspection Safety Protocol Inspections.

Street Activity

- Increase the Street Activity Application Fee from \$15 to \$25.
- Increase the fee for commercial/promotional street events.

Department of Investigation

- Increase the Full Background Investigation Fee from \$120 to \$240.
- Increase the Four Step Background Investigation Fee from \$40 to \$150.
- Increase the Fingerprinting Fees from \$110 to \$130.

Consumer Protection

- Implement late fees for businesses that do not pay their fines and scale fees on time.

Towing Services

- Implement fees for tow truck inspections and for towing companies that participate in the Director Accident Response Program.

With respect to ambulance fees, the Fire department is holding a hearing to discuss the rate changes on Monday, February 6th at its Brooklyn headquarters (9 MetroTech Center). Under the proposal, the following EMS rate changes would go into effect:

- Basic Life Support Ambulance: Increased from \$515 to \$704.
- Advanced Life Support Ambulance: Increased from \$750 to \$1,190.
- Additional Charges:
 - Mileage (distance traveled to hospital): Increase from \$7 to \$12.00 per mile.
 - Provision of Oxygen (as applicable): Increased from \$50 to \$60.

In Brief

AG Sues Banks For Deceptive Foreclosure Filings

Attorney General Eric T. Schneiderman today filed a lawsuit against several of the nation's largest banks charging that the creation and use of a private national mortgage electronic registry system known as MERS has resulted in a wide range of deceptive and fraudulent foreclosure filings in New York state and federal courts.

The lawsuit asserts that employees and agents of Bank of America, J.P. Morgan Chase, and Wells Fargo, acting as "MERS certifying officers," have repeatedly submitted court documents containing false and misleading information that made it appear that the foreclosing party had the authority to bring a case when in fact it may not have. The lawsuit names JPMorgan Chase Bank, N.A., Bank of America, N.A., Wells Fargo Bank, N.A., as well as Virginia-based MERSCORP, Inc. and its subsidiary, Mortgage Electronic Registration Systems, Inc.

Newly Adopted Building Codes Put City on Track to Meet *PlaNYC's* Goals

Mayor Michael R. Bloomberg and City Council Speaker Christine C. Quinn this week announced that newly-adopted green building codes are putting the City on track to meet *PlaNYC's* goal to lower carbon emissions, energy consumption, and waste. According to a report by the Urban Green Council, legislative and regulatory activities will allow New York City to reduce greenhouse gas emissions by 5 percent; lower the energy costs for lighting by 10 percent; save 30 billion gallons of water through better plumbing regulations; treat 15 million gallons of toxic construction water; recycle 100,000 tons of asphalt; and save \$400 million in overall energy costs – all by 2030.

Mayor Bloomberg and Speaker Quinn convened the NYC Green Codes Task Force to examine how to mitigate the impact of building construction and renovation. In February 2010, the Task Force, led by the Urban Green Council, proposed 111 recommendations to address a variety of issues, including carbon emission rates, public health and safety, and unnecessary costs associated with wasted energy and other resources. In the two years since that report, the Mayor's Office and City Council have made 29 of those recommendations law, and are currently working to codify 8 others.

NYU Professor Resigns from SUNY Board Over Charter Schools

NYU Professor Pedro Noguera has resigned from the State University of New York Board of Trustees asserting that the University is approving charters that increase inequality and divide communities, according to the *Wall Street Journal*. In an interview, Mr. Noguera cited a lack of political leadership about the role of charters and divisions that occur when charter schools move into the same buildings as traditional public schools.

Charter school supporters, including New York Mayor Michael Bloomberg and Governor Andrew Cuomo, advocate charter schools as educational alternatives for children. New York recently increased the number of charter schools authorized to bolster its application for federal *Race for the Top* funding.

Coming Up

New York State

Monday, February 6th

To examine executive compensation at not-for-profit organizations receiving State funding and the actions needed to prevent State tax dollars from being wasted on excessive salaries

Senate Standing Committee on Investigations and Government Operations

Van Buren Hearing Room A, Legislative Office Building, Albany, NY, 11a.m.

Tuesday, February 7th

Congressional and state legislative redistricting

New York State Legislative Task Force on Demographic Research and Reapportionment,

Queens Borough Hall, Room 213, 120-55 Queens Boulevard, Kew Gardens, New York, 3 p.m.

Thursday, February 9th

Congressional and state legislative redistricting

New York State Legislative Task Force on Demographic Research and Reapportionment,

Suffolk County Legislature, William H. Rogers Legislative Building -Auditorium, 725 Veterans Memorial Highway, Smithtown, New York, 11 a.m.

Human Services Forum on the current and future issues and concerns of human services administrators, advocates and clients

Senate Committees on Social Services & Children and Families

Monroe County Administration Building, 4th Floor, Legislative Chamber, Rochester, 1 p.m. – 3 p.m.

New York City

Monday, February 6th

***Committee on Small Business, Southwest Brooklyn Industrial Business Zone 241 41st Street
Brooklyn, N.Y. 11232 (Between 2nd & 3rd Avenue), 1 p.m.***

Tour: Southwest Brooklyn Industrial Business Zone

Tuesday, February 7th

Committee on Parks and Recreation, 250 Broadway - Committee Rm, 14th Fl., 1:30 p.m.

Int 0448-2012: In relation to renaming six thoroughfares and public places.

Int 0761-201: In relation to the naming of 33 thoroughfares and public places.

Wednesday, February 8th

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

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

Committee on General Welfare, 250 Broadway - Committee Rm, 14th Fl., 1 p.m.

Oversight: Recent Policy Changes at HASA

Thursday, February 9th

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

State of the City Speech, Council Chambers - City Hall, Noon

T2012-4274 State of the City Speech

Friday, February 10th

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

Oversight: Renourishment of City Beaches and Managing Future Erosion Using Soft Engineering.

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