



# This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop Del Giorno & Giblin LLC

June 8, 2012 Edition



## *In the News – New York State*



### **The Push to be “In” the “Big Ugly”**

*Groups Ramp Up End of Session Efforts*

As Albany moves into the final days of the 2012 legislative session, political maneuvers abound as stakeholders jockey to get their initiatives “in” before the final gavel comes down.

The end of session bill flurry typically includes what has become affectionately known as the *Big Ugly*—a freewheeling piece of legislation which encapsulates all the agreed-upon outstanding issues. Last year’s *Big Ugly* included the 2% property tax cap, NYC rent control, and some mandate relief initiatives. The contents of this year’s end of session initiatives are still in the making.

The 11<sup>th</sup> hour push by the Fair Elections for New York is being bolstered by support from 32BJ, 1199 SEIU, Communication Workers of America, New York Hotel Motel Trades Council, Retail, Wholesale and Department Store Union, NYS United Teachers, Transit Workers Union, and the UAW.

The unions this week released letters of support for the plan which creates a matching fund program for campaigns, as well as imposes fundraising limits and disclosure requirements. The New York Hotel Trades Council called the program a “game changer” which would allow candidates to spend more time listening to working families and give historically disenfranchised communities the opportunity to make a greater impact on election outcomes.

The initiative is supported by Governor Andrew Cuomo, Assembly Speaker Sheldon Silver, and the Senate Democrats. It is not supported by the Senate Republicans.

Fair Elections for New York is now linking the campaign finance initiative to the proposed increase in the minimum wage (which has the support of the same leaders). It has scheduled a press conference on Monday to release new research that details campaign contributions made to State Senators by corporations, organizations, and lobbyists that have lobbied against the proposed increase in the minimum wage.

Meanwhile, negotiations continue on legislation to protect developmentally disabled New Yorkers, to affect the state takeover of the New York Racing Association, and to implement changes to New York’s marijuana possession laws in relation to Stop & Frisk. Between now and June 21<sup>st</sup>, the possibilities are endless.

## State's Leaders Agree on Initiative to Fight Prescription Drug Abuse

Governor Andrew M. Cuomo, Attorney General Eric Schneiderman, Senate Majority Leader Dean Skelos, and Assembly Speaker Sheldon Silver this week announced an agreement on a comprehensive prescription drug reform package.

The initiative, anticipated to receive legislative approval by the end of session, will include a series of provisions to overhaul the way prescription drugs are distributed and tracked in New York State. The provisions include enacting a "real time" prescription monitoring registry to provide timely information to practitioners and pharmacists; requiring all prescriptions to be electronically transmitted; improving safeguards for the distribution of specific prescription drugs that are prone to abuse; charging a workgroup of stakeholders to help develop medical education courses and other public awareness measures regarding pain management and prescription drugs; and requiring the Department of Health to establish a safe disposal program for unused medications.



"This is a major victory for the people of New York. With I-STOP, we will create a national model for smart, coordinated communication between health care providers and pharmacists to better serve patients, stop prescription drug trafficking, and provide treatment to those who need help," Attorney General Eric Schneiderman said.

According to the federal Centers for Disease Control and Prevention (CDC), nearly 15,000 people die every year of overdoses due to prescription painkillers. In 2010, 1 in 20 people in the United States over the age of 11 reported using prescription painkillers for nonmedical reasons in the past year. During the period 1999 through 2008, overdose death rates, sales, and substance abuse treatment admissions related to prescription painkillers all increased substantially. Sales of opioid painkillers quadrupled between 1999 and 2010.

"This historic agreement will allow New York to be at the forefront of the battle against the prescription drug abuse epidemic, which has destroyed families and lives from one end of the state to the other," Staten Island Senator Andrew Lanza, longtime initiative supporter, explained. "The agreed upon legislation will allow doctors and pharmacists to have the information they need to ensure that we turn the tide on this deadly crisis. I thank the Governor, Attorney General Schneiderman, Senator Skelos, the Speaker, Senator Hannon and Assemblyman Cusick for working so long and so hard in this cooperative effort."

Specifics of the legislation include:

➤ **The Creation of a New and Updated Prescription Monitoring Program (I-STOP)**

The legislation will require updating and modernizing Department of Health (DOH)'s Prescription Monitoring program (PMP) Registry.

The new system is aimed at decreasing opportunities for “doctor shoppers” to illegally obtain prescriptions from multiple practitioners by updating prescription information on a “real time” basis.

In addition, the bill “strikes the right balance” by requiring health care practitioners to consult the PMP Registry before prescribing or dispensing the controlled substances, while exempting practitioners from consulting in specific situations in order to protect patient access to needed medications. Pharmacists, for the first time, will be able to consult the PMP Registry before dispensing a controlled substance.

➤ **Mandating Electronic Prescribing of Controlled Substances**

The package will move New York from using paper prescriptions for controlled substances to a system mandating electronic prescribing (e-prescribing) for all controlled substances with limited exceptions.

➤ **Updating the Controlled Substance Schedules to Stop Abuse of Certain Drugs, While Protecting Patient Access**

The legislation removes hydrocodone from Schedule III and places it on Schedule II regardless of formulation. Placing hydrocodone on Schedule II will eliminate automatic refills and, in general, limit the amount prescribed or dispensed to a maximum 30-day supply.

However, the bill will not alter a practitioner’s ability under existing regulations to prescribe a supply of up to 90 days if he, or she, indicates on the face of the prescription that the patient has one of several enumerated conditions, including chronic pain. The legislation will also add Tramadol, to Schedule IV.

➤ **Improving Education and Awareness of Prescribers to Stem the Tide of Prescription Drug Abuse**

The bill would expand the functions of the workgroup to be established by the Department of Health under the existing Prescription Pain Medication Awareness Program, to include: (1) continuing education for practitioners and pharmacists on pain management issues; (2) protecting and promoting access by patients with a legitimate need for controlled substances; (3) the implementation of the I-STOP provisions; and (4) inclusion of additional controlled substances in the consultation requirements of I-STOP. To carry out these functions, the Commissioner of Health will include additional stakeholders, including but not limited to consumer advocacy organizations, health care practitioners and providers, pharmacists and pharmacies, and representatives of law enforcement agencies.

➤ **Creating a Safe Disposal Program to Safely Dispose of Prescription Drugs**

This legislation requires DOH to institute a program for the safe disposal of unused controlled substances by consumers. Through the program, DOH will work with local police departments to establish secure disposal sites for controlled substances on the premises of police stations. At these sites individuals can voluntarily surrender unwanted and unused controlled substances

Under present law, individuals can only safely dispose of controlled substances during an approved take back event or, various methods of self-disposal that are either burdensome or harmful to the environment. Moreover, current federal regulations prohibit patients from returning unused controlled substances to pharmacists and doctors.

## Special Education Mandate Relief in the Spotlight

The challenge of balancing the needs of the New York's Special Education students with the need to control costs has come into the spotlight in Albany. This week the Senate began consideration of legislation to reduce the mandates on school districts in relation to special education service requirements.

In November 2011 the New York State Board of Regents approved a package of special education mandate relief measures as recommended by Governor Andrew Cuomo's Mandate Relief Redesign Team. These reforms are included in legislation, S6688 (Sponsored by Senator John Flanagan) /A10290 (sponsored by M of A Catherine Nolan), which was considered briefly this week by the Senate Education Committee.

According to the Citizens Budget Commission, New York State "imposes" 227 distinct special education mandates "above and beyond" those required by federal law. The Commission asserts eliminating "costly mandates that do not improve the quality services" offered by school districts is a priority and in the final month of session legislative leaders should bring these bills to a successful vote.

The State Education Department (SED)-proposed legislation includes: aligning the membership of the teams decide levels of special education services at the preschool and school age level with federal requirements; reducing administrative/paperwork requirements; and establishing regional payment rates for certain service providers. In addition, under the legislation, the timeline for due process hearings would be shortened, and mediation would be required before disputes proceed to impartial hearings.

The measure was not debated in Committee, but was favorably recommended to the Senate Finance Committee. Education Committee Chair Flanagan ensured the committee members that its action would facilitate bringing the issue to a full discussion.

Special education advocates have raised issues with the representational revisions of the legislation, including provisions to:

- Remove the requirement that a school psychologist, a parent representative, and a physician (if requested 72 hours prior) attend a student's annual meeting to assess the child's progress and recommend services for the following school year.

- Replace the allowance that a parent has the right to select his/her child's preschool disability evaluator with the requirement that the school district consult with the parent in selecting the evaluator.
- Withhold requests for an impartial hearing in relation to due process complaints pending mandated mediation.
- Require that a due process hearing be requested within one year of the parent or district having knowledge of the underlying issue. Parents seeking tuition reimbursement must make a hearing request within 180 days of the date he/she placed his/her child in a private school.

This Citizens Budget Commission today released interactive charts illustrating special education enrollment and spending growth since 2000-01 compared to general education spending and enrollment for school districts in the State. The Commission noted that the growing costs are one of the challenges that Governor Andrew Cuomo's newly created Education Reform Commission will need to address as part of its comprehensive review.

## *In the News – New York City*



### **Comptroller Finds Extra \$100 M for City Budget But It Is Not Enough to Fill Potential Holes**

Testifying this week at the City Council's Executive Budget hearings, City Comptroller John Liu identified more than \$100 million in additional funds to help close gaps in the Fiscal Year 2013 budget.

However, with \$1 billion in revenue from the City taxi medallion sales in limbo, 10 times his find may be necessary to balance the budget which already includes \$170 million in cuts to day care and after-school programs; \$58 million in savings from the proposed closing of 20 firehouses; and another \$41 million from reduced services at libraries and other cultural institutions.

Comptroller Liu explained that lower than expected interest rates will yield \$33.6 million in savings which could be rolled over to FY 2013; while the refinancing, which was announced on May 23rd by the Comptroller's Office and Mayor's Office of Management and Budget, would produce savings of \$67.8 million in FY 2013 and \$68.9 million for Fiscal Year 2014.

"By successfully navigating the bond market, we have been able to save more than \$100 million which can now be used to provide budgetary relief," Comptroller Liu said.

Both City Comptroller Liu and State Comptroller Thomas DiNapoli this week cited the uncertainty of the taxi medallion revenue and advocated that the City enact contingency plans to account for the possible shortfall.

Earlier this month, Manhattan Judge Arthur Engoron issued a preliminary injunction, delaying the medallion sale while a lawsuit filed by taxi fleet owners, lenders, and Public Advocate Bill de Blasio is argued. Legal briefs are due on June 19<sup>th</sup>.

To help mitigate the potential shortfall, Comptroller Liu reiterated his call for the City to recoup as much as \$163 million from Hewlett Packard as a result of overbilling and underperforming on the contract to upgrade the City's 911 call system.

In addressing the Council, City Budget Director Mark Page acknowledged the challenge created by the potential delay in medallion sales. He hoped that it would be just a delay, and not a negative court decision, which would require drastic slashing of services.

"Hopefully, if the medallion sales are delayed, we'll still be able to do some of it this fiscal year," Mr. Page said, according to published reports. "So it becomes, I think, that the definitive moment of this problem is probably January's preliminary budget, when we have to weigh out how we will remain balanced in 2013 and 2014."

A budget agreement is due July 1<sup>st</sup>.



Senator Duane debates legislation on the Senate floor.

## **Senator Thomas Duane Charts His Next Move**

State Senator Thomas K. Duane this week announced that he will not seek re-election in November. He currently represents New York's 29th State Senatorial District, which includes the Upper West Side, Chelsea, Hell's Kitchen, Greenwich Village, and parts of the East Side, including the East Village, Stuyvesant Town and Peter Cooper Village, and Waterside Plaza. First elected to the State Senate in 1998, he became the Senate's first openly-gay and first openly HIV-positive member. Prior to his election to the Senate, Duane served for seven years in the City Council.

Senator Duane is the Ranking Member of the Senate Committee on Health. In this role Senator Duane is committed to promoting sound health care policy and quality, affordable health care for all New Yorkers. He is also member of the Senate Codes; Children and Families, Cultural Affairs, Tourism, Parks & Recreation; Finance; Mental Health and Rules committees.



In his work on these committees and on the floor of the Senate, Senator Duane is a strong advocate for “those New Yorkers who normally do not have a voice in the halls of government.” He fights for the rights of tenants and for the availability of affordable housing; is a defender of a woman's right to choose; committed to full civil rights for lesbian, gay, bisexual and transgendered New Yorkers; a strong voice for sexual abuse survivors, an activist for parks and open space and protecting the environment; a leader in the fight against HIV/AIDS and the terrible stigma and misunderstandings that surround this public health problem; and is tireless in his efforts to make sure that New York City is “no longer short-changed” in allocations of State funding for education, transportation, and other services. He is also a strong supporter of legislative, governmental, and campaign finance reform.



Senator Duane with Speaker Quinn, then-U.S. Senator Clinton, & Assemblyman Gottfried

In announcing his intentions, Senator Duane said that he has no immediate plans after his term.

Outspoken Bronx Senator Reuben Diaz lauded Senator Duane, saying “one thing I will miss about Tom Duane is the way he respects others.”

“Even though Tom Duane and I have polar opposite views on gay marriage and abortion...He has always treated me with respect,” Senator Diaz said. “Tom Duane always demonstrates a high level of human dignity and I wish others could learn from the example he has set...I wish that we could have more legislators like him to protect the poor and minority communities in New York because everyone’s human dignity matters.”

## *In Brief*

### **CSEA hits lack of security in youth facilities**

In the wake of a gang assault by residents on a worker at the Brookwood Secure Center in Columbia County, CSEA is ramping up its call for better safety measures to protect staff at youth detention centers run by the state Office of Children and Family Services (OCFS).

The attack last Friday left a direct care Youth Division Aide (YDA) with a broken arm, a possible broken eye socket and stitches to his face after being jumped from behind by four residents. The residents were arraigned on charges of second-degree assault and sent to the Columbia County Jail. They threatened further violence against staff would be forthcoming.

According to CSEA, violent attacks on staff by youths in their care have increased at an alarming rate under current OCFS policies. Earlier this year, the union filed a complaint with the state Department of Labor’s Public Employee Safety and Health (PESH) Bureau after discovering that 19 staff at the Taberg Residential Center in Oneida County, including the facility director, were out of work due to severe injuries suffered in attacks by residents there. Their injuries included two broken collarbones, a concussion, a broken ankle, and a dislocated shoulder.

As part of the 2012-2013 budget, the state is moving to shift juvenile offenders from upstate facilities into New York City-based programs.

### **Comptroller DiNapoli: Report Sees ‘New Era of State and Local Fiscal Policy’ But Challenges Remain**

New York State has made progress toward long-term budget balance but faces continuing challenges in attaining structural balance and delivering services in the future, according to an analysis of this year’s enacted budget released this week by New York State Comptroller Thomas P. DiNapoli.

The report notes that the state has entered a “new era of state and local fiscal policy” by enacting significant changes in its three largest expenditure categories – Medicaid, school aid and agency operations – and by enacting a cap on local property taxes. Comptroller DiNapoli said that despite progress towards long-term structural balance, the 2012-13 budget leaves projected budget gaps of \$3.4 billion and \$4.1 billion in out-years.

According to the Comptroller, against a backdrop of economic volatility, realizing revenue assumptions may be challenging. Additional budget cuts or revenue increases to further reduce the structural imbalance will require difficult policy choices. In addition, the Comptroller noted that poor use of debt over the past decade has depleted much of the state’s statutory debt capacity, creating challenges for funding future programs and capital projects.

### **Public Advocate De Blasio Presses City Hall on Gym Class in Schools, Broader Anti-Obesity Agenda**

In a letter to the Bloomberg Administration, Public Advocate Bill de Blasio today called on the City to ensure schools meet basic standards for providing gym class. Mr. de Blasio, a backer of Mayor Michael Bloomberg’s plan to reduce large sugary drinks, also urged the Mayor to put forward concrete plans on nine other initiatives proposed by the New York City Obesity Task Force.

Specifically, the Public Advocate called upon the administration to provide implementation plans and timelines for initiatives outlined in the New York City Obesity Task Force report, titled “Reversing the Epidemic: The New York City Obesity Task Force Plan to Prevent and Control Obesity” including:

- Promoting and expanding the Department of Education’s nutrition and wellness efforts;
- Installing water fountains to encourage students’ preference for water;
- Expanding the school gardens initiative to teach students about the origin and taste of healthy food;
- Installing salad bars in all New York City schools;
- Improving nutrition standards at City-licensed children’s camps;
- Increasing physical activity for elementary children through Move-To-Improve;
- Adding playground attendants who lead free physical activity programs in City parks;
- Sharing play spaces across programs such as Head Start and Shape Up NYC; and
- Increasing active transportation initiatives in schools.



## Coming Up

### ***New York City***

***Monday, June 11<sup>th</sup>***

***Committee on Civil Service & Labor***, 250 Broadway – Committee Rm, 14<sup>th</sup> Fl., 10 a.m.  
*T2012-4856* Resolution calling on the New York State Legislature to pass and the Governor to sign into law A.1652/S.1862, establishing the Farmworkers Fair Labor Practices Act.

***Committee on Juvenile Justice*** 250 Broadway - Committee Rm, 16th Fl., 10 a.m.  
*Jointly with the Committee on Fire and Criminal Justice Services*  
*Oversight - Examining the Role of Youth Courts in New York City's Juvenile Justice System.*

***Committee on Small Business***, 250 Broadway - Committee Rm, 14th Fl., 10 a.m.  
*Jointly with the Committee on Higher Education*  
*Oversight - Small Business Development Centers*

***Committee on Governmental Operations***, 250 Broadway - Committee Rm, 16th Fl. 1 p.m.  
*Res 1343-2012* Resolution calling upon the New York State Legislature to pass and the Governor to sign into law legislation that would amend the State Election Law to modernize and streamline the procedures for the election night canvass and the reporting of unofficial election results.

***Committee on Environmental Protection***, 250 Broadway - Committee Rm, 14th Fl. 1 p.m.  
*Int 0694-2011* In relation to facilitating the development of geothermal energy.

*Oversight - The Potential of Geothermal Energy Use in New York City.*

***Committee on Women's Issues***, 250 Broadway - Hearing Rm, 16th Fl. 1 p.m.  
*Res 1346-2012* Resolution calling upon the New York State Legislature to pass and the Governor to enact A. 9804/S.7212, also known as the “Trafficking Victims Protection and Justice Act.”

***Tuesday, June 12<sup>th</sup>***

***Committee on Transportation***, 250 Broadway - Committee Rm, 14th Fl. Meeting, Noon.  
*Int 0725-2011* In relation to using a vehicle licensed by the taxi and limousine commission to facilitate sex trafficking.

***Committee on Governmental Operations***, 250 Broadway - Committee Rm, 16th Fl., Noon.  
*Res 1343-2012* Resolution calling upon the New York State Legislature to pass and the Governor to sign into law legislation that would amend the State Election Law to modernize and streamline the procedures for the election night canvass and the reporting of unofficial election results.

***Committee on Education***, 250 Broadway - Committee Rm, 16th Fl., 1 p.m.

*Res 1330-2012* Resolution calling on the New York State Legislature to pass and the Governor to sign A.9861/S.7015, legislation which would amend the State Education Law enabling New York City to require that all 5 year old children in the City attend kindergarten.

*Oversight: DOE's Special Education Reform.*

**Committee on Public Safety**, 250 Broadway - Committee Rm, 14th Fl., 1 p.m.

*Res 0986-2011* Resolution supporting the Governor's proposal to amend the Penal Law to make possession of a small quantity of marihuana in public view a violation, applauding the Speaker of the Assembly for his support of the proposal, and calling upon the New York Senate to pass legislation enacting the same.

### **Wednesday, June 13<sup>th</sup>**

**Committee on Rules, Privileges and Elections**, Committee Room - City Hall 10:30 a.m.

*T2012-4857* Submitting the name of Richard Stabile to the Council regarding his reappointment to the New York City Tax Commission.

*T2012-4859* Submitting the name of Kirk P. Tzanides to the Council regarding his reappointment to the New York City Tax Commission

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

### **Thursday, June 14<sup>th</sup>**

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

*Jointly with the Committee on Immigration*

*Oversight – Better Banking for NYC's Immigrants.*

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

*Oversight – Examining the Challenges of Grandparent Caregivers – An Update*

**Committee on Waterfronts**, Broadway - Committee Rm, 16th Fl. 1 p.m.

*Jointly with the Committee on Parks and Recreation*

*Oversight - Greenpoint-Williamsburg Waterfront Open Space Master Plan: Status of Development.*

---

**Disclaimer:** The materials in this *This Week in New York* report are provided for informational purposes only and are not intended to be a comprehensive review of legislative or governmental or political developments, to create a client-consultant/lobbyist relationship, or to provide consulting, lobbying or political advice. Readers are cautioned not to attempt to solve specific problems on the basis of information contained in this *This Week in New York*. If consulting, lobbying or government relations advice is required, please consult a professional expert in such matters. The information contained herein, does not necessarily reflect the opinions of Pitta Bishop Del Giorno & Giblin LLC, or any of its partners or employees or its clients. Neither Pitta Bishop Del Giorno & Giblin LLC, nor

its partners or employees make any warranty, expressed or implied, and assume no legal liability with respect to the information in this report, and do not guarantee that the information is accurate, complete, useful or current. Accordingly, Pitta Bishop Del Giorno & Giblin LLC is not responsible for any claimed damages resulting from any alleged error, inaccuracy, or omission. This communication may be considered an advertisement or solicitation.

**To Our Clients:** If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop Del Giorno & Giblin LLC professional with whom you usually work.

**To Our Clients and Friends:** To request that copies of this publication be sent to a new address or fax number, to unsubscribe, or to comment on its contents, please contact Theresa Cosgrove at [tcosgrove@pittabishop.com](mailto:tcosgrove@pittabishop.com) or at (518) 449-3320.

---

*This Week in New York* is a publication of Pitta Bishop Del Giorno & Giblin LLC, 120 Broadway, 28<sup>th</sup> Floor, New York, New York 10271.