 Persistence Pays Off for Sanitation Workers

New York’s Strongest – its sanitation workers – were finally afforded equity last week when Governor Andrew M. Cuomo signed legislation increasing the penalty for an assault on a sanitation worker.

Chapter 377 of the Laws of 2012 makes assaulting a New York City sanitation worker during the performance of his or her duties a Class D felony. Governor Cuomo’s signature marks the culmination of a four-year legislative and communications effort.

Passage of the sanitation worker legislation faced an uphill battle in the State Legislature, where initiatives to create a specialized class of individuals are highly politicized. Why does a Sanitation worker deserve specialized treatment? Shouldn’t New York’s Strongest be able to protect themselves? Aren’t you guys the ones who win the fights? Shouldn’t special treatment be reserved for those workers who cannot protect themselves? The initiative required conversion of both public and legislative perspectives.

Since the early 1900s New York’s Penal Law has provided certain municipal employees with protection from assaults based upon their jobs. Peace officer provisions were the first to be included in the Penal Law. Firemen (later firefighters) were added in 1968. In 1980, police officers were given their own line itemization when the Penal Law was revised to specifically delineate between peace officers and police officers. Emergency medical technicians were added in 1985 and in 1998 these provisions were extended to include hospital emergency department personnel. In 2002, New York City transit employees -- train operators, ticket inspectors, conductors and bus operators—were covered. City marshals, traffic enforcement officers, and traffic enforcement agents were added in 2008. Registered nurses and licensed practical nurses were added in 2010, as were sanitation enforcement agents. Employees of local social services district directly involved in an investigation of alleged abuse of a child, an elderly person, or an incompetent or physically disabled person were also added this year.

Following the September 2008 beating of 74-year old Sanitation worker Juan Ramos, Uniformed Sanitationmen’s Association (USA) President Harry Nespoli called for an end to the abuse of his members. During the course of his collection route, Mr. Ramos was viciously beaten with a shovel by an impatient motorist. Mr. Ramos and a co-worker were picking up trash in Washington Heights when the motorist jumped from his car and began screaming at them to move. The angry motorist threw glass at the workers and proceeded to assault Mr. Ramos with a shovel, placing him in the hospital.

Mr. Ramos
Brooklyn District Attorney Charles J. Hynes declared “zero tolerance” for violent attacks against the City’s uniformed civil service workers and spearheaded the initiative. Brooklyn Assemblyman Joseph Lentol and then-Senator Eric Schneiderman readily took up Mr. Hynes’ charge and joined the effort at its outset.

Pitta Bishop founding partner and Uniformed Sanitationmen’s Association’s lobbyist Bob Bishop had previous experience with assault-related legislation, dating back to his tenure as a legislative representative for the City of New York. In November 1979 then-New York City Mayor Ed Koch was pelted by egg throwing doctors disgruntled by the closure of cash-strapped City hospitals. The following session Mr. Bishop was charged with promoting an ill-fated, broad-based initiative to increase the penalties for assault on all public officials. This initiative provided Mr. Bishop with invaluable experience in the legislative underpinnings of “special victim” legislation.

Armed with the backing of District Attorney Hynes, the political strength of President Nespoli, and Mr. Bishop’s strategic plan, legislation was first introduced in 2009 by Assemblyman Lentol and Senator Schneiderman. The Schneiderman-Lentol bill passed the Senate in 2010, but a perceived lack of “victim” status kept the bill from receiving consideration in the Assembly Codes Committee. Other groups (nurses and sanitation enforcement agents) were considered more vulnerable. In 2011 Brooklyn Senator Martin Golden readily picked up the bill when Senator Schneiderman became Attorney General. However, the bill remained in the Codes committee in both houses in 2011, as the legislative leadership was reticent to expand the statute.

Instances of sanitation worker abuse were becoming much too frequent, according to President Nespoli. In 2010, six violent incidents were reported involving sanitation workers and civilians; in the first half of 2011 alone, 11 incidents were reported.

“People are in a hurry, they look at us like we are slowing them down,” he explained, according to published reports. Examples of recent abuses include:

- Vincent DeBlasio and Beverly Watson were on the job in Brooklyn when an angry motorist berated the workers for not moving their truck. He verbally threatened Ms. Watson and then called another man who sucker punched Mr. DeBlasio as he was completing his cleanup of the area.

- Eleven-year Bronx sanitation worker Faith Flemister was directing a driver away from her truck when the driver pulled gun on her. “He told me I’m going to follow you home and I’m going to kill you.”

- John Hicks, a sanitation worker from the Bronx, was attacked by a knife wielding man while he was instructing residents on proper refuse disposal.
In 2012, USA, under the direction of Pitta Bishop, embarked on an intensive political and communication initiative to bring this issue to the forefront of the State Legislature.

2012 was a very difficult legislative year for organized labor. Efforts to reduce pension benefits were center stage. While working to minimize the economic damage caused by such initiatives, President Nespoli & Mr. Bishop were persistent in their efforts to protect sanitation workers from physical violence. Members of the Assembly Michael DenDekker (a former Sanitation supervisor) and Rory Lancman and City Council member Liz Crowley joined the effort.

“It’s time we give New York’s Strongest the same legal protections as the Bravest, Boldest and Finest,” Council Member Crowley said on unanimous passage of her resolution urging the State to act.

The legislation unanimously passed the Assembly on June 20th and passed the Senate 57 to 3 (Senators DeFrancisco, Rivera, and Krueger in the negative) on June 21st. On August 17, 2012, Governor Andrew Cuomo signed the bill into law. It goes into effect September 16th.

**Actions of the Governor**

**Signed by the Governor**

*Chapter 375 (M of A Cahill/Senator Maziarz) — Relates to tax credits provided for solar energy system equipment.*

*Chapter 377 (M of A Lentol/Senator Golden) — Relates to assault on a New York city sanitation worker.*

*Chapter 381 (M of A Glick/Senator LaValle) — Relates to the licensure of private proprietary schools.*

*Chapter 382 (M of A Thiele/Senator LaValle) — Authorizes Suffolk county to regulate taxicabs, limousines, and livery vehicles.*

*Chapter 385 (M of A Jaffee/Senator Carlucci) — Authorizes the county of Rockland to regulate the registration and licensing of taxicabs, limousines, and livery vehicles.*

*Chapter 388 (M of A Ramos/Senator Zeldin) — Provides for the establishment of a traffic and parking violations agency in the county of Suffolk and appointment of traffic prosecutors.*

*Chapter 390 (M of A Gunther/Senator Young) — Provides for the credentialing of health care providers providing telemedicine services.*
Chapter 392 (M of A Mayer/Senator Stewart-Cousins) — Authorizes the city of Yonkers to adopt a local law creating a bureau of administrative adjudication for certain code and ordinance violations.

Chapter 401 (Sponsored by the Rules Committee (request of M of A Farrell)/Senator Lanza) - Provides for the amount of tax abatement for solar generating systems in NY City.

Chapter 402 (Sponsored by the Rules Committee (request of Speaker Silver)/Senator Golden) — Relates to the location for loading and unloading of bus passengers by an intercity bus.

Chapter 406 (Sponsored by Senator Maziarz/M of A Englebright) — Exempts the sale and installation of commercial solar energy systems equipment from state sales and compensating use taxes; grants localities option to exempt.

Chapter 410 (Sponsored by Senator Golden/Speaker Silver) — Authorizes a bus passenger service permit system in New York City.

Chapter 438 (Sponsored by M of A Pretlow/Senator Libous) -- Expands the definition of podiatry to include conditions of the ankle and all soft tissue structures of the leg below the knee affecting the foot and ankle.

Chapter 444 (Sponsored by Senator LaValle/Senator Canestrari) -- Requires all licensed occupational therapists and occupational therapy assistants to complete 36 hours of continuing competency every 3 years.

**Vetoed by the Governor**

Veto 140 (Sponsored M of A Wright/Senator Savino) -- Requires workers compensation hearings and pre-hearing conferences to be stenographically recorded by a stenographer in the employ of the workers' compensation board.

Veto 141 (Sponsored by M of A Abbate/Senator Savino) – Limits the time period that Towns may suspend a police officer without pay pending disciplinary charges to 30 days.

Veto 142 (Sponsored by M of A Abbate/Senator Golden) -- Provides employees in labor class positions at all levels of state and local government bump and retreat rights within the workforce.

Veto 142 (Sponsored by M of A Abbate/Senate Committee on Rules) -- Allows employees who have been promoted pursuant to New York Civil Service Law Section 52(14) the ability to revert back to their underlying non-competitive or labor class title.

Veto 145 (Sponsored by M of A Abbate/Senator McDonald) – Provides equal reduction in force and recall provisions to permanently appointed employees appointed to Competitive, Non-Competitive, and Labor Jurisdictional Classification at all levels of State and local government.
City Council Members Introduce Enhanced MWBE Legislation

Legislation to expand New York City’s Minority and Women-Owned Business Enterprise (MWBE) opportunities was introduced this week in the City Council.

Introduced by Council Speaker Christine Quinn, and Council Members James Sanders, Leroy Comrie, Inez Dickens, Diana Reyna, Robert Jackson, Melissa Mark-Viverito, Darlene Mealy and Jumaane Williams, Intro. 911 eliminates the current $1 million cap on contracts in the MWBE program, expands the opportunities afforded to MWBEs, and establishes a system of accountability.

According to the sponsors, in 2005, the Council passed a law to help level the playing field for minorities and women in City contracting. The law established goals for increasing the number of City contracts awarded to MWBEs.

“While it was a step in the right direction, it has become clear that more must be done to ensure that minorities and women are fairly represented in City procurement,” Speaker Quinn explained.

The legislation revises the MWBE categories and the participation goals. Below are excerpts of the bill which detail both the current and proposed goals. Information underlined (___) outlines the proposed goals, brackets ([ ]) indicate current goals.

Construction contracts [under one million dollars]:

<table>
<thead>
<tr>
<th>Category</th>
<th>Participation goal:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Americans</td>
<td>[12.63%] 8% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Asian Americans</td>
<td>8% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Hispanic Americans</td>
<td>[9.06%] 4% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Caucasian females</td>
<td>18% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Emerging</td>
<td>6% of total annual agency expenditures on such contracts</td>
</tr>
</tbody>
</table>
Professional services contracts [under one million dollars]:

<table>
<thead>
<tr>
<th>Category</th>
<th>Participation goal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Americans</td>
<td>[9%] 12% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Hispanic Americans</td>
<td>[5%] 8% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Caucasian females</td>
<td>[16.5%] 37% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Emerging</td>
<td>6% of total annual agency expenditures on such contracts</td>
</tr>
</tbody>
</table>

Standard services contracts [under one million dollars]:

<table>
<thead>
<tr>
<th>Category</th>
<th>Participation goal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Americans</td>
<td>[9.23%] 12% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Asian Americans</td>
<td>3% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Hispanic Americans</td>
<td>[5.14%] 6% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Caucasian females</td>
<td>[10.45%] 10% of total annual agency expenditures on such contracts</td>
</tr>
<tr>
<td>Emerging</td>
<td>6% of total annual agency expenditures on such contracts</td>
</tr>
</tbody>
</table>

Goods contracts under one [million] hundred thousand dollars:

<table>
<thead>
<tr>
<th>[Race/gender group] Category: Participation goal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Americans</td>
</tr>
<tr>
<td>Asian Americans</td>
</tr>
<tr>
<td>Hispanic Americans</td>
</tr>
<tr>
<td>Caucasian females</td>
</tr>
<tr>
<td>Emerging</td>
</tr>
</tbody>
</table>

The legislation is currently in the Committee on Contracts.
In Brief

NYS Health Commissioner Cautions New Yorkers to be Aware of West Nile Virus in New York State

With increases in human cases of West Nile virus in New York State and throughout the country, State Health Commissioner Nirav R. Shah, M.D., M.P.H. today emphasized the importance of New Yorkers taking personal protective measures to avoid mosquito bites.

To greatly minimize exposure to West Nile virus and Eastern Equine Encephalitis (EEE), the New York State Department of Health (DOH) recommends people take precautionary measures such as wearing shoes, socks, long pants and a long-sleeved shirt when outdoors for a long period of time. People are also advised to apply appropriate mosquito repellent and to remove all standing water from property.

To date this year, a total of 714 mosquito pools have tested positive for West Nile across the state, including: Chautauqua (1) Erie (120), Nassau (58), Onondaga (10), Orange (3), Oswego (5), Rockland (88), Suffolk (176) and Westchester (22). The New York City Department of Health reported positive results for Bronx (10), Brooklyn (33), Manhattan (2), Queens (70), and Staten Island (116).

To date, the total number of human cases of West Nile virus in New York State is eleven (11). The New York City Department of Health has reported five (5) cases. The other cases include: Erie County one (1), Nassau County one (1), Oswego County one (1), Suffolk County one (1), and Onondaga County two (2).

New York Awarded $95.5M Grant for Insurance Exchange

New York has received a new $95.5 million federal grant from U.S. Department of Health and Human Services to support development of a health insurance exchange. The award brings New York’s total in federal support for the exchange to $183.2 million.

According to the Department, the grant is designed to provide one year of funding to states that have already started building their exchange, which is part of the federal Affordable Care Act. Via Executive Order, Governor Andrew M. Cuomo directed the State Health Department to begin setting up New York’s Exchange earlier this year.

The award is New York’s third level-one establishment grant. New York had received $48.5 million in February and $10.7 million in August 2011. The state had also received a $27.4 million early innovator grant in February 2011 and a $1 million planning grant in September 2010.
Government Officials Request Federal Funding for 
Tappan Zee Bridge

Governor Andrew M. Cuomo, Senate Majority Leader Dean Skelos, Assemblywoman Ellen Jaffee, Rockland County Executive C. Scott Vanderhoef, Putnam County Executive MaryEllen Odell, and Westchester County Executive Rob Astorino, this week signed a new letter of intent to U.S. Secretary of Transportation Ray LaHood to apply for federal funding to build a new bridge to replace the Tappan Zee Bridge. The letter formally initiates New York's application for funding under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program and came after the members of the New York Metropolitan Transit Council (NYMTC) unanimously voted to support Governor Cuomo’s plan to build a new bridge.

The NYMTC vote signifies an agreement between local officials from New York City, Long Island, and the Lower Hudson Valley to seek federal approval for the Tappan Zee bridge replacement project.

The NYMTC is a federally-required regional council of governments that provides a collaborative transportation planning forum for New York City, Long Island and the lower Hudson Valley. NYMTC, pursuant to federal law, serves as the region’s Metropolitan Planning Organizations (MPO). A core requirement for receiving and spending federal transportation funds is that states follow the prescribed federally-required metropolitan and statewide planning processes.

Where’s the Ax Going to Fall?

NYC Workers Under Fire as Administration Scrambles to Fill $1 billion Hole Created by Taxi Ruling

New York City Mayor Michael Bloomberg indicated this week that layoffs may be necessary to fill the $1.46 billion budget hole created by the recent Supreme Court taxi decision.

Manhattan state Supreme Court Justice Arthur Engoron ruled last Friday that the Mayor’s plan to expand taxi service outside of Manhattan violates the State Constitution's "home rule" provisions. The taxi plan was enacted by the State Legislature earlier this year. The Mayor budgeted $635 million this year from the sale of medallions, $365 million next year, and $460 million in 2015. The City’s $2.5 billion budget deficit projected for fiscal 2014 has now ballooned to $3.5 billion.

The City intends on appealing the decision. However, according to published reports, the Mayor indicated, “The appeal probably won’t be heard for a while…So we’re going to have to start cutting and economizing long in advance.”
**Coming Up**

**New York State**

**Tuesday, August 28th**  
*Commission Meeting*  
*Joint Commission on Public Ethics*, 504 Broadway, Albany, 10:30 a.m.

**New York City**

*No meetings scheduled for the week of August 27th.*

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