

# This Week in New York

## Covering New York State and City Government

A Publication of Pitta Bishop Del Giorno & Giblin LLC  
May 24, 2013 Edition

### *In the News – New York State*

## Governor's Full Court Press: Tax-Free NY



*Under Tax-Free NY, Any New Business Will Be Able to Operate Tax Free on a SUNY Campus (Outside of NYC) for Ten Years*

Governor Andrew Cuomo and his cabinet traversed the State this week in support of "Tax-Free NY," an initiative aimed at transforming SUNY campuses and university communities across the state (outside NYC) into tax-free communities that attract start-ups, venture capital, new business, and investments.

Via Tax-Free NY the Governor is hoping to entice companies to bring their ventures to Upstate New York by offering new businesses the opportunity to operate "completely tax-free" – including no income tax for employees and no sales, property or business tax. Under the program, businesses that locate on a SUNY campus would be eligible for the program. The benefits would also be extended to a limited number of properties adjoining state colleges and at private universities. Details on the full proposal are forthcoming.

Temporary President of the Senate Dean Skelos, Senate Majority Coalition Co-Leader Jeffrey D. Klein, and Assembly Speaker Sheldon Silver joined the Governor at the announcement on Wednesday.

The proposal requires legislative approval and, according to the Governor's press release, includes:

- **Tax-Free Communities:** All SUNY campuses outside of New York City and designated private colleges north of Westchester will be tax free (no sales, property, or business/corporate taxes). Up to 200,000 square feet surrounding the campus will included in the tax-free community.
- **Employees Exempt from Income Taxes:** Employees of businesses that open in Tax-Free NY communities will be exempt from paying income taxes.
- **Additional 3 Million Sq. Ft in Commercial Space at Private Universities:** Under Tax-Free NY, 3 million sq. ft. in commercial space will be available at New York's private universities and twenty strategic state assets will also be designated tax-free.
- **Businesses Eligible for Tax-Free NY:** Eligible businesses include companies with a relationship to the academic mission of the university and companies creating new jobs, including new businesses, out-of-state businesses that relocate to New York and existing businesses that expand their New York operations while maintaining their existing jobs.

Since its release on Wednesday, the proposal has been described as everything from "brilliant" to "a scandal waiting to happen" to "corporate welfare." Seemingly prepared for the uneven reception, cabinet members were dispatched on Thursday to brief New Yorkers and promotional emails from the Governor began to pop up in inboxes.

According to published reports, Senate Republicans are not in step on the proposal, with some Republican senators ready to sign on and others critical. For example, Niagara Falls Senator George Maziarz came out in support of the proposal as a means of revitalizing areas that have been closed for business. However, Syracuse-based Senate Finance Committee Chair John DeFrancisco reportedly questioned the program.

"Bringing in jobs is wonderful," Senator DeFrancisco said in published reports. "I think there are better ideas. I think the majority of people in the Republican conference think there are better ideas."

The Business Council of New York State complimented the program, calling it an "innovative approach" and "looked forward to seeing the details." But Rob Simpson of CenterState asserted that steps must be taken to ensure this "doesn't lead to the same kind of abuses we saw in the Empire Zone program."

New York's Empire Zone program was widely criticized for giving tax credits to companies that did not create new jobs. Speaking to reporters and editors at *The Post-Standard*, Governor Cuomo vowed to prevent the "sham" practices found in the Empire Zone program.

Meanwhile CSEA President Danny Donohue slammed the proposal, expressing extreme concern that state legislative leaders seem ready to give the governor a blank check on this latest misguided venture.

"The governor doesn't get the fact that more corporate welfare is no answer to New York's economic challenges," said Mr. Donohue. "No amount of TV ads spinning his record can change the reality that his so-called job creation policies have failed. They have mostly benefitted the super wealthy and big corporations and repeatedly failed to deliver real growth and middle class jobs."

The proposal adds another landmark initiative for the legislature to consider before it leaves June 20<sup>th</sup>, joining such proposals as the 10 point Women's Agenda, Casino Gaming, Ethics reform, and Campaign Finance reform.

## This Week in Casino Gaming

### Governor Agrees with Mohawks

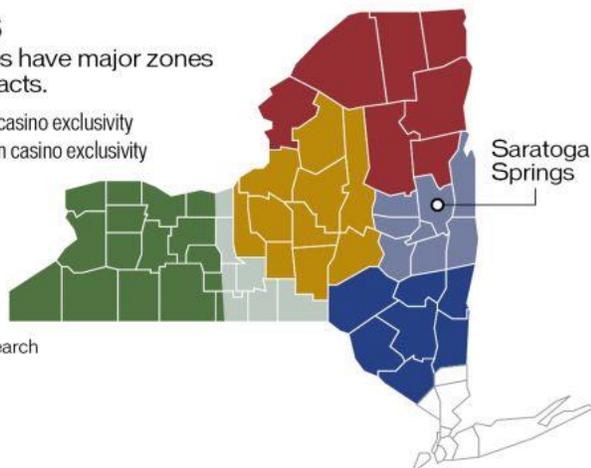
Governor Andrew M. Cuomo this week announced an agreement between New York State and the Saint Regis Mohawk Tribe to resolve a three-year dispute over gaming issues. Under the agreement, the State will remove the eight-county Saint Regis Mohawk exclusivity zone from the proposed casino-siting legislation, and the Tribe will pay \$30 million of payments owed and 25% of future gaming revenues to the State. The agreement also initiates discussions between the State, the Tribe, and local governments to resolve unrelated land claim disputes.

Based upon this agreement, the agreement reached last week with the Oneida Indian Nation, and a potential agreement with the Seneca Indian Nation in Western New York, below is a map of the state (prepared by the *Times Union*) indicating potential casino locations under the Governor's Plan:

### Casino zones

Three gaming tribes have major zones under exclusivity pacts.

- St. Regis Mohawks casino exclusivity
- Oneida Indian Nation casino exclusivity
- Seneca Indian Nation possible casino exclusivity
- Open zones



Source: Times Union research

## Senate Racing and Wagering Chair John Bonacic's Plan

State Senator John J. Bonacic (Orange County) this week introduced legislation, S.5586, which would also provide for a process to authorize up to seven licenses for casino gaming if a referendum on the Constitutional amendment to allow casino gaming this November is successful.

Under Senator Bonacic's legislation casinos would be sited as follow:

- First casino would be located in any of the following counties: Columbia, Delaware, Greene, Sullivan, or Ulster -- January 1, 2014 to January 1, 2015.
- Second casino would be located in any of the following counties: Broome, Seneca, Tioga, Tompkins, Chemung, Schuyler, or Wayne – July 1, 2014 to July 1, 2015.
- Third casino would be in Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, or Washington – July 1, 2014 to July 1, 2015.
- Fourth casino would be in the Catskills (Delaware, Greene, Sullivan, or Ulster Counties) – July 1, 2015 to July 1, 2016.
- Fifth casino would be in the Catskills or in Western New York (the Counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, and Wyoming and the portions of the Counties of Chemung, Ontario, Schuyler, Wayne and Yates West of New York State Route 14) – July 1, 2016 to July 1, 2017.
- Sixth and seventh casinos would be in either Queens or Westchester Counties or in an area which previously was part of an “exclusivity zone” but which “exclusivity zone” was no longer in effect – January 1, 2019 to January 1, 2021.

In addition, casinos would be excluded on Long Island, but both Nassau and Suffolk OTBs would be authorized under the legislation to operate one VLT parlor in each county. Also, a portion of the revenue from any casino in Queens County, up to \$75 million per year, for five years, would be used for economic development purposes in and around Belmont racetrack.

The proposal is similar to the Governor's in that it does not allow any casinos downstate for the next five years; creates a casino siting board appointed by the Gaming Commission to recommend who should receive a casino license; requires local approval in the case of the first five casinos for the facilities (by County and locality resolution); and requires that 80% of the State revenue generated by the first five casinos go to education and 20% go to property tax reduction (to be split between the host community (20% of the 20%) and the balance (80% of the 20%) to counties across the State).

## Other developments:

**Cayuga Indian Nation:** The Cayuga Indian Nation reached out to the federal Department of the Interior this week asserting that the exclusivity zone agreed to between the State and the Oneida Indian Nation improperly includes a portion of Cayuga County the tribe has a claim on.

**Nevele Investors & New York Hotel and Motel Trades Council:** Nevele Investors and the New York Hotel and Motel Trades Council Council announced this week that they have agreed to a labor peace agreement that would allow future workers to join the union if the resort becomes a casino. According to published reports, the Nevele Resort Casino and Spa would be on more than 600 acres at the site of the former Nevele Grande Resort and Country Club. An estimated 1,200 jobs could be created, between construction and operation of the facility.

## Cuomo Administration Appointments

### Arrivals

**David Arroyo**, *Commissioner of the Joint Commission on Public Ethics (JCOPE).*

Mr. Arroyo is senior vice president, legal affairs at Scripps Networks Interactive, where he manages litigation, intellectual property, programming, real estate, and other commercial matters involving the company's cable television and broadband media businesses. Before joining Scripps, he practiced as a trial lawyer. Mr. Arroyo is a graduate of the University of Michigan Law School and Duke University. Mr. Arroyo will be filling the seat that was vacated by Janet DiFiore.

**Amanda P. Hansen**, *Policy Director for the Community Reconstruction Zone Program.*

Ms. Hansen served as the Deputy Associate Director for Policy Outreach for the White House Council on Environmental Quality and prior to that held various positions with the U.S. Department of State.

**Regina Calcaterra**, *Chief Operating Officer of Homes and Community Renewal.*

Ms. Calcaterra presently serves as the Executive Director of the Governor Cuomo's Moreland Commission on Utility Preparation and Response. Prior to her work on the Moreland Commission, Regina served as the Chief Deputy to Suffolk County Executive Steve Bellone.

**Pat Hooker**, *Deputy Secretary for Agriculture and Markets.*

Mr. Hooker is currently the Director of Agribusiness Development for the Empire State Development Corporation.

**Liz Harris**, *Assistant Secretary for Agriculture and Markets.*

Prior to her appointment by Governor Cuomo, Ms. Harris served as the Director of Heart of Brooklyn, a consortium of Brooklyn cultural institutions and as the Executive Vice President for UNC Partners, Inc.

**Gigi Semone**, *Executive Director of the Governor's Office of Motion Picture and Television Development at Empire State Development.*

Ms. Semone was the Executive Vice President of National Publicity for Sony Pictures Entertainment, where she developed and executed national broadcast, digital, print, and radio publicity strategies.

## Departures

**Gary Johnson**, *Director of the Governor's Office of Employee Relations (GOERs)*

Mr. Johnson has left the administration to take a position at Medgar Evers College in New York City. He was first named to GOERs in 2007 by then Governor Eliot Spitzer.

**Elizabeth Glazer**, *Deputy Secretary for Public Safety Elizabeth Glazer*, announced she will leave at the end of the legislative session.

## **Bills Passed by Both Houses of the State Legislature**

**A433 Sponsored by M of A Dinowitz (MS) (Senator Valesky)** Requires the commissioner of health to create a list of long-term care contact information for the NY Connects: Choices for Long Term Care program.

**S1079A Sponsored by Senator Maziarz (M of A Zebrowski)** Increases killing or injuring a police animal from class A misdemeanor to class D felony.

**S1111 Sponsored by Senator Maziarz (M of A Cahill)** Adds the installation of energy technologies eligible for net energy metering to the measures eligible for financing through the "Green Jobs/Green New York" Program.

**S1993A Sponsored by Senator Carlucci (M of A Zebrowski)** Allow the police department to seek a waiver of confinement if a police work dog bites an individual while in the course of his/her official duty.

**S3708 Sponsored by Senator Martins (M of A Weisenberg)** To allow approved assessing units in Nassau County to adjust and limit the current base proportions to be determined by taxes based on the unit's 2013 assessment roll.

**S4146 Sponsored by Senator Lanza (M of A Cusick)** Extends, until December 31, 2014, the authorization of residential property owners in high risk brush fire areas on Staten Island to cut and remove reeds.

## *In the News – New York City*

### **Feds Approve NYC Redistricting Plan**

The United States Department of Justice this week approved the NYC Districting Commission's plan to divide New York City into fifty-one City Council districts.

Following months of public hearings, NYC Districting Commission forwarded its final plan to the Department of Justice for preclearance on March 22<sup>nd</sup>. In reviewing the Commission's plan, the Department of Justice also considered a number of comments provided by members of the public regarding the plan.

New York City Council districting process included three rounds of public hearings with over 1,750 people in attendance and nearly 500 people providing testimony. In addition, the Commission received some 1,500 comments from individuals who submitted statements via e-mail or hard copy and over 20 alternative maps that were submitted on-line and/or created by members of the public at the Commission's offices with the assistance of Commission staff.

The new Council district lines will go into effect for the upcoming Council elections later this year. The final districting plan may be accessed at <http://www.nyc.gov/districting>.

### **NYC Public Schools to be PCB Light Free**

New York City schools must remove PCB-laden lighting elements and other contaminated fixtures within the next five years, under a settlement between the New York City Department of Education and the New York Communities for Change (NYCC) and its lawyers New York Lawyers for the Public Interest (NYLPI).

Announced this week, the settlement requires the City to remove all PCB light fixtures by December 31, 2016, or in three and a half years—a completion date five years earlier than that of the original ten-year timeline.

In June 2011, NYLPI brought litigation on behalf of NYCC to force the Department of Education and School Construction Authority to shorten its ten-year timeline for removing these PCB light fixtures from over 750 public school buildings. These light fixtures contain ballasts that are decades past their manufacturer's designated life-span and are leaking toxic PCBs into classrooms, contaminating the air and threatening the health and safety of students and staff.

The City moved to dismiss the complaint but its motion was rejected by the Court on March 26, 2013. Prompted by the Court's ruling, the parties entered into mediation to discuss the feasibility of reducing the timeline.

The new timeline is consistent with the Environmental Protection Agency's recommendation that these lights be removed within five years. The settlement requires the City to provide semi-annual progress reports, and the Court will continue to monitor the City's performance and compliance with the new December 31, 2016 deadline. The Court will retain jurisdiction over the case until all fixtures are removed.

## ***Briefs***

### **NY Launches Statewide Program to Reward Highest Performing Teachers**

#### ***NYS Master Teacher Program for Teachers Will Encourage Best and Brightest to Stay in Education and Mentor other Teachers***

Governor Andrew Cuomo this week announced the NYS Master Teacher Program, a new statewide initiative proposed in the 2013 State of the State Address. Under the NYS Master Teacher program, high-performing secondary science and mathematics (STEM) teachers who make a commitment to mentor other teachers will receive \$15,000 annually over four years.

An initial group of 250 teachers will be selected from Mid-Hudson, North Country, Central New York and Western New York in Fall 2013; the program will launch in the remaining 6 regions in Spring 2014.

The NYS Master Teacher Program will be managed by SUNY with technical assistance provided throughout the first phase of implementation by Math for America, currently operating in New York City and other major cities. The Master Teacher program will be based at and hosted by higher education institutions in each of the 10 regional economic development regions.

Applications will be available on July 1<sup>st</sup> and due by August 1<sup>st</sup>. The first round of Master Teachers will be announced on September 1<sup>st</sup>.

## **Inspector General: Tax Department Implements Increased Oversight and Financial Controls After NYSIG Review of “Sting” Operations**

New York State Inspector General Catherine Leahy Scott this week announced that the New York State Department of Taxation and Finance (Tax and Finance) has strengthened financial controls over sting operations after the Inspector General uncovered significant vulnerabilities at the agency. The Inspector General’s investigation found that the department’s Petroleum, Alcohol and Tobacco Bureau’s (PATB) oversight of sting operations was both insufficient and lacked an effective accounting system, which made proceeds and evidence susceptible to loss and theft.

From 2002 until mid-2010, PATB ran a cigarette interdiction operation in which PATB bought tens of millions of dollars in cigarettes from wholesalers or manufacturers and resold them in sting operations. The Inspector General’s investigations found PATB lacked basic investigative protocols and controls, which was evidenced by a “lack of thorough, accurate accounting of inventory and proceeds.”

Specifically, the Inspector General’s investigation confirmed \$160,000 in missing cash and found that informants who were paid hundreds of thousands of dollars were not accounted for by Tax and Finance. In addition, the investigation uncovered a failure on the part of PATB to track inventory and evidence. The Inspector General’s report also documented significant findings of operational failures, including instances in which PATB investigators brought their own semi-automatic rifles – for which they were not formally trained or qualified to use in a New York operation – to out of state cigarette transactions and sting operations. PATB’s neglect of basic investigative protocols eventually led to dismissed prosecutions and the halting of sting operations in the summer of 2010.

## **Comptroller DiNapoli: State Tax Collections Up 25% in April, Likely Temporary**

Total state tax collections of \$8.6 billion in April rose 25.2 percent compared to collections during the same period last year and were \$85.9 million more than projections from the Enacted Budget Financial Plan, primarily due to the growth of Personal Income Tax (PIT), although this increase is most likely temporary in nature, according to the April Cash Report released today by State Comptroller Thomas P. DiNapoli.

“The state’s new fiscal year started strong but we are unlikely to see PIT collections continue at this pace,” Comptroller DiNapoli said. “The growth in these collections comes primarily in April tax settlements from individuals who accelerated income to avoid federal tax changes that took place in January. Economic signs are mixed, and while the financial markets are strong, the state must watch spending and trends carefully.”

## I Shop NY Fights for Local Merchants



I Shop NY, a new shop local initiative launched by the Retail Council of New York State, encourages shoppers to support local stores before turning to out-of-state Internet-only merchants. Shoppers can find special deals from local merchants across the state on I Shop NY's website, [www.ishopNY.com](http://www.ishopNY.com).

According to the Retail Council, retailers employ more New Yorkers than any other industry. One in five or nearly 2.5 million jobs are directly or indirectly supported by retailers. Sixteen percent of New York's GDP is generated by the retail industry.

## Coming Up

### *New York State*

#### *Tuesday May 28<sup>th</sup>*

**To examine the re-codification of New York State's not-for-profit corporation law in an effort to reduce unnecessary burdens on nonprofits and to enhance nonprofit governance and oversight**  
Senate Standing Committee on Corporations, Authorities, and Commissions  
*Monroe County Office Building, 39 West Main Street, Rochester, 10 a.m.*

**The New York State Comptroller's new Fiscal Stress Monitoring System**  
Assembly Standing Committee on Cities  
*Legislative Office Building, 2<sup>nd</sup> floor, Roosevelt Hearing Room C, Albany, 10 a.m.*

#### *Wednesday May 29<sup>th</sup>*

##### *New York State Legislative Session Day*

**Mental Health Services for Children in Rural Communities**  
Assembly Standing Committee on Mental Health and Developmental Disabilities  
*Legislative Office Building, 2nd Floor, Hamilton Hearing Room B, Albany, 10:30 a.m.*

#### *Thursday May 30<sup>th</sup>*

##### *New York State Legislative Session Day*

## ***Friday May 31<sup>st</sup>***

**To look at the implementation and impact of the mental health requirements in the NY SAFE Act**  
Senate Standing Committees on Higher Education and Health  
250 Broadway, 19<sup>th</sup> Floor, Senate Hearing Room, New York, 2 p.m.

## ***New York City***

### ***Tuesday May 28<sup>th</sup>***

***Committees on Health, Finance, Mental Health, Developmental Disability, Alcoholism, Drug Abuse, and Disability Services, and Subcommittee on Drug Abuse, City Hall – Council Chambers, 10 a.m.***  
2014 EXECUTIVE BUDGET HEARINGS  
10:00 - 11:00 Medical Examiner  
11:00 - 12:30 Health & Hospital Corporation  
12:30 - 2:30 Health & Mental Hygiene

***Committees on Economic Development, Transportation, and Waterfronts, 250 Broadway, 1 p.m.***  
T2013-6304- Oversight - Ferries: A Vital Part of New York City's Public Transit System.

### ***Wednesday May 29<sup>th</sup>***

***Committees on Aging, Finance, Consumer Affairs, Technology, and Subcommittee on Senior Centers, City Hall – Council Chambers, 10 a.m.***  
2014 EXECUTIVE BUDGET HEARINGS  
10:00 - 12:00 Aging  
12:00 - 1:00 Consumer Affairs  
1:00 - 1:30 Business Integrity Commission  
1:30 - 2:30 Information and Technology and Telecommunication

***Committee on Contracts, 250 Broadway – Committee Rm, 14<sup>th</sup> fl, 1:30 p.m.***  
T2013-6334- Oversight - Bottlenecks in the Contracting Process.

***Committee on Transportation, 250 Broadway – Committee Rm, 16<sup>th</sup> fl, 1:30 p.m.***  
Int 1042-2013- In relation to deactivating muni-meters when parking rules are not in effect or receipt paper is not available.

### ***Thursday May 30<sup>th</sup>***

***Committees on Finance, Parks and Recreation, and Sanitation and Solid Waste Management, City Hall- Council Chambers, 1 p.m.***  
2014 EXECUTIVE BUDGET HEARINGS  
1:00 - 2:30 Parks and Recreation  
2:30 - 4:30 Sanitation

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