

This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop Del Giorno & Giblin LLC
September 25, 2015 Edition

In the News – New York State

Governor Nominates Roberta Reardon as State Labor Commissioner

Governor Andrew Cuomo this week announced the nomination of Roberta Reardon as Commissioner of the State Department of Labor.



Roberta Reardon

Previously, Ms. Reardon served as Special Liaison for Common Sense Economics at AFL-CIO, and as Founding Co-President of SAG-AFTRA, a 165,000 member union for the entertainment industry. She was the National President of the American Federation of Television and Radio Artists (AFTRA), and is a member on the Board of Trustees for the AFTRA Health and Retirement Fund, the Actors Fund of America, and New York City Labor Council, as well as a Fellow of the Workers Institute of Cornell University. Ms. Reardon holds a B.A. from the University of Wyoming.

Ms. Reardon's appointment is subject to State Senate confirmation.

According to published reports, Acting Labor Commissioner Mario Musolino will return to his previous position of Executive Deputy Commissioner. Mr. Musolino became acting Commissioner following Peter Rivera's retirement earlier this year. Under Mr. Musolino, the Labor Department approved a proposal to increase the minimum wage of fast-food workers to \$15 an hour and increased the minimum wage for the State's tipped workers.

In addition to Ms. Reardon, Governor Cuomo made three other labor-related nominations within the Department of Labor and Executive Chamber. Specifically:

- **Nathaalie Carey** has been appointed Deputy Commissioner for Administration and Chief Financial Officer at the Department of Labor. Ms. Carey previously served as Assistant Comptroller in the Office of the New York State Comptroller, as well as the Chief Financial Officer for Broome County Government in Binghamton. Ms. Carey holds a B.A. and M.P.A. from the State University of New York at Binghamton.
- **Sherry Hwang Rodriguez** has been appointed Senior Policy Advisor for Labor & Workforce within the Executive Chamber. Ms. Rodriguez joined the Administration as an Excelsior Service Fellow in September 2013 and served as FOIL Counsel since April 2014. Ms. Rodriguez holds a J.D. from Fordham University School of Law and a B.S. in psychology from The Ohio State University.

Catalina Cruz has been appointed Special Assistant for Labor and Workforce, and will serve as the Director of the Exploited Workers Task Force and the Joint Enforcement Task Force on Employee Misclassification. Ms. Cruz most recently served as the Counsel to the Immigration Committee at the New York City Council. Previously, she served as Counsel to the Division of Immigrant Affairs (DIPA) at the New York State Department of Labor. Ms. Cruz holds a B.A. from the John Jay College of Criminal Justice and a J.D. from the City University of New York School of Law.

State Comptroller's Audit: OTBs in Jeopardy

New York's Off-Track Betting (OTB) corporations are at risk of financial insolvency due to the impact of major revenue decreases and escalating costs, according to State Comptroller Thomas DiNapoli. The Comptroller issued an audit and research report today that found total OTB wagering is down \$1.2 billion, or 24 percent, during the five-year period of 2009-2013 compared to the previous five-year period.

"The viability of OTBs is in financial jeopardy," Comptroller DiNapoli warned. "Statutory payment requirements, a downturn in racing interest and major fee increases have each contributed to this plight. As competition for gambling dollars intensifies in New York, the state must reexamine the roles of OTBs."

This is the second consecutive audit by the Comptroller's office that has identified major financial issues in all five of New York's regional OTBs – Capital, Catskill, Nassau, Suffolk and Western. Using the most recent financial data available, auditors found the total amount wagered on horse racing, also known as the handle, for these OTBs was \$3.7 billion from 2009 through 2013, a 24 percent drop from the \$4.9 billion that was wagered from 2004-2008.

The annual handle collected by these OTBs fell from \$817 million in 2009 down to \$664 million in 2013, a decrease of \$153 million. Suffolk OTB experienced the greatest drop, down 29 percent during this time.

Comptroller DiNapoli explained that if these trends were to continue through 2018, local government distributions would likely fall even further to \$5.1 million. However, this projection does not take into account potentially negative effects of the new casinos that will be opening throughout the state.

According to the Comptroller, the regional OTBs have implemented a number of his recommendation from previous audits, including closing 33 branches and expanding online and remote wagering. As a result, four of the five OTBs managed to cut their operating expenses during the audit period – Suffolk by \$7.7 million, Capital by \$3.5 million, Nassau by over \$3.2 million and Catskill by nearly \$800,000.

The Comptroller's research report found that the decline in OTB handle was due to competition, both within the horse racing industry and from an increase in other gambling venues. The report highlighted that from 2009-2013 the total amount bet on horse racing nationwide fell 11.4 percent, from \$12.3 billion in 2009 to \$10.9 billion in 2013. Accordingly, net operating revenues for OTBs declined by \$12.4 million during this period.

The report cited the OTBs' competition as Internet-based gambling, state-sponsored lotteries, nine racing tracks in the state offering video lottery terminals (VLTs), five Native American casinos offering slot machines and table games, casinos in neighboring Connecticut, New Jersey and Pennsylvania, and a racino in Massachusetts.

The State has provided some assistance, according to Comptroller DiNapoli. Specifically, the 2013 Upstate New York Gaming Economic Development Act allowed the Nassau and Suffolk OTBs to operate VLT parlors, the first at non-racing facilities. The impact of these facilities could mirror the influx Western OTB received when it opened VLT operations. In 2013, the Western OTB's VLTs brought in \$566 million.

He called upon state policymakers to review a number of regulations governing OTBs, including the formula used to calculate the corporations' payments to harness tracks. In addition to state policy changes, the Comptroller recommended regional OTBs continue to explore cost cutting measures, analyze the performance of each branch and remote locations, and collectively negotiate track rates.

OTB officials coordinated their responses and collectively agreed with the audit findings, but raised concerns regarding declining handle and statutory regulations.

Ethics Revisited

As part of its charge to report on the state of ethics oversight in New York, the New York Ethics Review Commission is holding two public hearings, one in Albany and one in New York City, in October in order to receive public comments on the Joint Commission on Public Ethics and the Legislative Ethics Commission.

The public hearings will be held:

- **October 7th**, Albany Law School, 80 New Scotland Ave, Albany, 11 a.m. – 3 p.m.
- **October 14th**, New York Law School, 185 West Broadway, New York, Time: 11 a.m. – 2 p.m.

The Commission is tasked with reviewing and evaluating the activities and performance of the Joint Commission on Public Ethics and the Legislative Ethics Commission. By November 1, 2015, the Commission must issue a report on its review to the Governor and the Legislature, including recommendations on strengthening the administration and enforcement of ethics laws in New York State.

Commission members include: Anthony Crowell, Dean at New York Law School and former counsel to Mayor Michael Bloomberg; Michael S. Feldberg, partner at Allen & Overy LLP; Seymour James, Attorney-in-Chief of The Legal Aid Society in New York City; Tony Jordan, Washington County District Attorney and former Assemblyman; William LaPiana, Rita and Joseph Solomon Professor of Wills, Trusts and the Estates Director, Estate Planning, Graduate Tax Program for New York Law School; Elizabeth Moore is current Senior Vice President and General Counsel at Con Edison and former Counsel to Governor Mario Cuomo; Patricia Salkin, Dean at Touro Law School; and Former State Senator Dale Volker.

Members of the public are encouraged to sign up in advance at admin@nyethicsreview.org, or written testimony can be submitted in lieu of appearing at the hearing.

Governor Makes Administrative Moves

Governor Andrew Cuomo this week made the following administrative appointments:

Executive Chamber

David Contreras Turley has been appointed Director of Constituency Affairs. Prior, Mr. Turley served as the Associate Regional Field Director for the Human Rights Campaign where he worked to pass marriage equality successfully in Rhode Island, Maryland and New York. He worked as the Director of LGBT Outreach for Cy Vance's campaign for Manhattan District Attorney, and as Director of Latino Outreach in Colorado with Obama for America. Mr. Turley holds a B.A. from Vanderbilt University.

Mongthu Zago has been appointed FOIL Counsel in the Executive Chamber. Ms. Zago was previously a Law Clerk for Justice Lucy Billings of the New York County Supreme Court, as well as Acting Justice Kelly O'Neill Levy. She holds a J.D. from Fordham University School of Law and a B.A. from the University of Colorado at Boulder.

Pam Widener has been appointed Speechwriter for the Executive Chamber. Previously, Ms. Widener served as a freelance writer and producer for VH1 and HBO, where she had various roles in documentaries and TV series. Ms. Widener holds a B.A. from Colgate University and did graduate work in nonfiction writing at The New School.

Department of Financial Services

James Regalbuto has been appointed Deputy Superintendent of the Life Bureau at the Department of Financial Services. Mr. Regalbuto previously served as a Supervisor for Life Product Strategy & Support at The Guardian Life Insurance Company of America. Mr. Regalbuto holds a B.B.A. in Finance from the University of Miami.

Department of Motor Vehicles

Heriberto Barbot has been appointed Deputy Commissioner of the Department of Motor Vehicles. Previously, Mr. Barbot served as the Chief of Staff and Special Counsel for New York City's Department of Youth and Community Development, as well as the Deputy Comptroller in the Office of the Comptroller of the City of New York. Mr. Barbot holds a J.D. from New York University School of Law, a B.S. from Brooklyn College, and served as a staff sergeant in the U.S. Air Force.

NYS Homes and Community Renewal

RuthAnne Visnaukas has been appointed Executive Deputy Commissioner for Housing Development of NYS Homes and Community Renewal. Previously, Ms. Visnaukas served as Managing Director of the Housing Advisory Board for the Robin Hood Foundation. She also served in the City of New York's Department of Housing Preservation and Development for eight years, holding various roles and culminating as Commissioner of the Agency. Ms. Visnaukas holds an M.U.P. in urban planning from New York University and a B.A. from the University of Pennsylvania.

Betsy Mallow has been appointed Executive Deputy Commissioner and Chief Operating Officer of Homes and Community Renewal. Most recently, Ms. Mallow serves as Deputy Executive Director in the Governor's Office of Storm Recovery. Previously, she was the New York State Deputy Director on the White House Task Force on Hurricane Sandy Rebuilding. Ms. Mallow holds a B.A. from Brown University and a M.B.A. from Harvard Business School.

Office of General Services

Brian Conley has been appointed Special Counsel to the Commissioner for Ethics, Risk and Compliance at the Office of General Services. Mr. Conley previously served as an Assistant District Attorney in Albany County beginning in 2006, and in Orange County beginning in 2002. He holds a J.D. from Albany Law School and a B.S. from Hartwick College.

In the News – New York City

Pope Francis Pays Tribute to the Victims of 9/11



(As reported by the Associated Press)

Pope Francis on Friday visited the 9/11 Memorial in New York, where he prayed and laid a white rose at one of the reflecting pools.

The Pontiff clasped his hands together and bowed his head in prayer at one of the two reflecting pools built in tribute to the worst terror attack on US soil. The memorial is dedicated to the nearly 3,000 people killed in the September 11, 2001 attacks and six victims of a first attack on the Twin Towers in 1993.

City Council Launches 2015-2016 Participatory Budgeting Cycle

Council Speaker Melissa Mark-Viverito and New York City Council Members launched New York City's 2015-2016 Participatory Budgeting cycle.

This year, New Yorkers in 27 Council Districts will collaboratively decide how to distribute over \$30 million to local capital projects through a year-long process of neighborhood assemblies, delegate meetings, project expositions, and community voting.

Participatory Budgeting is a grassroots process through which community residents vote to directly allocate at least \$1 million in capital funding per district toward proposals developed by the community to meet local needs. Through a series of public meetings, residents work with elected officials throughout the year to identify neighborhood concerns and craft proposals to address them. Residents then decide which proposals to fund through a public vote.

Participatory Budgeting in New York City has expanded from four initial City Council districts in 2011 to 27 Council Districts for the 2015-2016 cycle. The 2015-2016 Participating Districts are:

Andrew Cohen	(District 11, Bronx)	Mark Levine	(District 7, Manhattan)
Costa Constantinides	(District 22, Queens)	Melissa Mark-Viverito	(District 8, Manhattan/Bronx)
Robert Cornegy	(District 36, Brooklyn)	Carlos Menchaca	(District 38, Brooklyn)
Laurie Cumbo	(District 35, Brooklyn)	Daneek Miller	(District 27, Queens)
Elizabeth Crowley	(District 30, Queens)	Antonio Reynoso	(District 34, Brooklyn/Queens)
Mathieu Eugene	(District 40, Brooklyn)	Donovan Richards	(District 31, Queens)
Julissa Ferreras	(District 21, Queens)	Ydanis Rodriguez	(District 10, Manhattan)
David Greenfield	(District 44, Brooklyn)	Helen Rosenthal	(District 6, Manhattan)
Corey Johnson	(District 3, Manhattan)	Ritchie Torres	(District 15, Bronx)
Ben Kallos	(District 5, Manhattan)	Mark Treyger	(District 47, Brooklyn)
Karen Koslowitz	(District 29, Queens)	Eric Ulrich	(District 32, Queens)
Brad Lander	(District 39, Brooklyn)	Paul Vallone	(District 19, Queens)
Steve Levin	(District 33, Brooklyn)	Jimmy Van Bramer	(District 26, Queens)
Jumaane Williams (District 45, Brooklyn)			

MTA's Plan to Pull Trash Cans Didn't Make Stations Cleaner: State Comptroller

After Four Years, Experiment Has Little Evidence of Success

New York State Comptroller Thomas DiNapoli said the Metropolitan Transportation Authority's (MTA) experiment to reduce exposed trash and rats in subway stations by removing trash receptacles showed little evidence of success, according to an audit released by his office this week.

"There's no doubt that removing garbage cans from subway stations saved work and possibly some money for the MTA," Comptroller DiNapoli said. "It's not clear that it met MTA's goals of improving riders' experience and making stations cleaner and there's no evidence it reduced the number of rats in subway stations. After four years the best one can say about this experiment is that it's inconclusive, except for the fact that riders have a harder time finding a trash can."

The MTA's NYC Transit launched its "Trash Can Free Stations Pilot Program" to help mitigate straphangers' "poor customer experience of exposed trash bags in stations and to eliminate the accompanying presence of rodents." The pilot was based on the theory that removing trash cans meant no overflowing trash or full trash bags lying around for customers to see or smell or attract rats.

According to the Comptroller, auditors found little evidence the experiment achieved those goals. Specifically, the Comptroller noted that the MTA did not keep track of whether the initiative resulted in less exposed trash, but counted the number of bags collected each day.

"Not surprisingly, there was less garbage to collect when there were no garbage cans," Comptroller DiNapoli noted.

With respect to rodent activity, the MTA reported that rodent activity dropped at the stations. However, Comptroller DiNapoli's auditor's noted, based on the MTA's rodent activity rating of 1 to 10, 9 of the 10 stations in the initial pilot were at the lowest rat rating before the garbage cans were removed. The remaining station scored 5 out of 10 for rodent activity.

Finally, Comptroller DiNapoli asserted the MTA did not seek rider feedback on the removal of trash cans. Its broader passenger surveys showed riders initially gave lower cleanliness scores to the stations in the pilot program, which then rebounded to pre-pilot levels. The MTA's Passenger Environment Survey did not find the stations were cleaner than before trash cans were removed.

The MTA disagreed with the audit's findings and stated its belief that the pilot did result in improving its customers' experience by significantly reducing trash. In August 2015, after the audit concluded, the MTA announced a 36 percent drop in trash collected at these stations and its intention to continue the program.

Briefs

Governor Signs Legislation Making it a Felony to Unlawfully Conceal or Dispose of a Body

Governor Andrew Cuomo this week signed signed "Amanda Lynn's Law," which strengthens penalties against those who seek to unlawfully conceal or dispose of a body. The measure is named after Amanda Lynn Wienckowski, a Western New York woman who died under questionable circumstances in 2009. Although authorities were unable to prove the exact circumstances of her death, they did establish that individuals hid her body in an apparent attempt to avoid its discovery. That action had been only punishable by a misdemeanor.

Prior to enactment, New York law only regulated the manner in which cemeteries, funeral directors, and medical professionals can dispose of remains and fails to address situations where they are intentionally concealed, altered, or destroyed to prevent its discovery. This bill (S.2957-A /A.4085-A) makes this offense an E felony punishable by up to four years in prison and up to a \$5,000 fine.

State Department of Financial Services Approves First BitLicense Application

Acting Superintendent Anthony Albanese announced this week that the New York State Department of Financial Services (NYDFS) has approved Circle Internet Financial's BitLicense application – making it the first company to receive a BitLicense from NYDFS.

The BitLicense – which NYDFS finalized in June 2015 – is the first comprehensive regulatory framework for firms dealing in virtual currency such as Bitcoin, and includes consumer protection, anti-money laundering compliance, and cyber security guidelines.

In June 2015, NYDFS published its final BitLicense rules after a nearly two-year inquiry into the appropriate regulatory guidelines for virtual currency firms. To date, NYDFS has received 25 BitLicense applications.

State Seeking Broadband Stakeholder Feedback

New York has released a Request for Information to help finalize guidelines for the New NY Broadband Program to expand high-speed broadband service in New York State by the end of 2018. The RFI is available on the New York State Broadband Program Office's website with responses due Friday, October 30, 2015. Respondents may download the Request for Information at nysbroadband.ny.gov/new-ny-rfi and email their responses to NYSBroadband@esd.ny.gov.

Key elements of the Program include:

- Access to broadband at speeds of at least 100 Mbps in most places, and 25 Mbps in the most remote underserved and unserved parts of the State.
- Public/private sector partnerships and a required private sector co-investment.
- Regional, ground-up deployment planning with the help of New York State's ten Regional Economic Development Councils.
- Leveraging of State-owned fiber and other assets.
- The goal of bringing high-speed Internet access to unserved areas of the State, public libraries, and educational opportunity centers.
- Promoting affordable broadband access to both commercial and residential users.

New York State's Fifth Annual MWBE Forum, October 1-2

New York State's Fifth Annual MWBE Forum will be held October 1-2, 2015, at the Empire State Plaza Convention Center in Albany, New York. The Forum, the State's largest annual business event for minority- and women-owned business enterprises, helps small businesses from across New York navigate the State's available contract opportunities to grow their businesses.

The Forum will examine areas of procurement in Transportation, Construction and Information Technology, as well as Financial and Professional services. This year's theme, "Opportunities Start Now," reflects New York State's commitment to exceeding its statewide MWBE procurement goal by helping small businesses take on more business in new and emerging markets and increase their capacity to create more jobs.

Governor Signs Bill Strengthening Protections for Victims of Sexual Assault

Governor Andrew Cuomo this week signed legislation strengthening protections for victims of sexual assault. The legislation (A.1797-A / S.4340-B) ensures that, in cases where the defendant is convicted of sexually assaulting a family member, the order of protection for the victim extends at least through the end of the defendant's probation term. Previously, orders of protection often expired while an offender was out of jail but remained on probation.

Specifically, the legislation requires a 10-year order of protection in cases where a felony sexual assault conviction involving a family member includes probation. In the event of a misdemeanor charge, a six-year order of protection is required. Both terms match the maximum terms of probation orders under these offenses.

In addition, the Governor signed legislation (S.5240 / A.2242) that will help protect the personal safety of those that legally change their name. By law, any name change must be published in a designated newspaper, however, in certain circumstances waivers can be issued if safety is at risk. This bill gives courts broad powers to consider a waiver application and makes clear that their discretion is not limited to a direct threat against a person's safety.

NYC Starts Construction on Affordable Housing Project that Includes Homeless Shelter

De Blasio administration officials this week broke ground on a combination homeless shelter/affordable housing development in the Bronx. The new \$62 million “Landing Road Residence” will feature 135 units of housing alongside a 200-bed shelter for homeless working adults.

The permanent housing is reserved for people with very low-incomes, with the majority of the studios for people who earn \$21,175 a year or less. The shelter and the housing development will have separate entrances, but will share some of the same social services from the provider, the non-profit Bowery Resident’s Committee.

The new Landing Road Residence is expected to open within two years.

Mayor de Blasio and Cardinal Dolan Announce Archdiocese to Provide Beds with Social Services to City Program for Street Homeless

Mayor Bill de Blasio and Timothy Cardinal Dolan announced this week that the Catholic Church will work with the City to provide up to 150 beds with social services for street homeless individuals by the winter. This is the first announcement from a collaborative effort between the City and Archdiocese to leverage buildings in the Archdiocese portfolio that could potentially provide affordable housing and emergency shelters with services to homeless people.

Over the past several months, the de Blasio administration has been engaging New York City’s faith leaders about the use of unused space within their properties for sheltering the street homeless population. Last week, the Department of Homeless Services and the Clergy Advisory Council announced the creation of over 300 beds with services for street homeless by several religious organizations.

Coming Up

New York State

Thursday, October 1st

The Early Intervention Program and Examining the Implementation of Using Fiscal Agents to Pay Service Providers

Assembly Standing Committees on Health and Oversight, Analysis & Investigation

Board of Trustees Board Room, Rockland Community College, 145 College Road, Suffern, 1 - 4 p.m.

New York City

Wednesday, September 30th

Committee on Finance Committee Room – City Hall, 10:00 a.m.

T2015-3484 Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.

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

Thursday, October 1st

Committee on Finance, Committee Room – City Hall, 10:00 a.m.

Int 0464-2014 In relation to the Department of Correction promoting absentee voting among jailed individuals.

Int 0628-2015 In relation to improving young adults' access to voter registration materials.

Int 0796-2015 In relation to requiring assistance for individuals signing up to be organ donors.

Res 0695-2015 Calling upon the NYS Legislature to pass and the Governor to sign legislation allowing 16 and 17 year-olds to pre-register to vote.

Res 0848-2015 Resolution calling for same-day and online voter registration.

Committees on Fire & Criminal Justice Services and Juvenile Justice, 250 Broadway—Committee Room 16th FL 10:00 a.m.

T2015-3500 Oversight—*Examining Recidivism and Compliance Rates at the Department of Probation.*

Committees on Public Housing and Contracts, Council Chambers – City Hall, 10:00 a.m.

T2015-3533 Oversight—*Examining the Need for Contracting Accountability and Transparency at NYCHA.*

Committee on Technology, 250 Broadway—Committee Room 14th FL 1:00 p.m.

T2015-3570 Oversight—*Open Data Plan 2015.*

Int 0890-2015 In relation to the retention of data on the open data portal.

Int 0898-2015 In relation to requiring a data dictionary on open data portal.

Int 0900-2015 In relation to standardization of address and geospatial information on open data portal.

Int 0908-2015 In relation to review of data requested through FOIL.

Int 0914-2015 In relation to establishing response timelines.

Int 0915-2015 In relation to timely updating of certain public data.

Int 0916-2015 In relation to open data law agency compliance audit.

Friday, October 2nd

Committee on Education, Council Chambers – City Hall, 1:00 p.m.
T2015-3567 Oversight—DOE's Restructured School Support System.

Committee Parks and Recreation, 250 Broadway—Committee Room 16th FL 12:00 p.m.
Int 0856-2015 In relation to recreation center fees.

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