

# 2019 End of Session Report



Mario Cilento  
President

Terrence Melvin  
Secretary-Treasurer

Mike Neidl  
Legislative Director

Joe Canovas  
Special Counsel

**The following bills passed both houses of the legislature in the final weeks of the 2019 legislative session. This is not a full listing of every bill we worked on with our affiliates but only a list of bills that are of general interest to the broader labor movement. Updates and additions will be coming as we continue to work with our affiliates. A full session breakdown including the Governor's actions on these bills will be available later in the year.**

**Farmworkers** (A8419 Nolan/S6578 Ramos)

The Farm Laborers Fair Labor Practices Act provides farmworkers with the right to form a union, a day of rest and overtime pay. In order to address the concerns of farmers, protect the food supply and address other factors unique to farming, the Senate pushed for a strike prohibition and a 60-hour per week overtime threshold. As a result of these additions, the New York State AFL-CIO fought for, and won, neutrality, card-check, binding interest arbitration, continuity of expired contracts and a pathway to a 40-hour work week via a wage board. The three-member wage board, comprised of DOL, State Fed and Farm Bureau representatives is tasked with investigating the impacts of lowering the 60-hour threshold and empowered to lower it by majority vote.

**Unemployment Improvement for Workers on Strike** (A6592 Ryan/S4573 Kennedy)

This bill reduces the 7-week unemployment insurance waiting period for strikers to one week, the same waiting period as all other unemployed workers.

**SWEAT Wage Theft Enforcement** (A486-B Rosenthal, L/S2844-B Ramos)

In order to prevent wage theft and to enhance enforcement, this bill creates a new type of lien to secure payment of wages from employers that have violated wage theft laws. It also streamlines the process for holding company owners personally liable for unpaid wages.

**Call Center Worker Protections** (A567-C Rosenthal, L/S1826-C Kennedy)

This bill amends labor law to require telecommunications companies to provide notice to the Department of Labor upon reductions in call volume at in-state call centers. It also directs the commissioner to publish the list and makes companies on the list ineligible for state-sponsored financial incentives. The claw-back provision in the bill requires employers added to the list that are already receiving state-sponsored financial incentives to return or relinquish the unamortized value of the incentive. Finally, the bill directs agency heads to patronize in-state call center and customer service vendors.

**Elevator Safety** (A4509-A Crespo/S4080-C Savino)

In order to ensure public safety, worker safety, quality and appropriate training, this bill requires licensing and sets standards for the construction, inspection, maintenance, and repair of elevators.

**School Workplace Violence Prevention** (A6157 Titus/S1720 Ramos)

This bill amends the labor law to require schools to establish workplace violence prevention plans. These plans are already required for other public employers. Plans are to be developed in consultation with workers and unions and will include corrective actions in areas of potential danger.

**Car Wash Minimum Wage** (A6346-C Crespo/S4030-A Ramos)

This bill eliminates the tipped minimum wage credit for carwash workers in New York City, Nassau, Suffolk and Westchester counties, entitling these workers to the full minimum wage.

**Gravity Knives** (A5944 Quart/S4863 Savino)-**Chapter 34 of the Laws of 2019**

This law removes the term “gravity knife” from various sections of the penal law which criminalized basic utility knives used by workers. It has already been signed by the Governor.

**Injunctive Relief Extension** – (A7502 Abbate/S5831 Gounardes)

This bill extends for two years public employees’ ability to seek injunctive relief when employers engage in improper practices.

**Automatic Retirement Enrollment for Paraprofessionals in New York City** – (A7874-A Abbate/S5905-A Gounardes)

This bill requires automatic retirement system enrollment, as opposed to opt-in, for New York City Department of Education paraprofessionals.

**Labor and Non-Competitive Class Parity for Public Employees** – (A7248 Abbate/S5291 Gounardes)

This bill extends reduction in force bump and retreat protections to all labor and non-competitive class public employees.

**Writers and Directors Diversity Tax Credit** – (A6683-B Crespo/S5864-A Jackson)

This bill creates a tax credit for fees and services of minority and women film and television directors and writers in New York.

**Law Enforcement/Community College 211 Waiver** – (A7261-A Abbate/S4308-A Gounardes)

This bill grants an automatic earnings cap waiver to certain police and fire retirees if they return to service by teaching at a community college.

**Employment Protection Provisions for NYC School Bus Services** (A7749 O'Donnell/S6208 Jackson)

This bill would require the City of New York to include employee protection provisions in contracts for pupil transportation and permit the City to renegotiate current contracts that do not include such provisions.

**Public Work Wage and Benefit Transparency** (A2101-A Woerner/S5679-A Savino)

This bill requires disclosure of wage supplements (benefits) paid by contractors on public work projects. Prevailing rate requirements cover wages and benefits. This legislation will increase transparency and ensure that contractors are held responsible for providing workers with benefits to which they are entitled.

**School Bus Cameras** (A4950-B Magnarelli/S4524-B Kennedy)

This bill allows for cameras installed on school buses and in stationary locations to take photos and be used to issue fines for automobile owners who illegally pass school buses while pupils are embarking or disembarking.

**Salary History Ban** (A5308-B Crespo/S6549 Carlucci)

This bill prevents employers from inquiring about applicants' salary histories. Preventing employers from inquiring about an applicant's salary history will limit the impact of historic discriminatory pay practices by uncoupling a future employers' pay decisions from previous employers' bias.

**Firefighter Cancer Lookback** (A7716-A Reyes/S5246-A Gounardes)

This bill creates a presumption that New York City firefighters diagnosed with cancer within five years of retirement incurred it in the performance of their duties.

**Independent Dispute Resolution of Emergency Medical Fees** (A264-B Cahill/S3171-A Krueger)

This bill subjects hospital emergency charges to the independent dispute resolution process to protect against excessive fees.

**Black Car Fund** (A8129-A Rodriguez/S6239-A Savino)

Expands statutory authority of the Black Car Operators' Injury Fund to include provision of health benefits.

**Design Build (A8433 Weinstein/S6615 Krueger) – Chapter 39 of the Laws of 2019**

Among other things, this omnibus end-of-session bill permits the New York State Olympic Regional Development Authority (“ORDA”) to use the alternative procurement method known as design-build for Olympic Training Center and Olympic Arena and Convention Center Complex projects. The bill includes protections preventing the displacement of public employees as a result of design-build. ORDA has agreed to initiate a Project Labor Agreement feasibility study for both projects.

**NYC Design Build (A7636-B Braunstein/S6293-A Comrie)**

This bill authorizes certain New York City agencies to use the alternative procurement method known as design-build for projects undertaken pursuant to project labor agreements. The bill includes protections preventing the displacement of public employees as a result of design-build.

**Cost Benefit (A5459 Bronson/S6048 Breslin)**

This bill requires state agencies to conduct cost analysis before hiring outside consultants for contracts of more than \$750,000. It then requires a comparison of having the work performed by contractors to the cost of having public employees perform the work.

**Wage Differential Prohibition (A8093-A McMahon/S5248-B Biaggi)**

This bill expands the current prohibition on wage differentials based on sex to prohibit differentials based on protected class status. Protected classes under the bill include age, race, creed, color, national origin, sexual orientation, gender identity and expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, and domestic violence victim status. This bill maintains bona fide bases for wage differentials such as seniority, merit, experience, training and education.

**Sexual Harassment Protections (A8421 Simotas/S6577 Biaggi)**

This bill expands application of sexual harassment protections to cover all employers, independent contractors and domestic workers. It also eliminates the requirement that sexual harassment be severe and pervasive in order to be actionable.

**Decriminalization of Marijuana and Hemp Production (S6579-A Bailey/A8420-A People-Stokes) & (S6614 Bailey/A8432 Peoples-Stokes) & (S6184-A Metzger/A7680-A Lupardo)**

These bills collectively decriminalize the possession and use of marijuana by individuals, allow for the expungement of criminal records for individuals convicted of or arrested on these violations/crimes that are now decriminalized and expands the hemp industry in New York State. The bills do not include expansion of the medical marijuana industry or establish the legalization for the sale, growth and distribution of marijuana for adult use.

**Employee Protections at Indian Point Power Plant (S6567 Harckham/A7569-B Galef)**

This bill provides that the decommissioning work associated with the shutdown of the Indian Point nuclear power plant be provided to the maximum extent possible by current employees of the power plant and that these employees are paid the prevailing rate in the event these operations are provided by a successor employer.

**MWBE (A8414 Bichotte/S6575 Sanders)**

This bill extends Article 15a of the Executive Law that was set to expire to require MWBE participation in state contracts and the bill also establishes new workforce diversity goals to be required of contractors bidding with state agencies and entities. Penalties for fraud and misrepresenting diversity in the workforce of such contractors are included.

**NYS Climate Leadership and Community Protection Act (CLCP) (S6599 Kaminsky/A8429 Englebright)**

This bill enacts various provisions to require the state's electric generation to be produced by at least 70 percent renewable sources by 2030 and entirely emission free by 2040. The bill includes a provision that the act is subject to prevailing rate. Labor peace language was not included.

**Tier 2 Parity for Police and Fire (S6367 Gounardes /A7920-C Abbate)**

This bill allows uniformed personnel who were hired during a window period between 2009 and 2010 that was caused by the Veto of Tier 2 extension for police and fire to opt to be covered by Tier 2.

**Prevailing Rate-Building Service Workers (S6219-A Benjamin/A8082 De La Rosa) & (S6265-A Gianaris/A8083-A Niou)**

These bills expand Article 9 prevailing rate applicable to building service employees to various private residential properties that receive tax benefits from the state as well as properties owned and maintained by public utilities.

**Performance of Duty Disability for 9/11 Responders (S5898-D Gaughran/A8278-C Weprin)**

This bill clarifies that various members of the NYS employees Retirement System and the NYS Teachers' retirement system who participated in the rescue, clean-up and recovery at the World Trade Center (WTC) are eligible for a performance of duty disability retirement equal to 75 percent of their final average salary if they incur a qualifying WTC condition.

**Sick Leave for 9/11 responders (S5890-A Gounardes/A7819-A Pheffer-Amato)**

This bill further clarifies that workers who are employed by any public employer and participated in World Trades Center operations following 9/11, are eligible to use their sick leave without employer adverse action to receive care, treatment or health related services. This would apply regardless of where such employee worked at the time of the WTC operations.