

# 2022 End of Session Report



Mario Cilento  
President

Terrence Melvin  
Secretary-Treasurer

Mike Neidl  
Legislative Director

Joe Canovas  
Special Counsel

Nagma Singh  
Legislative Assistant

## Fighting Climate Change

### **Expand Solar Projects Covered by Prevailing Wage** (A9598 – Joyner / S8648 – Ramos)

Chapter 372 of 2022.

This bill includes renewable energy projects of one or more megawatts in prevailing rate and PLA provisions that are currently only applicable to projects of five megawatts or more. Effective Date: 07/05/22

### **Authorization for Utility Scale Geothermal Projects** (S9422 – Parker / A10493 – Joyner)

Chapter 375 of 2022.

This bill authorizes utility companies to deliver renewable energy through thermal energy networks which will create thousands of construction and operational jobs. The bill includes prevailing rate and labor peace agreement language. Effective Date: 07/05/22

### **Transition of State Fleet to Zero Emission Vehicles** (S2838C – Parker / A2412B – Fahy & S9382 – Parker / A10450 – Fahy)

Passed both houses.

This bill phases in the transition of state government's medium and heavy-duty vehicles to zero emissions through 2035 and includes employee protection language and buy American requirements. Effective Date: Immediately

### **Report on Dormant Power Plants and Renewable Energy** (A340B – Zebrowski / S1829B – Skoufis)

Passed both houses.

This bill requires NYSERDA to produce a report within 18 months of the effective date to: survey decommissioned or dormant power plants; outline opportunities to develop those sites into renewable energy generation and storage facilities; and identify the economic impact of that potential development. Effective Date: Immediately

### **Green Appliances and Building Efficiency Standards** (S9405 – Parker / A10439 – Fahy)

Chapter 374 of 2022.

This bill amends various sections of the Energy Law to require updated code and enforcement for new construction to reduce emissions and energy load consumption for various appliances, lighting, water systems, and other systems in those buildings. Effective Date: 07/05/22

### **Electric Vehicle Infrastructure** (S23B – Kaplan / A4386B – O'Donnell)

Passed both houses.

This bill requires that any state funded contracts that include construction of parking facilities of between 50 and 250 spaces must provide at least 10% of such spaces with electric charging station access. Prevailing wage language is included. Effective Date: Immediately

## Creating & Protecting Union Jobs

### **Buy American Rock Salt** (A7919A – Bronson / S9441 – Kennedy)

Passed both houses.

This bill allows government entities to award a contract for the purchase of rock salt to a bidder that is not the lowest bid if the rock salt is mined in the United States. Effective Date: Immediately

### **Protect Collectively Bargained Utility Pole Work** (S8919 – Hinchey / A10216A – Paulin)

Passed both houses.

This bill ensures that, as the PSC develops regulations to modernize and implement access to broadband, work involving access to utility poles and wires currently covered by a collective bargaining agreement remains protected. Effective Date: Immediately

### **Labor Standards on Modular Construction Work** (S4738A – Ramos / A2039B – Dilan)

Passed both houses.

This bill amends the Labor Law to require that the electrical, plumbing and fire suppression systems of modular units constructed off-site for installation in a building in New York City be performed only by appropriately licensed workers. Effective Date: 120 days after this bill becomes law.

### **Affordable Housing Commission** (S9462 – Kavanagh / A10494A – Cymbrowitz)

Passed both houses.

This bill creates an affordable housing commission with labor representation to evaluate and assess affordable housing needs and make recommendations about how to improve affordable housing options, construction and development as well as issues affecting workers and effectiveness of tax breaks and other strategies in the development of housing. Effective Date: Immediately

## Workplace Safety and Health

### **NY Worker Committee Enforcement** (S9450 – Gianaris / A10492 – Reyes)

Passed both houses.

This bill authorizes the Department of Labor to issue daily fines of not less than \$50 to employers who refuse to recognize workplace safety committees established pursuant to the NY HERO Act. This legislation also empowers the Department of Labor to enjoin conduct violative of the Act. Effective Date: Immediately

### **Warehouse Worker Protection Act** (S8922A – Ramos / A10020A – Joyner)

Passed both houses.

This bill will require employers in various warehouse distribution settings to disclose to workers upon hire, written description of quota requirements for work and potential adverse actions that may result for not meeting any quotas. The bill prohibits quota systems that prevent compliance with required meal and rest period or bathroom breaks, develops a record-keeping and disclosure requirement and prohibits unlawful retaliation for employees exercising their rights under this new law. Effective Date: 60 days after this bill becomes law.

### **Carlos's Law** (S621B – Sanders / A4947B – Bichotte Hermelyn)

Passed both houses.

This legislation establishes corporate criminal liability for crimes involving the death or injury of a worker. Penalties include fines of at least \$500,000 for felonies and at least \$300,000 for misdemeanors, and restitution. The namesake of this legislation, Carlos Moncayo, was killed in 2005 when the unsecured trench he was working in collapsed. The construction contractor convicted in connection with his death was fined only \$10,000. The sentencing judge lamented the weak state statute he was bound by. Effective Date: 30 days after this bill becomes law.

### **Increased Penalties for Assaults on Transit Workers** (A10491 – Cook / S9468 – Comrie)

Chapter 233 of 2022.

This bill adds to the titles of workers covered by the statute that enhances penalties for assaulting transit workers. Under this bill, assaulting cleaners, maintainers, customer assistants, revenue and ticket collectors, repairers, and their supervisors during the course of their duties is assault in the 2<sup>nd</sup> degree, a Class D felony. Effective Date: 09/25/22

### **Contractor Registry** (S5994C – Ryan / A1338C – Magnarelli)

Passed both houses.

This legislation requires public contractors and their subcontractors to register with the Department of Labor Bureau of Public Works and disclose information about compliance with state laws, including labor law and workers' compensation law, before bidding on certain public projects. The bill authorizes the Commissioner of Labor to bar contractors and subcontractors with prevailing wage violations and requires the Department of Labor to establish an online contractor registry database accessible to the public. Effective Date: Immediately

## **Improving Injured Workers' Rights**

### **Minimum Benefit Increase in Workers' Compensation (S8271A – Sanders / A7178A – Joyner)**

Passed both houses.

This bill increases and indexes the minimum workers' compensation benefit from \$150 per week to one-fifth of the statewide average weekly wage for workers injured on or after the effective date. One-fifth of the current statewide average weekly wage is \$318.91, more than double the current minimum benefit. Effective Date: Immediately

### **Workers' Compensation Coverage for Extreme Stress (S6373B – Savino / A2020A – Reyes)**

Passed both houses.

This bill prevents employers and insurance carriers from denying otherwise valid claims for work related extreme stress/PTSD by asserting an affirmative defense claiming that the worker should have expected to experience the level of stress that caused the injury. Employers and carriers were prohibited from asserting this defense in cases involving first responders by legislation enacted in 2017. This bill expands those protections to all workers. Effective Date: First of January next succeeding the date this bill becomes law.

### **Expansion of Injuries Classified as Temporary Total Disability (S768 – Gounardes / A1118 – Bronson)**

Passed both houses.

This bill redefines temporary total disability as a worker's inability to perform their pre-injury duties or any modified duties offered by the employer. The impact of this legislation will be to incentivize employers to offer modified duties and to prevent reductions in benefit levels in cases where employers do not offer modified duties. Effective Date: Immediately

### **Workers' Compensation - Limiting Collateral Estoppel (S9149 – Gounardes / A10349 – Joyner)**

Passed both houses.

This bill codifies a Court of Appeals decision that prevents employers and carriers from asserting the doctrine of collateral estoppel to prevent courts from considering and deciding issues previously decided by Workers' Compensation Board administrative law judges in separate proceedings. Effective Date: Immediately

## Protecting Workers that Protect New Yorkers

### **Nurse Overtime - New Limitation of Exemption for Emergencies (S8063A – Ramos / A8874B – Joyner)**

Passed both houses.

This bill will limit the duration that employers receive an automatic exemption from the prohibition on assigning mandatory overtime to nurses. This bill provides that the exemption will be capped to 30 days in the event of a government declared state of emergency or three days for a health care disaster. Currently the exemption is open ended. Effective Date: Immediately

### **New Enforcement Provisions for Violations of the Prohibition on Mandatory Overtime (A286A – Gunther / S1997A – Jackson)**

Passed both houses.

This bill requires the Department of Labor to issue an order of compliance upon finding that an employer has violated the prohibition of requiring mandatory overtime for nurses. The bill also requires fines of \$1,000 for a first violation, \$2,000 for a second violation, and \$3,000 for each subsequent violation. Effective Date: 60 days after this bill becomes law.

### **Inclusion of Home Care Nurses in the Prohibition on Mandatory Overtime (S4885A – Savino / A181A – Gunther)**

Passed both houses.

This bill includes home care and visiting nurses in the law prohibiting mandatory overtime for nurses. Effective Date: 90 days after this bill becomes law.

### **COVID Death Benefit Extender (S9119 – Gounardes / A10022 – Abbate)**

Passed both houses.

This bill extends through December 31, 2024 provisions which allow for an accidental death benefit to be payable to the beneficiaries of public employees who die as a result of contracting COVID-19 while working. Effective Date: Immediately

### **Extension of Paid Leave for COVID Vaccines (A9513 – Fall /S8529 – Gounardes)**

Chapter 234 of 2022.

This bill extends through December 31, 2023 the requirement that employers grant up to 4 hours of paid leave to public and private sector employees to get their COVID-19 vaccination or boosters. Effective Date: 06/28/22

### **Workers' Compensation and Disability Pension Registry Extender for 9/11 (S9294A – Gounardes/ A10416 – Niou)**

Chapter 561 of 2022.

Extends the deadline for public employees who performed September 11, 2001, rescue, recovery and/or cleanup work to provide notice to their respective public retirement system of such work. This bill also extends the deadline for any worker who performed September 11, 2001 rescue, Recovery, and/or cleanup work to register with the Workers' Compensation Board. Under the bill, both deadlines are extended from September 11, 2022 to September 11, 2026. Effective Date: 09/09/22

**9/11 Presumptive Evidence Bill** (A9922A – Abbate / S9370 – Jackson)

Chapter 559 of 2022.

This bill creates a presumption of eligibility for workers' compensation benefits for injured and ill workers involved in September 11, 2001 rescue, recovery, and/or cleanup efforts and who have qualified condition certifications from the CDC and WTC Health Program. Effective Date: 09/09/22

**Fighting for Social and Racial Equity**

**Office of Racial Equity and Social Justice** (S3468B – Kennedy / A2358B – Peoples-Stokes)

Passed both houses.

This bill creates a new state agency to review and eliminate institutional racism and incorporate social and racial justice into policies/plans and procedures throughout state government. Effective Date: July 1, 2023

**Removing the Word “Alien” and “Illegal Alien” from Official State Lexicon** (A10147 – Davila / S9333 – Ramos)

Passed both houses.

This bill amends various state laws to remove the words “alien” and “illegal alien” and replaces them with “noncitizen” and “undocumented noncitizen.” Effective Date: Immediately

**Wage Gap Disclosure for State Contractors** (A5773 – Glick / S2239 – Hoylman)

Passed both houses.

This bill requires contractors with state government entities to submit an equal pay report to the Comptroller summarizing their workforce pay averages by job category, gender, race, and ethnicity; and the differences between pay averages in those categories.

Effective Date: First of January next succeeding the date this bill becomes law.

**Discharged LGBT Veterans Now Eligible for Military Service Credit Buyback** (A5278B – Barrett / S6022B – Hoylman)

Chapter 585 of 2022.

This bill ensures that any public employee veterans of the military who were discharged because of their sexual orientation and previously ineligible for the state's military service retirement credit buyback program will now be eligible. Effective Date: 11/10/2023

## Public Employee Rights & Pension Improvements

### **Permanent Injunctive Relief in PERB** (S8282 – Jackson / A9372 – Abbate)

Passed both houses.

This bill makes permanent a law that has been extended for nearly 30 years that allows a charging party at PERB to file for injunctive relief if there is reasonable assurance that an improper practice has occurred and there is irreparable harm as a result. Effective Date: Immediately

### **Cost/Benefit Analysis on State Consulting Contracts** (S5356 – Breslin / A8159 – Bronson)

Passed both houses.

This bill requires that prior to entering into contracts for consultant services that are in excess of \$1 million, state agencies must conduct a cost comparison to determine whether the services can be performed by state employees at equal or lower costs.

Effective Date: 90 days after this bill becomes law.

### **State Workers Leave for Donating Blood** (S907A – Sanders / A1871 – Dinowitz)

Chapter 530 of 2022.

This bill grants up to four hours of excused leave that is not chargeable against any other leave entitlements for state workers to donate blood.

Effective Date: 08/17/22

### **Disability Improvement for Deputy Sheriffs** (S8559 – Gounardes / A9666 – Abbate)

Passed both houses.

This bill would create a 75% accidental disability pension for deputy sheriffs in counties that have opted for the benefit. Effective Date: Immediately

### **Heart Presumption for Law Enforcement Titles** (A4607B – Abbate / S8558A – Gounardes)

Passed both houses.

This bill creates a presumption that impairments of the heart for sheriffs, deputy sheriffs, correction officers, and other related titles were caused as the result of work-related stress unless the contrary can be proven by competent evidence. This would entitle these members to an accidental disability pension benefit which varies based on their pension tier membership. Effective Date: Immediately

### **Provisional and Temporary Employee Salary Protection** (A4080 – Abbate / S8210 – Jackson)

Passed both houses.

This bill grants the same salary protections for provisional and temporary employees in the civil service as permanent incumbents of positions in the event of transfer, reclassification, or reallocation. Effective Date: Immediately



**Delay in Reduction of Ordinary Death Benefits** (S6619B – Gounardes / A7730A – Abbate)

Passed both houses.

Current law reduces public employee death benefits as they approach their normal retirement age. This bill would delay that reduction until their normal retirement age (62 for Tiers 1-5 and age 63 for Tier 6) so that older workers are not penalized.

Effective Date: First of April next succeeding the date this bill becomes law.

**Improving Labor Rights and Protections**

**Wage/Compensation Disclosure** (S9427A – Ramos / A10477 – Joyner)

Passed both houses.

This bill prohibits employers from advertising job opportunities without disclosing the compensation or range of compensation and a description of the job. This also prohibits employers from refusing to interview, hire, promote, employ, or otherwise retaliate against workers for exercising their rights under this bill. Effective Date: 270 days after this bill becomes law.

**Posting of Veterans Benefits and Rights** (A3913B – McMahon / S1961B – Brooks)

Chapter 584 of 2022.

This bill requires employers to display a poster developed by the Departments of Labor and Veterans' Affairs about available services and contact information for such services including mental health, substance abuse, education, workforce training, and legal services among others.

Effective Date: 01/01/23

**Child Care Facilitated Enrollment Eligibility Parity** (S9464A – Krueger / A10486A – Weinstein)

Chapter 360 of 2022.

This bill increases the income threshold for the Child Care Facilitated Enrollment Program to 300% of FPL from 275%, which allows Facilitated Enrollment to serve families at the threshold for universal childcare eligibility enacted in the 2022 state budget.

Effective Date: 04/01/22

**Modernization of PERB's Filing and Administrative Procedures** (S9403A – Ramos / A10457A – Septimo)

Passed both houses.

This bill requires PERB to develop an E-filing program for the filing and review of various papers, petitions, complaints, and other documents; to develop a publicly accessible database of PERB decisions; and to develop written materials about the rights of workers translated into the 12 most common non-English languages spoken by limited English proficient individuals. Effective Date: Immediately

**Protection for Legally-Protected Work Absences** (A8092B – Reyes / S1958A – Krueger)

Passed both houses.

This bill prohibits employers from discriminating or retaliating against an employee for utilizing any legally protected absence pursuant to federal, state or local law. Effective Date: 90 days after this bill becomes law.

**Unemployment Notification** (S6828A – Mayer / A9268A – Burdick)

Passed both houses.

This bill requires the Department of Labor to notify claimants of the initial approval or denial of unemployment claims within 30 days of filing. Effective Date: Immediately

### **Protecting Retirees**

**Protection of Retiree Health Insurance** (A10425 – Abbate / S9347 – Jackson)

Passed both houses.

This bill codifies that retirees or their representatives may submit extrinsic evidence in court proceedings with regard to the intent of collective bargaining agreements that govern their health insurance. This will preserve the ability to challenge in court unilateral employer actions that may reduce health insurance benefits or increase retiree costs in violation of collective bargaining agreements. Effective Date: Immediately

**Retiree Skilled Nursing Protections** (S8192 – Breslin / A9215 – McDonald)

Passed both houses.

This bill prevents reductions in state skilled nursing benefits for public sector retirees that become Medicare eligible, although state benefits may be coordinated with or treated as secondary to Medicare. Effective Date: Immediately

**Protection of Retiree Beneficiary Personal Information** (A5469 – Englebright / S190 – Kaplan)

Chapter 482 of 2022.

This bill clarifies that the personal information of beneficiaries of public sector retirees is not subject to FOIL requests. Effective Date: 08/08/22