

2023 End of Session Report



Mario Cilento
President

Terrence Melvin
Secretary-Treasurer

Mike Neidl
Legislative Director

Joe Canovas
Special Counsel

Nagma Singh
Legislative Assistant

The following bills passed both houses of the legislature in the final weeks of the 2023 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.

Protect Workers from Retaliation for Refusing Captive Audience Meetings

(S4982 – Ramos / A6604 – Reyes)

This bill prevents discrimination against workers who refuse to participate in captive audience meetings by employers that require workers to attend and listen to their views on political, religious, or otherwise personal issues including labor organizing, health care decisions, or joining political, fraternal, or civic organizations.

Statewide Ban on Non-Compete Agreements

(S3100A – Ryan / A1278B – Joyner)

This bill enacts a statewide ban on non-compete agreements and prohibits employers from requiring their employees or prospective employees from signing non-compete agreements that restrict their ability to work for another employer after their current employment terminates.

Independent Hearing Officer for Public Employee Discipline

(S1039A – Jackson / A3748A – Pheffer Amato)

This bill amends Section 75 of the Civil Service Law to require that hearing officers in public employee discipline cases be chosen from a list of independent hearing officers maintained by PERB rather than selected by management as is currently the case. The bill also establishes notification and representation rights for employees facing disciplinary action.

Increase and Indexation of Workers' Compensation Minimum Benefit

(S1161A – Sanders / A2034A – Joyner)

This bill increases the minimum workers' compensation benefit in steps from \$150 per week and eventually indexes it to one-fifth of the statewide average weekly wage. The phased minimum benefit increases are as follows: \$275 per week for workers hurt on or after January 1, 2024; \$325 per week for workers hurt on or after January 1, 2025; and one-fifth of the statewide average weekly wage for workers hurt on or after July 1, 2026.

Health Care

Pilot Project Staffing Agencies Nursing Homes (A7328 – Paulin / S6897 – Rivera)

This bill creates a four-year demonstration project to reduce nursing home reliance on expensive staffing agencies to provide nursing services at nursing homes. The bill reduces nursing home payments to the state that are required if nursing homes have excessive revenue or do not meet the patient-facing, staffing standards required by law. That reduction is allowed if the nursing home uses those funds to transition away from utilizing staffing agencies and instead hiring their own personnel.

Temporary Licensing of Out of State Nurses (A6697B – Fahy / S7492B – Stavisky)

This bill allows individuals to be approved to practice professional nursing services in New York State for up to 180 days. Application for such approval must be received within 30 days of the effective date and applies only to individuals who are in good standing to practice in another state as of May 22, 2023. This is to create a smooth transition after the expiration of Executive Order #4 which allowed for the emergency temporary practice of nursing by out-of-state nurses during the pandemic.

Education

School Violence Prevention (A1120 – Joyner / S1746 – Ramos)

This bill includes school districts in the current law that applies to other public employers to develop a workplace violence review and prevention program and work with the recognized employee representatives to implement the program.

Safe Schools by Design Act (A286A – Paulin / S2629A – May)

This bill amends the Education Law to require school districts to consider design principles and strategies that provide a healthy, secure, and safe school environment, as recommended by the Commissioner of Education, in their five-year capital plan.

Worker Safety & Health

Workers' Compensation Hearings (A6208 – Joyner / S5867 – Ramos)

This bill requires that the Workers' Compensation Board index every claim and hold a hearing in every case. It also requires the use of stenographic verbatim reporters in every hearing.

Utility Worker Restroom Access (S5444 – Scarcella-Spanton / A6978 – Wallace)

This bill requires employers that are open for business and have toilet facilities to allow utility workers that are on the premises for work-related activities to have access to the restrooms.

Wrap-Up Insurance for NYC Construction (S7385 – Sanders / A7542 – Weprin)

This bill authorizes the City of New York (NYC), the NYC school district, the NYC industrial development agency, the NYC health and hospitals corporation, or the NYC housing authority to utilize wrap-up insurance for construction projects. For projects over \$5 million in value, wrap-up insurance is only authorized if a project labor agreement is in place. Wrap-up insurance allows contractors and subcontractors to obtain various insurance coverages including workers' compensation and general liability/scaffold law through the project owners.

Labor Issues

Labor Standards on Road Excavations (S4887 – Gianaris / A5608 – Reyes)

This bill requires contractors with utility companies for excavation or street-cutting projects to pay prevailing rate for workers to excavation-related job titles.

Public Utility Call Center Reporting (A3125A – Magnarelli / S6694 – Mannion)

This bill requires public utilities to file an affidavit annually confirming that no call centers or other facilities providing required customer assistance have been closed without notice and hearing before the commission and that those services have not relocated without notice and hearing before the commission.

Commission on Paid Family Leave (A4676A – Woerner / S1554B – Addabbo)

This bill creates a commission with an appointment to be determined by the NYS AFL-CIO to complete a comprehensive study on the utilization of the paid family leave program.

Three-Year Statute of Limitations - Discrimination (S3255 – Hoylman-Sigal / A501 – Rozic)

This bill amends the Executive Law to lengthen from one to three years the statute of limitations for filing an unlawful discriminatory practice claim with the Division of Human Rights.

Protections for Employee Inventions (S5640 – Ramos / A5295 – Bores)

This bill protects the rights of an employee's invention from being assigned to their employer if the employee developed it entirely on their own time without using the employer's equipment, supplies, facilities, or trade secret information.

New York City (NYC) Community Hiring & Workforce Development Act (S7387B – Parker / A7677 – Zinerman)

This bill establishes the Office of Community Hiring and Workforce Development in NYC to implement a program to require various entities that contract or subcontract for services and construction for NYC to make the best efforts to meet goals for hiring economically disadvantaged candidates for jobs associated with those contracts.

Syracuse Regional Airport Design/Build & Subsidiary (A7368A – Magnarelli / S7225A – Mannion)

This bill authorizes the use of design-build alternative contracting for the construction of various airport improvement projects at the Syracuse airport and includes PLA authorization and public employee protection language.

Freelance Worker Protections (S5026 – Gounardes / A6040 – Bronson)

This bill establishes a procedural mechanism for contractual payments for services by freelance workers and enforcement mechanisms for the Department of Labor to enforce the timely and accurate payment for such services as well as remedies when those provisions are violated. This bill was vetoed in 2022.

Increase Penalties for Wage Theft (S2832A – Breslin / A154A – Cruz)

This bill amends the Penal Law to update the definition of larceny to include wage theft, to allow for the aggregation of multiple instances of wage theft against a worker into a single larceny count and to clarify that wage theft includes the non-payment of minimum wage rate and/overtime, as well as underpayment of wages promised if greater than the minimum wage.

Civil Service Improvements

Public Sector Organizing and Union Rights (A7157 – Pheffer Amato / S6477 – Jackson)

This bill requires public employers to provide the home addresses of employees to the recognized employee representative.

Civil Service Recruitment and Retention Improvements (S5486 – Jackson / A6855 – Pheffer-Amato)

This bill requires the state and local civil service departments to issue every announcement for competitive examinations to BOCES, high schools, colleges, universities, local social services districts and job training programs as well as allows any other entity to sign up to be notified electronically.

Labor Class Rights (A6856 – Pheffer Amato / S5487 – Jackson)

This bill ensures that labor-class employees in the civil service system are entitled to the same seniority and procedural reduction in workforce protections that the competitive and non-competitive class employees are entitled to.

Civil Service Diversity Reporting (S7273 – Parker / A4487 – Ramos)

This bill will require the Department of Civil Service to collect data on the ethnicity and race of individuals who take every civil service exam and issue an annual report.

General Public Sector Issues

Enforcement of Public Sector Arbitration (S6491 – Hoylman-Sigal / A6866 – Lavine)

This bill closes a loophole to prevent public employers from intentionally delaying the implementation of arbitration awards to avoid paying court fees in the event they want to challenge the award. This forces unions to go to court and pay the filing fees to enforce the awards but unfairly opens an opportunity for the employers to challenge the award.

Public Sector Inspection of Design-Build Projects (A4720 – McDonald / S5664 – Kennedy)

This bill requires that public employees perform the inspection, review and determination of whether the work performed by contractors on design-build contracts with the state is acceptable.

Health Insurance Protection for Retiree Surviving Spouses (A6806 – Pheffer Amato / S5495 – Jackson)

This bill ensures that the spouse of a retired public employee who dies prior to 10 years after their retirement date will continue to be eligible for health insurance coverage.

Public Sector, Worker's Compensation Group Self-Insured Trusts (S6410A – Ramos / A52B – Magnarelli)

This bill authorizes and regulates public sector high-deductible workers' compensation policies offered by public sector group self-insured trusts. This legislation does not impact rights to coverage for workplace injury and illness.

Heart Presumption – Dep. Sheriffs. CO's (A5208 – Pheffer Amato / S5027 – Jackson)

This bill would allow correction officers, deputy sheriffs and related titles to receive an accidental disability benefit if the member is impaired due to a condition of the heart as a result of an accident, in the performance of their duties, unless the contrary is proven by competent evidence.

Miscellaneous

9/11 Rights Notification (S2946B – Kavanaugh / A75B – Sayegh)

This bill requires the NYS Department of Economic Development in consultation with the NYS Department of Labor to develop rules and regulations for all businesses that operated in the New York City Disaster Area between September 11, 2001, and July 31, 2002, to notify their employees that were employed at the time of their potential eligibility for the 9/11 Victim Compensation Fund and the World Trade Center Health Program.

Two-Worker Crew on Freight Trains (S5775 – Kennedy / A5639 – Magnarelli)

This bill requires that freight railroad operations in the state must have a crew of at least two individuals.

Clean Slate (A1029C – Cruz / S7551A – Myrie)

This bill amends the Criminal Procedure Law to require the automatic sealing of criminal convictions and related records if the defendant has served their sentence and at least three years have elapsed for a misdemeanor offense and eight years have elapsed for a felony offense. This does not apply to Class A felonies or sex offenses, defendants must not have subsequent charges filed against them and sealed records may be accessed for various employment, licensing, investigatory, law enforcement, required firearm and other established background check purposes.

Town and County Elections Moved to Even Numbered Years (A4282B – Paulin / S3505B – Skoufis)

Effective on January 1, 2025, this bill requires all county and town board, legislative and executive elections to be held in even-numbered years. This will not apply to races for District Attorney, sheriffs, county clerks, various judges or offices that are three-year terms.

Lobby Law Reporting - Appointments Disclosure (S4152 – Gianaris / A5786 – McDonald)

This bill requires entities that must file mandatory lobby reporting to include activities about the support or opposition to the nomination or confirmation of a person to a state office that requires confirmation by the Senate.

Limited Liability Company (LLC) Transparency (S995B – Hoylman-Sigal / A3484A – Gallagher)

This bill requires the beneficial owners of LLCs to register their names, birthdates, address, and other relevant personal information with the Department of State when filing their articles of organization. The bill also requires the department to maintain a database of all business entities and foreign businesses in the state along with the name of beneficial owners and history of ownership, filing and addresses.