

2017

ANNUAL REPORT



New York State Assembly

Carl E. Heastie

Speaker

Committee on

Labor

Michele Titus

Chair



MICHELE R. TITUS
Assemblywoman 31st District
Queens County

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
Labor Committee

COMMITTEES
Children and Families
Codes
Ethics and Guidance
Judiciary
Education

SUBCOMMITTEES
Criminal Procedure
Foster Care

December 15, 2017

The Honorable Carl Heastie
Speaker of the Assembly
Room 932 – Legislative Office Building
Albany, New York 12248

Dear Speaker Heastie,

I am pleased to submit the 2017 Annual Report of the Assembly Standing Committee on Labor. During the 2017 legislative session, 249 bills were referred to the Committee, several of which were subsequently enacted into the Chapter Laws of 2017.

One of the significant achievements of the Committee this year was the Assembly's passage of legislation that would require all contractors and subcontractors that are placed on the federal debarment list, due to a violation of federal prevailing wage laws, to be barred from bidding on public contracts in New York State. This will ensure that bad actors are not bidding on public works contracts. This is a common policy in other states.

The Assembly also passed A.5498-A (Bronson), which would finally create a long-awaited definition of "public works" in statute. The original intent of what constitutes a public work under the New York State Constitution has been muddled and weakened by the courts. This legislation would clarify and restore the original intent of Article 1, Section 17 of the New York State Constitution.

The Assembly also passed legislation that would require the Department of Labor to publish annually and post on its website a catalogue of Workforce Development Programs in New York State, detailing the type of support services, sources of funding, and effectiveness, amongst other things, of such programs.

Another notable achievement of the 2017 legislative session was the Assembly's passage of The New York State Fair Pay Act (A.4696 – Titus), which would prohibit employers from paying different wages between employees who work equivalent jobs on the basis of sex, race, or

national origin. Additionally, it would require the New York State Department of Labor to specify the methodology for determining equivalent jobs. The Committee recognizes the importance of strengthening equal pay laws and closing loopholes that allow for pay inequities to persist in 2017 and beyond.

The Committee is also committed to ensuring that all New Yorkers are paid a fair and livable wage. This year, the Assembly passed A.2967-A (Moya) and A.7886 (Crespo) both of which seek to help workers receive fair wages. A.2967-A would require that car wash workers in the City of New York be paid the minimum wage. Currently these workers are considered tipped workers. However, studies have shown that these workers are some of the most exploited workers in any industry with many employers failing to make up the difference in paychecks if these workers do not make an amount equal to the minimum wage in tips. A.7886 would require subcontracted workers at John F. Kennedy International Airport, LaGuardia Airport, the Port Authority Bus Terminal, Pennsylvania Station, and Grant Central Station to be paid a prevailing wage. Subcontracted employees in these public transportation centers often make substantially less than their counterparts at the same facility. By providing a prevailing wage, which includes fringe benefits, to these employees, we will be decreasing turnover and creating a better working environment for workers and customers.

Under your leadership, the Assembly Standing Committee on Labor stands ready to meet the challenges of the upcoming 2018 legislative session with a continued commitment to policies that improve the lives of New Yorkers by ensuring equal employment opportunities for all workers and providing protections and benefits to injured and unemployed workers. I would like to thank the members of the Labor Committee for their hard work and dedication to the workforce that drives New York State, and to you, Mr. Speaker, for your leadership and your indelible commitment to the people of this great state.

Sincerely,

A handwritten signature in cursive script that reads "Michele Titus".

Michele Titus
Member of Assembly

NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON LABOR

Hon. Michele R. Titus, *Chair*

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Jennifer Best, Assistant Secretary for Program and Policy
Cheyenne James, Associate Counsel
Nicole Duckham, Analyst
Amanda Wagner, Committee Assistant
Claude Nelson, Committee Clerk
Sarah Conklin, Administrative Assistant

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– INTRODUCTION –

Each session the Standing Committee on Labor considers legislation relevant to the working people and businesses of New York State. The Committee is responsible for protecting fundamental workers' rights such as the minimum wage, workplace safety, the right to organize, and a day of rest. The legislation considered affects the lives and livelihood of New York's workers, as well as the overall economy. In 2017, there were 249 bills referred to the Committee, 36 of which were reported and 21 of which were passed by the Assembly.

The Committee considers bills from a number of sources including Members of the Assembly, the Governor, and various departments of the executive. The Governor requests program bills and the Department of Labor, the Workers' Compensation Board, Office of the Attorney General and the Office of the State Comptroller request departmental bills. Many of these bills address administrative issues which allow these departments and the programs that they oversee to run more efficiently, while others allow for stronger statutes and enforcement of current law in order to strengthen protections for workers.

The Committee also generates bills at the request of constituents, collective bargaining organizations, think-tanks, and worker advocacy groups. A representative sample of the legislative proposals acted upon this year included consideration of a bill that would extend anti-retaliation or "whistleblower" protections to employees and former employees, a bill that would codify the requirement of the Workers' Compensation Board to have and publish a language access plan, and a bill that would restrict certain entities that have been debarred for wage violations on federal public works projects from bidding on New York State public works contracts.

The Committee also holds hearings and/or roundtables each year on important issues that affect the state workforce. These public forums serve as a sounding board wherein professionals, academics, workers, businesses, and other constituents provide testimony and engage in a discussion with Members of the Assembly. The Assembly Standing Committee on Labor participated in a number of hearings this year, including a public hearing to examine the growing need for home care workers and to examine the obstacles to recruiting, employing, and retaining an adequate workforce with the Committees on Health, Aging, and the Assembly Task Force on People with Disabilities; a public hearing to examine available services for victims of human trafficking with the Committees on Social Services, Codes, and the Assembly Puerto Rican/Hispanic Task Force; and a public hearing to examine the Minority- and Women-Owned Business Enterprise Program (MWBE) and the 2016 MWBE Disparity study with the Committees on Governmental Operations, Small Business, and the Subcommittee on Oversight of Minority- and Women-Owned Business Enterprises. Additionally, the Assembly Committee on Labor held a hearing in the fall to examine New York's Workers' Compensation Permanency Impairment Guidelines.

Moving forward, the Committee remains dedicated to ensuring injured workers receive adequate benefits they are entitled to, protecting the fundamental rights of New York's workers, and strengthening government oversight and protections for New York's workforce.

– 2017 – 2018 BUDGET –

During budget negotiations, the Committee works with the staff of the Ways and Means Committee in order to provide funding for numerous programs and initiatives to improve the quality of life of New York State's workers and job seekers. The SFY 2017-18 enacted Budget also included reforms to the New York Workers' Compensation system.

WORKERS' COMPENSATION REFORM

During this year's budget negotiations, there were concentrated efforts to reform the Workers' Compensation system. Many proposals were considered, but after hours of negotiations only a handful provisions were enacted into law. The Assembly was able to secure a number of reforms to improve New York's Workers' Compensation system and to increase benefits to injured workers.

VOLUNTARY REMOVAL

The Assembly strongly advocated for reforms that removes the requirement for injured workers who are classified as permanently partially disabled (PPD) to demonstrate ongoing attachment to the labor market.

INDEPENDENT MEDICAL EXAMINATION STUDY

The Assembly secured provisions that require the Workers' Compensation Board to conduct a study on the utilization of independent medical examinations. The Workers' Compensation Board is tasked with creating an advisory committee that would consist of stakeholders from labor, business, workers' compensation insurance carriers, self-insured employers, medical providers, and other experts deem appropriate by the Board, who would help conduct the study and provide recommendations to the Governor, Assembly and Senate by December 31, 2019. The recommendations must include administrative improvements, regulatory and statutory proposals that will ensure fairness and the highest medical quality, while improving methods of combating fraud, and shall consider the feasibility of new methods of assigning independent medical examinations. During the study, the advisory committee must review and analyze leading studies, both in New York State and nationally.

FIRST RESPONDER MENTAL INJURY CLAIMS

Due to the unique nature of their job, emergency responders have been denied workers' compensation claims based solely on the finding that the work-related stress was not greater than that which usually occurs in their line of duty. The Assembly fought for provisions that allow a police officer, firefighter, emergency medical technician, paramedic, emergency dispatcher, or individuals certified to provide medical care in emergencies, to file a workers' compensation claim for mental injury for extraordinary work-related stress sustained from a work-related emergency. This provision prohibits the Board from denying a workers compensation claim, based solely on the claimant's stress was not greater than normal work environment induced stress. This will increase benefits for these types of workers who sustain these types of injuries at work.

SAFETY NET

The Assembly advocated to widen the net for injured workers who can be considered under the extreme hardship redetermination, also known as the safety net. This will allow claimants who have lost at least 76 percent or more of their wage earning capacity to request that the board reclassify the claimant to permanent total disability or total industrial disability due to factors reflecting extreme hardship. Prior to the reforms, claimants had to have lost at least 81 percent or more of their wage earning capacity.

The Assembly also negotiated the inclusion of language that would require a mandatory full board review if a board panel reduced the loss of wage earning capacity finding from a percentage at or above the safety net percentage to below the threshold. This provision will provide injured workers with further safeguards to ensure they are being appropriately compensated.

IMPAIRMENT GUIDELINES

New York's Medical Impairment Guidelines have remained unchanged since 1996. Through the budget negotiation process, it was determined that the Workers' Compensation Board should review and revise the guidelines to ensure they facilitate an accurate evaluation of a worker's lasting impairment from a workplace injury. The Assembly advocated for and ensured that any changes made to the Impairment Guidelines would solely reflect advances in modern medicine that enhance healing and result in better outcomes.

PERMANENT PARTIAL DISABILITY BENEFIT CAPS

Due to perceived delays in the classification process for non-schedule permanent partial disabilities (PPD), there was an interest to place a cap on temporary benefits for non-schedule PPD. Durational benefits for non-schedule PPD commence once a claimant has reached maximum medical improvement (MMI) and subsequently classified. In the meantime, claimants receive temporary benefits. The Assembly fought hard against this provision, believing it is in the best interest of injured workers that the law provides flexibility for claimants who genuinely have not reached MMI in a pre-determined amount of time. The Legislature and Governor settled on a 2.5-year period after the date of the accident or disablement to start non-schedule PPD benefits. Should it be determined that a worker has not reached MMI by the 2.5 year cap, claimants will continue to receive temporary benefits until they reach MMI. Any temporary benefits paid to a claimant after MMI has been reached will be credited towards the claimant's durational PPD benefit award.

Lastly, the enacted budget required the Workers' Compensation Board, rather than the Department of Labor, to conduct an annual safety net report, created a prescription drug formulary, extended the New York Compensation Insurance Rating Board's authority for 10 years, allowed the Workers' Compensation Board to adjust administrative expenses and costs annually instead of quarterly, created a fiduciary fund to decrease the assessment fund balance from 10% to 5% over a 5-year period, expanded the Workers' Compensation Board's authority to sell assumption of liability policies of certain funds to the private sector, and several procedural changes.

EMPIRE STATE APPRENTICESHIP TAX CREDIT

Additionally, the enacted budget creates the Empire State Apprenticeship Tax Credit Program. This program will provide tax incentives to certified employers who employ qualified apprentices. Greater tax incentives will be given to certified employers who employ qualified apprentices who are considered disadvantaged youth. The program will be available to employers from 2018 to 2023. The New York State Department of Labor will oversee the program by establishing guidelines and criteria, publishing an annual report on the program, and promoting and disseminating information about the Empire State Apprenticeship Tax Credit Program.

– SIGNIFICANT LEGISLATION –

WAGE AND HOUR STANDARDS

One of the most important areas within the jurisdiction of the Committee is wage and hour standards. The New York State Department of Labor has enforcement authority over several provisions of the Labor Law relating to: the minimum wage; standards for hours of work; the prevailing wage; child labor; farm labor; payment of wages and supplements; and working conditions. Each year, in its consideration of the many proposals submitted on these issues, the Committee strives to advance fair and balanced legislation that protects the safety and well-being of all workers. In 2017, the Committee reported several bills to expand wage and hour protections, eliminate discrimination and encourage pay equity in the workplace, strengthen New York's workforce, and assist workers who need to take time away from work to care for a family member or provide important emergency services.

Significant Legislation:

A.566-A (Jaffee) / S.3791-A (Krueger) – This bill would prohibit employers from discriminating or taking any retaliatory personnel action against an employee based upon their or their dependent's reproductive health decisions. Additionally, the bill establishes a private right of action. (Passed Assembly)

A.1834 (Harris) / No Same As – This bill would extend paid family leave benefits to include construction workers who have been employed for at least 26 of the last 39 weeks. Additionally, the bill provides that those workers shall remain eligible for paid family leave benefits if they return to work after an agreed unpaid leave or if they return the work after a layoff, provided that they have met the eligibility requirement. (Advanced to 3rd Reading)

A.1845 (Bronson) / S.2974 (Murphy) – This bill would establish reciprocity of debarments under the federal Davis-Bacon Act by barring certain entities that have been declared ineligible to receive federal contracts for wage violations on federal public works projects from bidding on New York public works projects. (Passed Assembly)

A.2967-A (Moya) / S.2664-A (Hamilton) – This bill would require that, in cities with a population of one million or more, car wash workers receive the minimum wage of that locality as required in labor law, rather than a tipped wage. (Passed Assembly)

A.3514 (Sepulveda) / No Same As – This bill would require all employers to provide holiday premium pay (time and a half) to their employees, except those employed in a bona fide executive, administrative, or professional capacity whose earnings are in excess of \$900 a week on the following holidays: New Year's Day, Labor Day, Memorial Day, and Independence Day. (Reported to the Committee on Rules)

A.4696 (Titus)/ S.4482 (Krueger) – This bill would establish that paying different wages between employees on the basis of sex, race, or national origin is discriminate and an unlawful employment practice. (Passed Assembly)

A.5498-A (Bronson) / S.2975-A (Murphy) – This bill would establish a definition of “public work” in New York State law for the purposes of clarifying when prevailing wage applies. (Passed Assembly)

A.6144 (Seawright) / S.4758 (Stavisky) – This bill would require notice of contraceptive coverage be provided to jobseekers and to current employees at least 90 days prior to an employer’s alteration, restriction, or elimination of such contraceptive coverage from their employment-based health insurance plans. (Advanced to 3rd Reading)

A.7886 (Crespo) / S.6451 (Persaud) – This bill would require that subcontracted transportation service workers at John F. Kennedy International Airport, LaGuardia Airport, the Port Authority Bus Terminal, Pennsylvania Station and Grand Central Station receive the prevailing wage, including benefits and paid time off. (Passed Assembly)

A.8173-A (Titus) / S.6127-A (Murphy) – This bill would require that one year prior to the sale or closure of a nuclear electric facility, a plan be submitted and approved by the Department of Public Service detailing the facility’s compliance with the New York State Worker Adjustment and Retraining Notification Act. (Advanced to 3rd Reading)

UNEMPLOYMENT INSURANCE

Unemployment Insurance (UI) was designed to serve as a financial safety net for workers who are ready, able, and willing to work, but who have lost their employment through no fault of their own. This very important protection ensures that while searching for new employment opportunities, these individuals are able to meet their basic financial needs and protect the well-being of themselves and their families. In 2017, the Committee advanced legislation to ensure that workers stay connected to the workforce through proper access to unemployment insurance benefits.

Significant Legislation:

A.4393 (Schimminger) / S.5950 (Akshar) – This bill extend the state's Self-Employment Assistance Program, which allows individuals who are eligible to receive an allowance in lieu of regular unemployment benefits for the purpose of establishing a business and becoming self-employed. (Chapter 180)

A.6781 (Solages) / S.4644 (Sanders) – This bill would require that the Department of Labor's unemployment insurance work search regulations take into account the need for claimants to provide child care for their children. This will ensure that unemployment insurance claimants who are providing child care for their children are able to satisfy the standards for proof of work search efforts and are not denied unemployment insurance benefits if otherwise qualified. (Advanced to 3rd Reading)

A.6989 (Jaffee) / S.1410 (Avella) – This bill would include child care as a compelling family reason for voluntary separation from employment in order to ensure that certain workers who have separated from employment due to child care obligations, and have made reasonable efforts to secure alternative child care, are not denied unemployment insurance benefits if otherwise qualified. (Advanced to 3rd Reading)

WORKERS' COMPENSATION

Workers' compensation insurance provides weekly cash benefits for employees who become disabled as a result of disease or injury connected with their employment and also covers the cost of medical treatment, including rehabilitation. It also provides payments for qualified dependents of a worker who dies from a compensable illness or injury. The total cost of these benefits is borne by the employer. The New York State Workers' Compensation Board is the agency charged with the administration and adjudication of claims. Each year, the Committee considers legislation that would facilitate the administration of claims while ensuring that injured workers are provided with adequate access to quality care and treatment options that meet their needs.

Significant Legislation:

A.15 (Cahill) / S.5782 (Peralta) – This bill would establish parity amongst pharmacists and other physicians under Workers' Compensation by requiring that insurance carriers provide payment for pharmaceutical services or give notice of the denial within 45 days after the bill is rendered. (Passed Assembly)

A.1396-B (Zebrowski) / No Same As – This bill would authorize occupational therapy assistants licensed by the state education department to provide occupational therapy care to workers' compensation claimants upon prescription or referral from an authorized physician. (Passed Assembly)

A.1620 (Hevesi) / S.1005 (Robach) – This bill would require workers' compensation insurance carriers to notify employers at least 30 days prior to their expiration date of their policy, if their policy premium is expected to increase more than 10%. (Chapter 469)

A.2023-A (Bronson) / S.6666 (Amedore) – This bill would authorize the care and treatment of injured workers by licensed or certified acupuncturists under the workers' compensation program. (Passed Assembly)

A.2859-B (Zebrowski) / S.3762-B (Griffo) – This bill would authorize the care and treatment of injured employees by certified physical therapist assistants under the workers' compensation system so long as they are supervised by an onsite licensed physical therapist. (Veto # 175)

A.4028 (Titone) / S.3353 (DeFranciso) – This bill would exclude a musician or person who is an executive officer of a corporation who contracts for services, or would be excluded from coverage as a sole proprietor and has not elected to be covered under workers' compensation, and had a workplace accident on December 17, 2011, from the definition of employee for the purposes of workers' compensation. (Chapter 23)

A.5758 (Titus) / No Same As – This bill would clarify the original intent of the Domestic Workers Bill of Rights by providing that domestic employees who work at least 20 hours per week and have been employed for a period of four weeks are eligible for temporary disability benefits. (Advanced to 3rd Reading)

A.6043-A (Moya) / S.5356-A (Alcantara) – This bill would require that the Workers’ Compensation Board provide translations of all forms and documents in the six most common non-English languages spoken in New York State, as well as provide interpretation services to injured employees. The Workers’ Compensation Board would be required to publish a language access plan and appoint a Language Access Coordinator who will annually monitor the Board’s compliance with the plan. (Advanced to 3rd reading)

OTHER SIGNIFICANT LEGISLATION

EMPLOYEE PRIVACY

A.5485 (Dinowitz) / No Same As – This bill would prohibit an employer or educational institution from requiring that an employee, applicant, student, or prospective student disclose means for accessing a personal electronic communications account. (Advanced to 3rd Reading)

ELEVATOR SAFETY

A.5815-B (Titus) / S.5137-A (Savino) – This bill would establish guidelines and standards for the inspection and maintenance of elevators and other automated people moving devices and prescribes the required licenses and certifications for individuals that would be authorized to perform such work. (Passed Assembly)

WHISTLEBLOWER PROTECTIONS

A.5757 (Benedetto) / S.1887 (Avella) – This bill would extend anti-retaliation or “whistleblower” protections to employees and former employees who disclose or threaten to disclose illegal business activities by their employer. (Advanced to 3rd Reading)

A.2565 (Steck) / No Same As – This bill would remove a provision of law that limits the rights of certain whistleblowers. (Passed Assembly)

WORKFORCE DEVELOPMENT

A.1956 (Bronson) / S.3789 (Phillips) – This bill would require the Department of Labor (DOL) to publish annually and post on its website a catalogue detailing the type of support services, sources of funding, and effectiveness amongst other things of all Workforce Development funding programs in New York State. (Chapter 458)

A.2164-B (Bronson) / S.5363-A (Alcantara) – This bill would require the Department of Labor to establish a wage data clearinghouse for the purposes of assessing the outcomes and effectiveness of workforce preparation programs. Used in conjunction with other data, this data will inform state and local policy makers and potential students about the success of various education pathways and career training programs, where graduates end up and how well they do, and whether programs should be modified. (Passed Assembly)

– PUBLIC HEARINGS –

Home Care Workforce in New York State

On February 22, 2017, and February 27, 2017, the New York State Assembly Standing Committee on Labor, Standing Committee on Health, Standing Committee on Aging, and the Task Force for People with Disabilities held a hearing in both New York City and Albany to examine the growing need for home care and personal care, as well as the obstacles to recruiting, employing, and retaining an adequate workforce for these services.

The Committees heard from the New York State Department of Health, the New York State Office for the Aging, Autism Action Network, New York Statewide Senior Action Council, Visiting Nurse Service of New York, Service Employees International Union Local 1199, New York State Association of Health Care Providers, Empire Justice Center, Independence Care System, Homecare Association of New York State, Westchester Disabled on the Move, Inc., and many more. Many of those who testified, including home care workers, gave testimony expressing the dire need for more workers and better compensation for these workers to attract and retain employees.

The Committee understands the integral role that home care workers play for many frail and disabled individuals and the importance of recruiting and maintaining this workforce. The Committee is committed to continue to review how to better serve this industry of workers.

Services for Victims of Human Trafficking in New York State

On June 7, 2017, the New York State Assembly Standing Committee on Labor, Standing Committee on Social Services, Standing Committee on Codes, and Puerto Rican/Hispanic Task Force held a hearing in Albany to examine and review services available to victims of human trafficking.

The Committees heard from the New York State Office of Temporary and Disabilities Assistance, the District Attorneys Association, the Legal Aid Society, Sanctuary for Families, My Sister's Place, and Covenant House New York. All who testified spoke to the challenges victims of human trafficking face as well as the barriers the organizations who assist the victims must overcome. Many spoke to the need for holistic services that help address the basic needs of victims, such as providing them with a stable home environment and provide psychological services, as well as identifying current gaps in the system.

The Committee understands the need to provide services to victims of human trafficking, including victims of labor human trafficking. The Committee is committed to continue to review how to help these victims.

New York State Workers' Compensation Impairment Guidelines

On September 26, 2017, the New York State Assembly Standing Committee on Labor conducted a public hearing in Albany to examine the New York State Workers' Compensation Permanency Impairment Guidelines. In this past enacted budget, the Workers' Compensation Board was directed to revise the Permanency Impairment Guidelines to reflect advances in modern medicine that enhance healing and result in better outcomes.

The Committee heard testimony from the New York State Workers' Compensation Board, the New York State Society of Orthopaedic Surgeons, Inc., the New York State AFL-CIO, the New York Workers' Compensation Alliance, New York State Trial Lawyers Association, the New York Injured Workers' Bar Association, Mark Somers of Bronk & Somers, P.C, and the Mount Sinai-Selikoff Centers for Occupational Health. Many who testified spoke about their concerns regarding whether the proposed Guidelines recently released by the Workers' Compensation Board appropriately meet the Legislature's directive that the revisions be reflective of advances in modern medicine that enhance healing and result in better outcomes. Many witnesses voiced their concern that the proposed Guidelines significantly cut benefits to injured workers and do not reflect advancements in modern medicine. The assumption amongst most of the witnesses was that the existing Guidelines only needed minor changes to reflect advances in modern medicine, not a complete rewrite. Some witnesses have submitted testimony stating that the proposed Guidelines are far too subjective in their determination processes and will result in increased litigation. Along with the proposed Guidelines, the Workers' Compensation Board proposed revised regulations that the Board argued are related to the revision of the Impairment Guidelines. Many of the witnesses claimed that these regulations go beyond what the Workers' Compensation Board was tasked to do and that there is no connection whatsoever with revising the Impairment Guidelines and the proposed regulations that they issued.

The Committee understands the importance of continuing this dialogue to ensure workers are provided appropriate benefits for injuries sustained on the job. As the 2018 session approaches, the Committee will further assess and consider legislation aimed at improving the Workers' Compensation system and providing better care and benefits to injured workers. Additionally, the Committee will continue to monitor the Workers' Compensation Board's progress in implementing new Permanency Impairment Guidelines.

New York State's Minority- and Women-Owned Business Enterprise (MWBE) Program

On December 5, 2017, the New York State Assembly Standing Committees on Governmental Operations, Labor, Small Business and the Assembly Subcommittee on Oversight of Minority and Women-Owned Business Enterprises conducted a public hearing in Albany to examine the 2016 MWBE Disparity study and the MWBE program through input from stakeholders and participants.

The Committees heard testimony from the Empire State Development Corporation's Division of Minority and Women's Business Development, Building Trades Employers Association, New York State Building and Construction Trades Council, Associated General Contractors of New York State, New York State Association for Affordable Housing, General Contractors Association of New York, Women Builders Council, New York State Coalition of Hispanic Chambers of Commerce, and many businesses. Those who testified spoke about the Disparity study's analysis and recommendations, what they believe to be current barriers for MWBEs in New York and their recommendations to streamline the certification process and alleviate unnecessary burdens on MWBEs. Some of the recommendations from the Disparity study and witnesses included providing bidding credits, reviewing and changing the certification process, removing the \$3.5 million personal net worth cap, and improving access to resources for MWBEs such as financial capital and bonding.

The Committee understands the importance of enhancing contracting opportunities for MWBEs and providing equal employment opportunities to minorities and women. The Committee is committed to continue to examine how to improve the certification process and expand access to resources and services for MWBEs to help grow the economy and the workforce.

– OUTLOOK FOR 2018 –

For the 2018 legislative session, the Labor Committee is committed to continuing to advance legislation that would ensure the health, safety, and viability of the workforce in New York State. The Committee is looking forward to the implementation of legislation chaptered this year.

Further, the Committee will continue its focus on equal pay, prevailing wage and low-income workers rights. The Committee will also continue to monitor any workers compensation reforms proposed to ensure that workers will continue to have access to the rights and benefits promised to them.

The 2017 session year was successful and the Committee is looking forward to building on that momentum.

**APPENDIX A
2017 SUMMARY SHEET**

2017 Summary of Action on all Bills
Referred to the Committee on Labor

Final Action	Assembly Bills	Senate Bills	Total Bills
Bills Reported With or Without Amendment			
To Floor; Not Returning to Committee (Favorable)	6	0	6
To Ways and Means	6	0	6
To Codes	17	0	17
To Rules	7	0	7
To Judiciary	0	0	0
Total	36	0	36
Bills Having Committee Reference Changed	0		0
Senate Bills Substituted or Recalled			
Substituted		1	1
Recalled		0	0
Total		1	1
Bills Defeated in Committee	0	0	0
Bills Held for Consideration with a Roll-Call Vote	0	0	0
Bills Never Reported, Held in Committee	190	15	205
Bills Having Enacting Clauses Stricken	7	0	7
Motions to Discharge Lost	0	0	0
Total Bills in Committee	233	16	249
Total Number of Committee Meetings Held	7		

**APPENDIX B
CHAPTERS OF 2017**

Bill / Sponsor	Summary	Final Action
A.4028 / S.3353 Titone / DeFrancisco	Would exclude a musician or person who is an executive officer of a corporation who contracts for services, or would be excluded from coverage as a sole proprietor and has not elected to be covered under workers' compensation, and had a workplace accident on December 17, 2011, from the definition of employee for the purposes of workers' compensation.	Chapter 23
A.4393 / S.5950 Schimminger / Akshar	Would extend the state's Self-Employment Assistance Program, which allows individuals who are eligible to receive an allowance in lieu of regular unemployment benefits for the purpose of establishing a business and becoming self-employed.	Chapter 180
A.1620 / S.1005 Hevesi / Robach	Would require insurance carriers to issue conditional renewal notifications at least 30-days in advance of the expiration of the current policy to employers when, upon renewal, their workers' compensation policy premium is expected to increase by an amount in excess of 10 percent, with certain exemptions.	Chapter 469
A.1956 / S.3789 Bronson/ Phillips	Would require the Department of Labor (DOL) to publish annually a catalogue of all state and federal funding programs for workforce development.	Chapter 458

APPENDIX C
BILLS THAT WERE REPORTED IN 2017

Bill / Sponsor	Summary	Final Action
A.15 / S.5782 Cahill / Peralta	Would establish parity amongst pharmacists and other physicians under Workers' Compensation by requiring that insurance carriers provide payment for pharmaceutical services or give notice of the denial within 45 days after the bill is rendered.	Passed Assembly
A.566-A / S.3791-A Jaffee / Krueger	Would prohibit employers from accessing information regarding the reproductive health decision making of an employee or their dependents without written consent, from taking any discriminatory or retaliatory personnel action against an employee on the basis of these decisions.	Passed Assembly
A.1396-B Zebrowski No Same As	Authorizes occupational therapy assistants registered with the State Education Department to provide occupational therapy care to workers' compensation patients.	Passed Assembly
A.1511 / S.4314 Buchwald / Alcantara	Would require a certificate to store, use, or purchase certain materials that when combined could lead to detonation or combustion.	Passed Assembly
A.1620 / S.1005 Hevesi / Robach	Would require insurance carriers to issue conditional renewal notifications at least 30-days in advance of the expiration of the current policy to employers when, upon renewal, their workers' compensation policy premium is expected to increase by an amount in excess of 10 percent, with certain exemptions.	Chapter 469
A.1834 Harris No Same As	Would extend paid family leave benefits to certain workers in the fields of construction, excavation, rehabilitation, repairs, reconstruction, renovations, alterations, and improvements.	Advanced to Third Reading
A.1845 / S.2974 Bronson / Murphy	Would authorize the restriction of certain entities that have been debarred for wage violations on federal public works projects, from bidding on New York State public works contracts.	Passed Assembly

A.1956 / S.3789 Bronson / Phillips	Would require the Department of Labor (DOL) to publish annually a catalogue of all state and federal funding programs for workforce development.	Chapter 458
A.2023-A / S.6666 Bronson / Amedore	Would allow for the care and treatment of injured employees by licensed or certified acupuncturists under the workers' compensation program.	Passed Assembly
A.2164-B / S.5363-A Bronson / Alcantara	Would require the Department of Labor to establish three wage data clearinghouse for the purposes of assessing the outcomes and effectiveness of workforce preparation programs.	Passed Assembly
A.2565 Steck No Same As	Would require that whistle-blowers still receive the rights granted to them under all contracts, collective bargaining agreements, laws, rules, regulations and common law.	Passed Assembly
A.2859-B / S.3762-B Zebrowski / Griffo	Would allow certified physical therapist assistants to provide care to workers' compensation patients.	Veto # 175
A.2967-A / S.2664-A Moya / Hamilton	Would require that car wash workers in cities with a population of one million or more are paid the minimum wage.	Passed Assembly
A.3057-B / S.4400-B Magnarelli / Valesky	Would establish a registration system for all contractors and subcontractors engaging in public work projects.	Reported to Ways and Means
A.3514 Sepulveda No Same As	Would require private employers to pay employees earning less than \$900 per week time and a half compensation for all hours worked on New Year's Day, Labor Day, Memorial Day, and Independence Day.	Reported to Rules
A.4028 / S.3353 Titone / DeFrancisco	Would exclude a musician or person who is an executive officer of a corporation who contracts for services, or would be excluded from coverage as a sole proprietor and has not elected to be covered under workers' compensation, and had a workplace accident on December 17, 2011, from the definition of employee for the purposes of workers' compensation.	Chapter 23

A.4393 / S.5950 Schimminger / Akshar	Would extend the state's Self-Employment Assistance Program, which allows individuals who are eligible to receive an allowance in lieu of regular unemployment benefits for the purpose of establishing a business and becoming self-employed, for two years.	Chapter 180
A.4696 / S.4482 Titus / Sanders	Would prohibit employers from paying different wages to employees of a different sex, race, or national origin if they work in equivalent jobs and the difference in wage is based on sex, race, or national origin.	Passed Assembly
A.4836 / S.2191 Titus / Parker	Would give public and private employees access to their personnel file upon request.	Advanced to Third Reading
A.5485 Dinowitz No Same As	Would protect the privacy of employees, students, and job applicants from unfair and discriminatory hiring and admissions practices.	Advanced to Third Reading
A.5498-A / S.2975-A Bronson / Murphy	Would establish a definition of “public work” in New York State law for the purposes of clarifying when prevailing wage applies.	Passed Assembly
A.5757 / S.1887 Benedetto / Avella	Would extend whistleblower protections to include public employees and former employees who disclose or threaten to disclose illegal business activities by their employer.	Passed Assembly
A.5758 Titus No Same As	Would ensure that domestic employees who work at least 20 hours per week and have been employed for a period of four weeks are eligible for temporary disability benefits.	Advanced to Third Reading
A.5815-B / S.5137-A Titus / Savino	Would improve the safety of elevators and to prevent exposure to unsafe conditions and serious injury to the public by requiring elevator contractors, elevator mechanics, and elevator inspectors to be licensed and properly trained.	Passed Assembly

A.6043-A/ S.5356-A Moya/ Alcantara	Would require that the Workers' Compensation Board provide translations of all forms and documents in the six most common non-English languages spoken in New York State, as well as provide interpretation services to injured employees.	Passed Assembly
A.6144/ S.4758 Seawright/ Stavisky	Would require notice of contraceptive coverage be provided to jobseekers and to current employees at least ninety days prior to an employer's alteration, restriction, or elimination of such contraceptive coverage from their employment-based health insurance plans.	Advanced to Third Reading
A.6781/ S.4644 Solages/ Sanders	Would require the Commissioner of Labor to ensure that regulations defining systematic and sustained efforts to find work and standards for the proof of work search efforts consider the claimants' need to provide child care for their children.	Advanced to Third Reading
A.6797-A/ S.406-A Woerner/ Robach	Would allow workers' compensation patients to receive treatment by a duly licensed massage therapist upon the prescription or referral of an authorized physician and establish a fee schedule for the reimbursement of massage therapy services.	Passed Assembly
A.6989 / S.1410 Jaffee/ Avella	Would include child care as a compelling family reason for voluntary separation from employment in order to ensure that certain workers who have separated from employment due to child care obligations, and have made reasonable efforts to secure alternative child care, are not denied unemployment insurance benefits if otherwise qualified.	Advanced to Third Reading
A.7396-A/ S.5680 Gunther/ Ortt	Would require state agencies with over 25 percent of their workforce accruing overtime to maintain all full-time equivalent positions from the previous year, absent an emergency requiring a temporary increase in overtime work.	Reported to Rules
A.7864-A Dinowitz No Same As	Would prevent covered employees from entering into non-compete agreements and provide protections to employees who can be subject to a non-compete agreement.	Advanced to Third Reading

A.7865 / S.4725 Simon / Seward	Would repeal a provision in section 88 of the Workers' Compensation Law that precludes the New York State Comptroller from pre-auditing expenditures from the State Insurance Fund (SIF).	Veto # 182
A.7886 / S.6451 Crespo / Persaud	Would require that subcontracted transportation service workers at John F. Kennedy International Airport, LaGuardia Airport, the Port Authority Bus Terminal, Pennsylvania Station and Grand Central Station receive prevailing wage, including fringe benefits.	Passed Assembly
A.8173-A / S.6127-A Titus / Murphy	Would require that one year prior to the sale or closure of a nuclear electric facility, a plan be submitted and approved by the Department of Public Service detailing the facility's compliance with the New York State Worker Adjustment and Retraining Notification Act.	Advanced to Third Reading
A.8187 / S.5316 Titus / Alcantara	Would require amusement devices at places of public accommodation to be annually inspected and to have proper liability insurance coverage.	Advanced to Third Reading
A.8254 / S.6492 Hunter / Young	Would require that any building constructed after January 1, 1974, be subject to the requirement to conduct an asbestos survey prior to demolition.	Advanced to Third Reading

**APPENDIX D
BILLS THAT WERE VETOED IN 2017**

Bill / Sponsor	Summary	Final Action
A.2859-B / S.3762-B Zebrowski / Griffo	This bill would authorize the care and treatment of injured employees by certified physical therapist assistants under the workers' compensation system so long as they are supervised by an onsite licensed physical therapist.	Veto # 175
A.7865 / S.4725 Simon / Seward	Would repeal a provision in section 88 of the Workers' Compensation Law that precludes the New York State Comptroller from pre-auditing expenditures from the State Insurance Fund (SIF).	Veto # 182