

New York State Assembly

Carl E. Heastie

Speaker



Committee on

Labor

Michele Titus

Chair

2016

ANNUAL REPORT



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, 2016

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 2016 Annual Report of the Assembly Standing Committee on Labor. During the 2016 legislative session, 262 bills were referred to the Committee, several of which were subsequently enacted into the Chapter Laws of 2016.

One of the significant achievements of the Labor Committee this year was the Assembly's passage of a 12 week paid family leave benefit for all workers in New York State in the SFY 2016-17 enacted budget. When a worker faces a family medical crisis or welcomes a child into their family, they are often forced to take unpaid leave or exit their job altogether. The Assembly has always stood for working families and this legislation ensures that workers can afford to take time off to care for and bond with a newborn or a newly adopted child, or to help take care of a parent who has fallen ill, or to allow a military spouse the time needed to make alternative arrangements for child care when a military member is called up to active duty without the risk of losing their job or income.

Another notable achievement of the 2016 legislative session was the inclusion of a minimum wage increase in the SFY 2016-17 enacted budget. Workers in New York City will earn \$15.00 per hour by 2018 or 2019 depending on the size of their employer. Workers in Nassau, Suffolk and Westchester Counties will earn \$15.00 per hour in 2021 and the rest of the state will earn \$12.50 in 2020 with incremental increases to \$15.00 annually based on economic indicators.

The Assembly also passed The New York State Fair Pay Act (A.6937 – Titus) which would establish that paying different wages between employees on the basis of sex, race, or national origin is discriminate and an unlawful employment practice. The Committee is committed to continue to report legislation that would improve the economic security of all workers by

strengthening equal pay laws and closing the loopholes that allow for pay inequities to persist. The New York State Fair Pay Act is needed to ensure that pay discrimination on all fronts is an unlawful employment practice and to authorize the Department of Labor to create the proper methodologies to ensure that this great state of New York will no longer tolerate any pay inequities.

The Committee is also committed to ensuring that all New Yorkers are able to make their own health care decisions without fearing for their job through the passage of A.1142-A (Jaffee). This bill prohibits an employer from accession of an employee's personal information regarding reproductive health care without the employee's informed, written consent and bars discrimination or retaliatory action against an employee on the basis of the employee's or their dependent's reproductive health decision making, regardless of how the employer learned of the decisions. Additionally, the bill establishes a private right of action that authorizes the courts to award damages that include back pay, benefits, and reasonable attorney's fees and costs. The court may also order reinstatement or afford injunctive relief against an employer who violates this law, as well as award the plaintiff liquidated damages equal to one-hundred percent of the award for damages unless an employer proves a good faith basis to believe that their actions were in compliance with the law. The Committee remains steadfast in the belief that an employees' health care decisions – and those of their dependents – are unequivocally their own and should never be a cause of retaliation. A.1142-A (Jaffee) protects an employees' right to make the health care decisions that are best for them regardless of their employer's beliefs.

Under your leadership, the Labor Committee stands ready to meet the challenges of the upcoming 2017 legislative session with a continued commitment to policies that improve the lives of New Yorkers be it while they are unemployed and seeking employment and fair wages or while they are employed and struggling to balance career pursuits and a growing family. 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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Abby Brinkerhoff, Associate Counsel
Jermaine Brookshire, Jr., Senior Analyst
Omar McGill, Committee Assistant
Claude Nelson, Committee Clerk
Julia Gruberg, Legislative Aide
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 2016, there were 262 bills referred to the Committee, 35 of which were reported and 15 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, and the State Insurance Fund 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 clarify the intent of the Domestic Workers Bill of Rights, a bill that would authorize licensed acupuncturists to provide care under Workers' Compensation, 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 has collaborated with both the Commission on Skills Development and Career Education and the Subcommittee on Workplace Safety this session to continue the series of discussions and hearings that began last fall on how to increase workplace safety and maximize the availability and use of work preparation and apprenticeship programs. Hearings were held in New York City in April to examine the utilization of workplace training and safety programs and hear suggestions on ways to encourage and increase their use and then in Albany in May for the Committee to have an opportunity to be presented a more holistic picture of work preparation programs that oftentimes serve as a precursor to the registered apprenticeship programs in various industries.

In response, the Assembly has passed A.9416-A (Bronson) which would require the Department of Labor (DOL) to publish and post a catalogue on its website with detailed information on all Workforce Development funding programs in New York State; A.9933-A (Bronson) which establishes a wage data clearinghouse for the purposes of assessing the outcomes and effectiveness of workforce preparation programs; and A.10578 (Titus) which was signed into law (Chapter 325) which requires DOL and the Education Department to publish and transmit forward-facing employment data so that students and administrators can be best informed on

things such as the skills and experiences necessary to obtain employment and establish their plan for additional schooling or admission into qualified work preparation programs.

Moving forward, the Committee remains dedicated to ensure access to necessary trainings and employment opportunities and protecting the fundamental rights of New York's workers as well as strengthening government oversight and protections for New York's workforce.

– 2016 – 2017 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 2016-17 enacted Budget also included legislation to increase the minimum wage and establish a paid family leave benefit.

MINIMUM WAGE

When Congress enacted the Fair Labor Standards Act (FLSA) in 1938 and prescribed a minimum wage, it was intended to ensure that low-wage workers would earn a wage sufficient enough for them to adequately provide for themselves and their families. According to the Congressional Research Service, the value of the real minimum wage climaxed in 1968 and since then it has unfortunately eroded due to it not keeping pace with inflation. In the 48 years between 1968 and 2016, the federal minimum wage for all covered, non-exempt workers has only increased by \$5.65. The Assembly fought hard in 2013 to provide for an increase in the minimum wage which resulted in phased in increases that on December 31, 2015 provided New Yorkers with a \$9.00 minimum wage rate. Meanwhile, the Committee on Labor remained steadfast in our efforts to do everything we can to continue to expand and accelerate New York's minimum wage.

The efforts of the Assembly to increase the minimum wage once again materialized this year as we fought tirelessly throughout the SFY 2016-17 budget negotiations to ensure that a minimum wage increase be included. All of the hardworking men and women in New York State should have the opportunity to earn enough to provide their family with a better quality of life. This year's enacted budget provides that opportunity through a phased in increase in the minimum wage to \$15.00 for employees in New York City employed by an employer with 11 or more employees by 2018; and for employers with ten or fewer employees to \$15.00 by 2019. Furthermore, employees in Nassau, Suffolk, and Westchester counties will see a phased in increase to \$15.00 by December 31, 2021. Lastly, employees in the rest of New York State will have their minimum wage increased to \$12.50 by December 31, 2020 and starting on December 31, 2021, the minimum wage for those remaining upstate regions will be set by the commissioner of the Department of Labor on or before October 1st until the minimum wage reaches \$15.00. The commissioner will determine the minimum wage by a percentage based on indices. The Committee on Labor is proud to have included in the SFY 2016-17 budget a plan to increase the minimum wage throughout this diverse state of New York in a way that truly puts families first.

PAID FAMILY LEAVE

Although the federal Family and Medical Leave Act (FMLA) provides important protections, it does not do enough to assist New York's hardworking men and women to maintain stable work while providing appropriate care for their family. Perhaps most significantly, FMLA entitles eligible employees to utilize up to 12 weeks of unpaid leave and although they may need to, many workers simply cannot afford to exercise the protections the law offers. Furthermore, private sector employees are only eligible if their employer has 50 or more employees. Additionally, an employee is only deemed eligible when they have worked for the employer for at least twelve-months, have at least 1,250 hours of service during the twelve-month period immediately preceding the leave, and work at a location where the employer has at least fifty employees within seventy-five miles.

The Assembly worked to have a comprehensive paid family benefit included in the SFY 2016-17 budget that provides a phased in duration of family leave starting at 8 weeks on January 1, 2018 up to 12 weeks of family leave by January 1, 2021 and establishes a phased in weekly benefit of up to 67% of the employee's average weekly wage not to exceed 67% of the Statewide Average Weekly Wage (SAWW) by January 1, 2021. The enacted budget's paid family leave proposal also provides job and retaliatory protections for employees and will ensure that the employee taking paid family leave be restored to their original or a comparable position. Additionally, employees will be entitled to continue to receive their health benefits while on this leave. This program is self-sustaining and will be funded entirely through a small payroll deduction from each employee.

The Committee on Labor is proud of this vital benefit in the SFY 2016-17 budget. Allowing employees to earn a portion of their salary during family leave will strengthen New York's workforce and promotes financial stability of our families. This paid family leave benefit is an important asset for workers when they encounter their most critical times in their lives as now they will have the support they need to continue to support and care for their ill family member or bond with a new child without fear of financial ruin.

– 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 2016, 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.1142-A (Jaffee)/ S.2709-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.3328 (Wright)/ No Same As – This bill would enact the "Roadway Excavation Quality Assurance Act," requiring that whenever the state, a county, or a municipality issues a permit to a utility company allowing them to excavate a public thoroughfare in order to perform work beneath the street, the utility company must use competent workers and pay the prevailing wage. (Reported to Rules)

A.3870-A (Nolan)/ S.3004-A (Addabbo) – This bill would expand New York's temporary disability benefits program to provide employees with up to 12 weeks of paid leave for family care, including bonding with a newborn or adopted child, caring for a family member who is suffering from a serious health condition, or any qualifying need arising from the active military duty of an employee's spouse, domestic partner, child, or parent. This bill would entitle employees taking leave for a personal disability or for family care to 2/3 of their average weekly wage, up to a cap of 50 percent of the statewide average weekly wage by 2020. Currently, employees are only covered for a personal disability, and are only entitled to 50 percent of their average weekly wage, up to a cap of \$170 per week. This bill would provide anti-retaliation and job protections for all employees who take leave for family care. (Passed Assembly)

A.5414 (Bronson)/ S.3995 (Martins) – 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 public works projects in New York. (Passed Assembly)

A.6937 (Titus)/ S.2707-A (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.7257-B (Titus)/ S.5602-B (Panepinto) – This bill would raise the minimum wage incrementally until 2019 when it would then be indexed to inflation. This bill would also establish a separate minimum wage and tipped wage rate for New York City, Nassau, Suffolk, and Westchester counties that would be higher than the minimum and tipped wage for the rest of the state. (Advanced to 3rd Reading)

A.9110-A (Morelle)/ S.6469-A (Amedore) – This bill would exclude from the definitions of employment and employee certain newspaper delivery persons from provisions of the Labor Law and Workers' Compensation Law for the purposes of unemployment benefits, minimum wage, and workers' compensation. (Chapter 503)

A.9488-C (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. (Advanced to 3rd Reading)

A.10320 (Titus)/ S.7998 (Hannon) – This bill would make a technical amendment to link the compensation rate for home health care aides in New York City and in Nassau, Suffolk, and Westchester counties to their applicable minimum wage rate. (Passed Assembly)

A.10680 (Harris)/ S.7994 (Murphy) – 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 lay-off, provided that they have met the eligibility requirement. (Passed Assembly)

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 2016, the Committee advanced legislation to ensure that workers stay connected to the workforce through proper access to unemployment insurance benefits.

Significant Legislation:

A.4780 (Solages)/ S.5661 (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, ensuring 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. (Passed Assembly)

A.4839 (Moya)/ S.2873-A (Savino) – This bill would modify the way that unemployment insurance benefits are calculated by basing partial unemployment insurance benefits on a claimant’s actual part-time earnings, instead of penalizing the claimant with a 25 percent benefit reduction for each day worked regardless of the amount of time worked or wages earned. This new calculation would remove the penalty that workers face when attempting to become gainfully employed after a break in employment and would further reduce the pressure on the trust fund. (Advanced to 3rd Reading)

A.4910-A (Perry)/ S.613-A (Boyle) – This bill would establish that an employee who is also the sole shareholder, member, or partner of their respective business may choose to opt-in to receive unemployment coverage by filing an application with the Commissioner of Labor and by paying the appropriate contributions. (Veto #234)

A.7004 (Lupardo)/ S.6732 (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. (Passed Assembly)

A.7504 (Mayer)/ S.4850 (Martins) – This bill would clarify, specifically for the purposes of Unemployment Insurance, that where an individual is found to be performing services that constitute employment among multiple entities; the employer who pays an employee for their services shall be considered the employer even if such employee was supervised by a separate entity. (Passed Assembly)

A.7875 (Titus)/ No Same As – This bill would clarify that an offer of employment made to a part-time faculty member by a higher education institution which is contingent on factors such as enrollment or funding does not constitute “reasonable assurance” of continued employment and thus would not bar such faculty member from receiving unemployment insurance benefits if otherwise qualified. (Reported to Ways and Means)

A.9766 (Mayer)/ S.7854 (Savino) – This bill would extend for two years provisions that establish the qualifications and procedures for the registration of attorneys or agents authorized to represent claimants in proceedings before the Unemployment Insurance Appeal Board. (Chapter 135)

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.2116-A (Zebrowski)/ S.2718-A (Griffo) – This bill would authorize the care and treatment of injured employees by certified physical therapist assistants under the workers' compensation program so long as they are supervised by an onsite licensed physical therapist. (Veto #266)

A.2462-A (Bronson)/ S.7431-A (Martins) – This bill would authorize the care and treatment of injured workers by licensed or certified acupuncturists under the workers' compensation program. (Veto #212)

A.2948-A (Hevesi)/ S.4399-A (Robach) – This bill would require insurance carriers that issue changes to an employer's workers' compensation policy that would result in a premium increase greater than 10 percent to provide that employer with notice of such change at least 30 days in advance of the expiration date of their current policy. (Passed Assembly)

A.3504 (Wright)/ S.2837 (Savino) – This bill would clarify the original intent of the Domestic Workers Bill of Rights by providing that domestic employees who work at least twenty hours per week and have been employed for a period of four weeks are eligible for temporary disability benefits. (Advanced to 3rd Reading)

A.7885-B (Cahill)/ S.5783-B (Martins) – 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 forty-five days after the bill is rendered. (Advanced to 3rd Reading)

A.10283-A (Titone)/ S.7709 (Martins) – This bill would clarify that professional musicians or other performing artists who are deemed excluded from workers' compensation coverage due to their status as an executive officer of a corporation shall not be considered an employee of the establishment in which they perform provided they prove before the Workers' Compensation Board or in a court of law that they would not be an employee under common law. (Veto #300)

OTHER SIGNIFICANT LEGISLATION

EMPLOYEE PRIVACY

A.4388 (Dinowitz)/ S.6871 (Avella) – 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.1787-C (Wright)/ S.1945-B (Bonacic) – 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.5754-A (Benedetto)/ S.7858 (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)

WORKFORCE DEVELOPMENT

A.9416-A (Bronson)/ S.7990 (Martins) – 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. (Passed Assembly)

A.9933-A (Bronson)/ S.8003 (Martins) – 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 a lot about the success of various education pathways and career training programs, where graduates end up and how well they do, and whether programs are worth the money invested in them or should they be modified. (Passed Assembly)

A.10578 (Titus)/ S. 7967 (Martins) – This bill would require a joint effort by the Department of Labor (DOL) and the Education Department to compile and transmit labor market information as well as forward-facing employment data which includes, but is not limited to current and projected employment opportunities in New York State to every school district, board of cooperative educational services, and every community college and agricultural and technical institute that maintains approved career education programs. (Chapter 325)

– PUBLIC HEARINGS –

Worker Safety Programs in New York State

On April 27, 2016, the New York State Assembly Standing Committee on Labor, Subcommittee on Workplace Safety, and the Commission on Skills Development and Career Education held a hearing in New York City to examine best practices for workplace safety programs and to evaluate opportunities for additional worker training.

The Committee heard from the New York State AFL-CIO, the Building and Construction Trades Council of Greater New York, New York State Trial Lawyers Association, the New York Committee for Occupational Safety, Make the Road New York, the Workforce Development Institute, the International Union of Elevator Constructors Local No. 1, and other concerned stakeholders who shared their experiences about worker safety programs. The Committee listened to ideas on how to improve such programs, expand the number and accessibility of training programs, and replicate successful programs to ensure the safety of all hard working New Yorkers. During the hearing, advocates shared that although there have been notable advances in worker safety over the years, the fact remains that the statistics for deaths at worksites are still too high and workers should be able to enjoy the peace of mind of a safe workplace and be able to confidently voice concerns about unsafe working conditions.

The Committee on Labor, Subcommittee on Workplace Safety, and the Commission on Skills Development and Career Education understands that improving worker safety will benefit workers, their families, and the entire state. Effective workplace safety programs can help us realize the expectation that every person who goes to work should expect to return home unharmed. As the 2017 session approaches, further review and consideration will be given to enforcement and the collaborative efforts that can be made to ensure that all workers – from construction workers to nurses, teachers to farmworkers, office managers to retail workers – throughout New York State are able to work in environments that uphold proper safety and health standards.

Pre-Apprenticeship and Work Preparation Programs in New York State

On May 23, 2016, the New York State Assembly Standing Committee on Labor and the Commission on Skills Development and Career Education conducted a hearing in Albany to examine current pre-apprentice and work preparation programs to determine how to replicate and/or support successful efforts to establish and maintain a viable skilled workforce within New York State. Quality pre-apprenticeship programs contribute to the development of a diverse and skilled workforce; they can be adapted to meet the needs of differing populations being trained, the various employers and sponsors they serve, and specific opportunities within the local labor market.

The Committee heard testimony from the New York State Department of Labor, the New York State Building and Construction Trades Council, the Workforce Development Institute,

Schenectady County, Monroe, and Hudson Valley Community Colleges, and TruForm Manufacturing, among other concerned stakeholders. Witnesses shared testimony urging for an equal amount of attention to be placed on job formation to keep pace with efforts to produce more trained workers and stated that forging good employer partnerships plays a key role in the overall success of any work preparation program. Additionally, the Committee heard testimony that called for a more collaborative effort between high school guidance counselors and employers as students are often not informed and encouraged to strive for a career in the skill trades.

The Committee understands the value and promotes the usage of pre-apprenticeship, apprenticeship, and work preparation programs in general. Quality pre-apprenticeship programs contribute to the development of a diverse and skilled workforce by preparing participants to attain the basic foundational skills and competencies for entry into one or more registered apprenticeship programs. Furthermore, apprenticeship programs are a valuable resource to maintain a highly skilled workforce that produces workers who along with being adept in the trades can be held accountable to uphold worker safety requirements. The Committee on Labor is committed to continue to review how best to eliminate the barriers to access to desired workforce preparation programs and to enhance the opportunities for New Yorkers to be gainfully employed.

– OUTLOOK FOR 2017 –

For the 2017 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 full implementation of Paid Family Leave in New York State and the advancement of higher minimum wages for all workers.

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.

Lastly, the Committee will continue its work on workplace safety and apprentice programs to ensure that New Yorkers have access to skill development and appropriate training.

The 2016 session year was ground breaking and the Committee is looking forward to building on that momentum.

**APPENDIX A
2016 SUMMARY SHEET**

2016 Summary of Action on all Bills
Referred to the Committee on Labor

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
BILLS REPORTED WITH OR WITHOUT AMENDMENT			
TO FLOOR; NOT RETURNING TO COMMITTEE	4		4
TO WAYS AND MEANS	4		4
TO CODES	15		15
TO RULES	12		12
TO JUDICIARY	0		0
TOTAL	35		35
BILLS HAVING COMMITTEE REFERENCE CHANGED			
SENATE BILLS SUBSTITUTED OR RECALLED			
SUBSTITUTED		4	4
RECALLED		0	0
TOTAL		4	4
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS HELD FOR CONSIDERATION WITH A ROLL-CALL VOTE	29	0	29
BILLS NEVER REPORTED, HELD IN COMMITTEE	170	19	189

BILLS HAVING ENACTING CLAUSES STRICKEN	5	0	5
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	239	23	262
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	8		

**APPENDIX B
CHAPTERS OF 2016**

Bill / Sponsor	Summary	Final Action
A.9110-A/ S.6469-A Morelle/ Amedore	Would exclude from the definitions of employment and employee certain newspaper delivery persons from provisions of the Labor Law and Workers' Compensation Law for the purposes of unemployment benefits, minimum wage, and workers' compensation.	Chapter 503
A.9766/ A.S7854 Mayer/ Savino	Would extend for two years provisions that establish the qualifications and procedures for the registration of attorneys or agents authorized to represent claimants in proceedings before the Unemployment Insurance Appeal Board.	Chapter 135
A.10578/ S.7967 Titus/ Martins	Would require a joint effort by the Department of Labor (DOL) and the Education Department to compile and transmit labor market information as well as forward-facing employment data which includes, but is not limited to current and projected employment opportunities in New York State to every school district, board of cooperative educational services, and every community college and agricultural and technical institute that maintains approved career education programs.	Chapter 325

APPENDIX C
BILLS THAT WERE REPORTED IN 2016

Bill / Sponsor	Summary	Final Action
A.270-B/ S.5276-A Buchwald/ Martins	Would prohibit the use of "two or more components that are advertised and sold together with instructions on how to combine to create an explosive" without a certificate from the Department of Labor (DOL).	Passed Assembly
A.995/ S.7875 Rosenthal/ Lanza	Requires employers that use electronic monitoring of any kind to give notice to employees upon hiring. Also requires notice to be posted in a conspicuous place and manner.	Advanced to Third Reading
A.1670-A/ S.3964-A Zebrowski/ Savino	Authorizes occupational therapy assistants registered with the State Education Department to provide occupational therapy care to workers' compensation patients.	Reported to Rules
A.1787-C/ S.1945-B Wright/ Bonacic	Would establish the guidelines for the inspection and maintenance of elevators and require the licensing of persons hired to design, construct, inspect, maintain, alter, and repair elevators, stairway chair lifts, escalators, moving walkways, etc.	Passed Assembly
A.2116-A/ S.2718-A Zebrowski/ Griffo	Would allow certified physical therapist assistants to provide care under the workers' compensation system.	Veto #266
A.2462-A/ S.7431-A Bronson/ Martins	Authorizes duly licensed acupuncturists to treat injured workers under workers compensation. Authorizes the board to set a fee schedule for acupuncture treatment	Veto #212
A.2948-A/ S.4399-A Hevesi/ Robach	Would require insurance carriers that issue changes to an employer's workers' compensation policy that would result in a premium increase greater than 10 percent to provide that employer with notice of such change at least 30 days in advance of the expiration date of their current policy.	Passed Assembly

A.3328 Wright No Same As	Would require that whenever the state, a county, or municipality issues a permit to a utility company allowing them to excavate a street in order to perform work beneath the street, the utility company must use competent workers and pay the prevailing wage.	Reported to Rules
A.3504/ S.2837 Wright/ Savino	Would clarify the original intent of the Domestic Workers Bill of Rights by providing that domestic employees who work at least twenty hours per week and have been employed for a period of four weeks are eligible for temporary disability benefits.	Advanced to Third Reading
A.4386/ S.2357 Magee/ Seward	Would exempt amateur, unpaid collegiate players who participate in collegiate summer baseball leagues from workers' compensation coverage, except those deemed to be employees under the National Labor Relations Act.	Reported to Rules
A.4388/ S.6871 Dinowitz/ Avella	Would prohibit an employer or educational institution from requiring that an employee, applicant, student, or prospective student disclose identifying information used to access a personal account or service through an electronic communications device. The bill also includes retaliatory protections from an employer or institution.	Advanced to Third Reading
A.4762/ S.1291 Nolan/ Espailat	Would ensure that farm workers receive the same workers' compensation, unemployment insurance, and minimum wage protections as other workers. The bill grants collective bargaining rights, overtime compensation, disability benefits, and a day of rest for farmworkers.	Reported to Ways & Means
A.5143-A/ S.3151-A Seawright/ Stavisky	Would require notice of contraceptive coverage be provided to jobseekers on the face of the application or on a separate written notice form and to current employees at least ninety days prior to an employer alteration, restriction, or elimination of such contraceptive coverage from their employment-based health insurance plans.	Advanced to Third Reading

A.5220/ S.3686 Cusick/ Lanza	Would allow a student to work up to a five-hour shift as a lifeguard or aquatic supervisory staff on days preceding a school day if they maintain good academic standing with their school.	Reported to Rules
A.5530-B/ S.4332-B Bronson/ Savino	Would require the medical advisory committee (MAC) to temporarily utilize nationally recognized treatment guidelines when no workers' compensation treatment guidelines exist for a particular body part or condition. Furthermore, this bill would require the guidelines be updated every two years to reflect best sciences and that the guidelines are comprehensive in nature, covering at least 95% of conditions and body parts covered by workers' compensation.	Advanced to Third Reading
A.5561/ S.2768 Titus/ Savino	Would ensure that partially disabled workers who are unable to work because of their injury are not denied workers compensation benefits by providing a statutory standard for labor market attachment in workers' compensation claims.	Advanced to Third Reading
A.5754-A/ S.7858 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.	Advanced to Third Reading
A.7504/ S.4850 Mayer/ Martins	Would clarify that where an individual is found to be performing services that constitute employment among multiple entities; the employer who pays an employee for their services shall be considered the employer even if such employee was supervised by a separate entity.	Passed Assembly
A.7515 Titus No Same As	Would increase the compensation rate for assigned counsel representing claimants on appeals to the appellate division in unemployment insurance cases to \$75 per hour not to exceed \$2,000 for each case.	Reported to Ways & Means
A.7742-A/ S.5250-A Zebrowski/ Seward	Would remove the 30 day notice requirement which would allow employers to withdraw from workers' compensation insurance coverage by the State Insurance Fund (SIF) at any time with written notice of the effective date of such cancellation.	Reported to Rules

A.7875 Titus No Same As	Would clarify that offers of employment for subsequent academic terms which are contingent upon factors such as funding or matriculation rates shall not constitute "reasonable assurance" of continued employment and therefore shall not bar an employee from collecting unemployment insurance compensation while out of work.	Reported to Ways & Means
A.7876/ S.2578 Titus/ Parker	Would require both public and private employers to provide employees and former employees who have separated with them for no longer than three years with their personnel file at no cost to the employee at least once per year upon request.	Advanced to Third Reading
A.7885-B/ S.5783-B Cahill/ Martins	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 forty-five days after the bill is rendered.	Advanced to Third Reading
A.9110-A/ S.6469-A Morelle/ Amedore	Would exclude from the definitions of employment and employee certain newspaper delivery persons from provisions of the Labor Law and Workers' Compensation Law for the purposes of unemployment benefits, minimum wage, and workers' compensation.	Chapter 503
A.9416-A/ S.7990 Bronson/ Martins	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.	Passed Assembly
A.9488-C Sepulveda No Same As	Would require all employers that employ workers at the minimum wage rate to pay holiday premium pay (time and a half) on the following holidays: New Year's Day, Labor Day, Memorial Day, and Independence Day.	Advanced to Third Reading

A.9766/ A.S7854 Mayer/ Savino	Would extend for two years provisions that establish the qualifications and procedures for the registration of attorneys or agents authorized to represent claimants in proceedings before the Unemployment Insurance Appeal Board.	Chapter 135
A.9933-A/ S.8003 Bronson/ Martins	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.	Passed Assembly
A.10101-A/ S.6701-B Abbate/ Golden	Would clarify that children are only allowed to engage in a performance at a not-for-profit community theater when their participation does not occur during school hours and if none of the participants are members of a performing arts labor organization and they are all participating as amateur volunteers.	Veto #226
A10141/ S.7861 Bronson/ Martins	Would establish a definition of "public work" as projects that are financed in whole or in part out of public funds; construction work performed under a private contract that meets certain specific conditions; or construction work performed as a condition of regulatory approval.	Reported to Codes
A.10283-A/ S.7709 Titone/ Martins	Would clarify that professional musicians or other performing artists who are deemed excluded from workers' compensation coverage due to their status as an executive officer of a corporation shall not be considered an employee of the establishment in which they perform provided that they prove before the Workers' Compensation Board or in a court of law that they would not be an employee at common law.	Veto #300
A.10320/ S.7998 Titus/ Hannon	Would make a technical amendment to link the compensation rate for home health care aides in New York City and in Nassau, Suffolk, and Westchester counties to their applicable minimum wage rate.	Passed Assembly

<p>A.10443/ S.7268 Titus/ Martins</p>	<p>Provides that DOL shall issue a determination setting forth the basis for personal liability and the total amount of contributions, penalties, and interest due and unpaid; and that such officers of a corporation, managers and members of LLCs, general partners of partnerships, and limited partners of partnerships may not be relieved by the dissolution of the entity.</p>	<p>Reported to Ways & Means</p>
<p>A.10578/ S.7967 Titus/ Martins</p>	<p>Would require a joint effort by the Department of Labor (DOL) and the Education Department to compile and transmit labor market information as well as forward-facing employment data which includes, but is not limited to current and projected employment opportunities in New York State to every school district, board of cooperative educational services, and every community college and agricultural and technical institute that maintains approved career education programs.</p>	<p>Chapter 325</p>
<p>A.10680/ S.7994 Harris/ Murphy</p>	<p>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 lay-off, provided that they have met the eligibility requirement.</p>	<p>Passed Assembly</p>

**APPENDIX D
BILLS THAT WERE VETOED IN 2016**

Bill / Sponsor	Summary	Final Action
A.2116-A/ S.2718-A Zebrowski/ Griffo	Would allow certified physical therapist assistants to provide care under the workers' compensation system.	Veto #266
A.2462-A/ S.7431-A Bronson/ Martins	Authorizes duly licensed acupuncturists to treat injured workers under workers compensation. Authorizes the board to set a fee schedule for acupuncture treatment.	Veto #212
A.4910-A / S.613-A Perry/ Boyle	Would establish that an employee who is also the sole shareholder, member, or partner of their respective business may choose to opt-in to receive unemployment coverage by filing an application with the Commissioner of Labor and by paying the appropriate contributions.	Veto #234
A.10101-A/ S.6701-B Abbate/ Golden	Would clarify that children are only allowed to engage in a performance at a not-for-profit community theater when their participation does not occur during school hours and if none of the participants are members of a performing arts labor organization and they are all participating as amateur volunteers.	Veto #226
A.10283-A/ S.7709 Titone/ Martins	Would clarify that professional musicians or other performing artists who are deemed excluded from workers' compensation coverage due to their status as an executive officer of a corporation shall not be considered an employee of the establishment in which they perform provided that they prove before the Workers' Compensation Board or in a court of law that they would not be an employee at common law.	Veto #300