

NEW YORK STATE ASSEMBLY

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Committee On
Labor

Carl E. Heastie • Speaker
Latoya Joyner • Chair



ANNUAL REPORT



LATOYA JOYNER
Assembly Member
77th Assembly District
Bronx County

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STATE OF NEW YORK
ALBANY

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Task Force on Women's Issues

December 15, 2022

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

Dear Speaker Heastie,

As Chair of the Assembly Standing Committee on Labor, I am pleased to submit to you the Committee's 2022 Annual Report. The following report is a summary of significant actions taken during the 2022 Legislative Session which demonstrates the Committee's ongoing commitment to advancing legislation that strengthens and supports New York State's strong and diverse workforce.

Among the Committee's top priorities is ensuring that workers are receiving the full wages to which they are rightfully and legally entitled. To that end, several bills were passed in 2022 to ensure that workers are properly paid and that unscrupulous actors are held accountable. New legislation would create a registry for contractors and subcontractors who intend to bid on public work projects or commence work on certain covered projects under private contract. The registration process would require contractors to report previous violations of the labor law, including prevailing wage requirements. Further, the Committee advanced several bills to expand prevailing wage requirements for construction and building service work in order to ensure that employees on such projects receive their lawful wages and supplements. One such piece of legislation, which has since been signed into law, increased the number of distributed solar projects which are subject to prevailing wage. Another bill, which was also enacted into law, clarified that any work involving the delivery and hauling of aggregate supply construction materials to and from public work projects are to be subject to prevailing wage requirements.

In 2022, the Committee has remained steadfast in its dedication to strengthening employees' rights and protections in the workplace. In the wake of the COVID-19 pandemic, this

goal has remained especially important, as essential workers continue to be subject to greater demands. A bill that has passed both houses would protect warehouse workers against inhumane quotas that have increased workplace injuries. The bill would require employers to maintain records of work speed data and notify employees of changes in quotas to ensure accountability and fully inform employees. The Committee has also taken steps to protect nurses from dangerous work practices by advancing several pieces of legislation that would limit mandatory overtime for nurses to certain emergencies or disasters.

Furthermore, the Committee has advanced legislation that would improve the workers' compensation system for the benefit of injured workers. One such piece of legislation which has passed both houses would expand to all workers the ability to receive workers' compensation benefits for claims for mental injury premised upon extraordinary work-related stress. Another bill has passed both houses and would add licensed massage therapists as authorized providers of workers' compensation.

Under your leadership, Mr. Speaker, this Committee looks forward to meeting the challenges of the upcoming 2023 Legislative Session with a continued promise to advocate for policies that ensure equal employment opportunities for all workers, in all industries, and provide greater protections and benefits to injured and unemployed workers. I would like to thank the Members of the Assembly Standing Committee on Labor for their hard work and unwavering support for New York State's workers and their families, and to you, Mr. Speaker, for your guidance and steadfast commitment to the people of this great State.

Sincerely,

A handwritten signature in cursive script that reads "Latoya Joyner".

Latoya Joyner
Chair, Assembly Standing Committee on Labor

**2022 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON LABOR**

Latoya Joyner, *Chair*

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Dallas Trombley, *Assistant Secretary for Program and Policy*
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Morgan Weber, *Associate Counsel*
Jamie D. Gilkey, *Chief of Staff*

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▪ INTRODUCTION ▪

Each legislative session, the Assembly Standing Committee on Labor (“the Committee”) is tasked with examining legislation that affects the well-being and livelihood of New York State’s workforce. To that end, the Committee is responsible for advancing legislation that helps protect the fundamental rights and benefits of all workers, such as minimum wage, fair pay, workplace safety, unemployment insurance, protections against discrimination and retaliation, and the right to organize.

The Committee reviews bills from a number of sources including advocates and stakeholders, constituents, and Members of the Assembly. The Committee also considers bills from the Governor of New York State and various departments of the executive branch, including the New York State Department of Labor, the Workers’ Compensation Board, the Office of the Attorney General, and the Office of the State Comptroller. Many of these types of bills seek to improve the enforcement of current laws in order to strengthen protections for workers, while others propose remedies for administrative concerns which would allow these departments to run their programs more efficiently. A representative sample of the legislative proposals acted upon this year includes a bill that would strengthen anti-retaliation protections for whistleblowers, legislation that allows the Department of Labor to serve notices by electronic communication, and legislation that revises the calculation of partial unemployment benefits.

Each year, the Committee also hosts roundtables and public hearings on issues which directly impact the workforce in New York State. These forums offer valuable opportunities for workers, businesses, professionals, academics, and other constituents to provide formal testimony to the Committee and engage in meaningful discussions with Members as well as each other. This year, the Committee conducted a hearing to examine the workforce shortages that have persisted over the past decade and become particularly prevalent following the COVID-19 pandemic and the Great Resignation.

▪ 2022 LEGISLATIVE ACTION ▪

A. Wage and Hour Standards

One of the most significant issues impacting workers in New York State is the enforcement of wage and hour laws. In conjunction with the federal Fair Labor Standards Act, the New York State Labor Law establishes guidelines for employees regarding hours of work, payment of wages, rest and meal periods, minimum wage, overtime pay, sick leave, equal pay, recordkeeping, and other basic labor standards. The Labor Law also sets forth separate prevailing wage requirements for construction projects and building service work in order to ensure that workers on public work projects and other publicly subsidized contracts receive their lawful wages and supplements. Each year, the Committee strives to advance fair and balanced legislation that will help protect and improve existing wage and hour standards for the benefit of all employees in New York State. In 2022, the Committee reported several bills to enhance wage and hour protections for nurses, reduce wage theft violations, and bolster worker standards to ensure fair treatment and pay.

1. Mandatory Overtime Restrictions for Home Care Nurses

A.181-A (Gunther) / S.4885-A (Savino) – Passed Both Houses

This bill would add home care nurses to the restrictions against mandatory overtime in the New York State Labor Law by establishing that no health care employer shall require a nurse to work more than their regularly scheduled home care visits. This would apply to all health care employers who are licensed as home care services agencies pursuant to Article 36 of the Public Health Law.

2. Penalties for Violations of Mandatory Overtime Restrictions for Nurses

A.286-A (Gunther) / S.1997-A (Jackson) – Passed Both Houses

This legislation provides a mechanism for a civil penalty in the event an employer violates the provisions of law which place restrictions on consecutive hours of work for nurses. It would ensure that nurses are not forced to work overtime except in the case of a specified emergency, such as an ongoing medical emergency or unforeseen staffing shortage, as the bill would authorize the Commissioner of Labor to issue a civil penalty per violation.

3. Inclusion of Certain Off-site Custom Fabrication as Public Work

A.8494-A (Bronson) / S.8963 (Jackson) – Reported to Ways and Means

This bill would amend the Labor Law to provide that prevailing wage shall apply to the off-site fabrication of exterior or interior wall panel systems, woodwork, cases, cabinets or counters, plumbing, heating, cooling, ventilation or exhaust duct systems, and mechanical insulation completed for the construction, repair or ventilation of a building subject to a contract to which the state, municipal, corporation, public benefit corporation or commission appointed pursuant to law is a party.

4. Prevailing Wage for Hauling of Aggregate Supply Construction Materials Chapter Amendment
A.8727 (Bronson) / S.7811 (Mayer) – Chapter 119 of the Laws of 2022

This legislation amended Chapter 823 of the Laws of 2021 to clarify that prevailing wage shall be paid for work involving the delivery and hauling of aggregate supply construction materials to and from public work worksites.

5. Wage Theft in the Construction Industry Chapter Amendment
A.8769 (Joyner) / S.7773 (Ramos) – Chapter 157 of the Laws of 2022

This legislation amended Chapter 419 of the Laws of 2021, which made contractors liable for non-payment of wages by one of the contractor's subcontractors, to provide clarifying language and to require the employee, or third party acting on the employee's behalf, to provide the contractor notice of the alleged violation prior to bringing a civil suit.

6. Covered Airport Locations Related to Minimum Wage and Benefit Rates
A.8822 (Jacobson) / S.6525 (Skoufis) – Passed Both Houses

This bill would include the Stewart International Airport in the definition of covered airport location for the purposes of minimum wage and supplemental benefit rates as outlined in the "Healthy Terminals Act" (Chapter 88 of the Laws of 2021).

7. Mandatory Overtime Restrictions for Nurses
A.8874-B (Joyner) / S.8063-A (Ramos) – Passed Both Houses

This bill would prevent an employer from declaring a staffing emergency for routine nurse staffing needs and impose monetary penalties for violation of the law. By requiring an employer to state why the prohibition against mandatory overtime must be overridden every thirty days, an employer will no longer be able to point to an ongoing state of emergency without making any attempt to comply with the spirit of the overtime prohibition.

8. Covered Renewable Energy Projects
A.9598 (Joyner) / S.8648 (Ramos) – Chapter 372 of the Laws of 2022

This legislation redefines the term "covered renewable energy system" to include systems with a capacity of one or more megawatts alternating current. Covered renewable energy systems under Section 224-d of the Labor Law are subject to prevailing wage and expanding the definition to include these smaller projects can create more jobs subject to such labor standards. Prior to this law a "covered renewable energy system" was one with a capacity of five or more megawatts alternating current.

**9. Permitted Wage Deductions Chapter Amendment
A.10181 (Joyner) / S.9338 (Ramos) – Chapter 301 of the Laws of 2022**

This legislation amended Chapter 451 of the Laws of 2021 to extend the sunset date by two years, thereby allowing certain voluntary deductions from employee wages.

B. Employee Rights and Protections

New York State is home to some of the most aggressive laws and regulations in the country designed to protect the rights of employees and prohibit discrimination and retaliation against workers. Yet despite this progress, many individuals continue to face significant obstacles in seeking justice from their employers when these rights are violated. State and federal laws also entitle all employees to a safe workplace, free of known health and safety hazards, and the right to speak up about such hazards without fear of retaliation. The Committee strives to protect the rights of all workers and ensure that workplaces across the state are safe and free of discrimination, retaliation, and other harmful employment practices. This year, the Committee sought to advance these goals by expanding the rights of nursing mothers in the workplace, supporting veterans through the distribution of information regarding benefits and services, and by protecting workers' rights to legally protected absences.

**1. Rights of Employees to Express Breast Milk in the Workplace
A.1236-A (Paulin) / S.4844-B (Biaggi) – Chapter 672 of the Laws of 2022**

This bill expands the rights of nursing mothers in the workplace by requiring employers, upon request, to designate a room or other location which shall be made available for use by such employee to express breast milk. Such room or other location has to be in close proximity to the work area; shielded from view; and free from intrusion from other persons in the workplace or the public. This bill also clarifies that employers shall provide reasonable break time for employees to express breast milk each time they have a reasonable need to do so. Employers are also required to develop and implement a written policy regarding the rights of employees to express breast milk in the workplace.

**2. Protection of Employees Personal Accounts
A.1861-C (Dinowitz) / No Same-as – Passed Assembly**

This bill would prohibit employers from requesting or requiring username and login information including passwords for accessing personal accounts as a condition of hiring, employment status, or for use in disciplinary actions.

**3. Posters for Veterans' Benefits and Services
A.3913-B (McMahon) / S.1961-B (Brooks) – Chapter 584 of the Laws of 2022**

This legislation requires the New York State Department of Labor to create and distribute a poster for veterans' benefits and services.

**4. Distribution of Electronic Versions of Postings in the Workplace
A.7595 (Otis) / S.6805 (Harckham) – Passed Both Houses**

This bill requires that certain documents that are currently required to be posted in a workplace shall be made available electronically, such as through the employer’s website or email. Further, it also requires the employer to provide notice that such documents are also made available electronically.

**5. Absence Control and No-Fault Attendance Policies
A.8092-B (Reyes) / S.1958-A (Krueger) – Chapter 604 of the Laws of 2022**

This legislation clarifies that it is retaliation for an employer to discipline workers by assessing points or deductions because an employee has used any legally protected absence.

**6. Notices and Guidelines Regarding Mental Health and Wellness in the Workplace
A.8675-A (Gunther) / No Same-as – Reported to Ways and Means**

This bill would require employers to distribute written materials regarding mental health conditions and resources and to provide at least one poster or pamphlet in an easily accessible area within the workplace. The bill would also require the commissioner of Labor and the Commissioner of the Office of Mental Health to create a regulatory framework to increase public awareness of mental health issues.

**7. Establishes the “Freelance Isn’t Free Act”
A.9368-A (Bronson) / S.8369-B (Gounardes) – Passed Both Houses**

This bill would require freelance workers be paid the contracted for amount on or before the due date under the terms of the contract or if not specified under contract, no later than 30 days after the completion of the worker’s services. Furthermore, once a freelance worker has commenced performance of services under contract, the hiring party is prohibited from requiring that the worker accept less compensation than the amount under contract, and contracts for more than \$800 must be made in writing and freelancers must be provided with a written copy of such contracts. The bill would also provide for antiretaliation protections and would authorize the Attorney General to take action in the event of a violation.

**8. Establishes the “Warehouse Worker Protection Act”
A.10020-A (Joyner) / S.8922-A (Ramos) – Passed Both Houses**

This legislation protects warehouse workers against inhumane quotas that have increased workplace injuries. It requires employers to maintain records of work speed data and notify employees of changes in quotas to ensure employer accountability and fully inform employees if any such requirements.

9. Compensation or Range of Compensation Disclosure
A.10477 (Joyner) / S.9427-A (Ramos) – Passed Both Houses

This legislation requires employers to disclose the compensation or range of compensation for a job, promotion, or transfer opportunity when advertising such opportunities. It also requires the Department of Labor to conduct a public awareness outreach campaign to make information available on its website to inform employers of the provisions of this bill.

C. Unemployment Insurance

Since 1935, the New York State Unemployment Insurance (UI) program has served as a financial safety net for people who find themselves out of work through no fault of their own. To collect weekly benefits, an individual must be ready, willing, and able to work, and must be actively looking for work, for each week that they are claiming benefits. This program ensures that individuals are able to meet their basic financial needs in order to support themselves and their families while searching for new employment opportunities.

Since the onset of the COVID 19 in 2020, unemployment insurance has been a necessary lifeline to many New Yorkers whose lives and livelihoods were upended by the pandemic. Although the worst days of the pandemic seem to have passed, unemployment insurance remains a critical issue as the state government, employers, and unemployment beneficiaries attempt to rebuild and restructure.

For these reasons, the Committee has remained steadfast in its commitment to improve the unemployment system, and to ensure that all parties involved are treated fairly as the State recovers from its pandemic unemployment insurance measures.

1. Recovery of Overpayments of Unemployment Benefits
A.6666 (Joyner) / S.6169 (Hoylman) – Passed Assembly

This bill would establish that an unemployment insurance (UI) claimant shall not be held liable for overpayments of state or federal unemployment benefits, to the extent permitted under federal law, provided that: (a) such overpayment was not due to fraud or due to a willful false statement or misrepresentation; (b) such overpayment was received without fault on the part of the claimant; and (c) the recovery of such overpayment would be against equity and good conscience. The Commissioner of Labor would also be required to notify the claimant within 15 days when an overpayment has occurred and inform the claimant of his or her right to request a waiver. Upon denial of any waiver request, the Commissioner of Labor would also be required to notify the claimant of his or her right to request an adjustment to their repayment schedule upon demonstration of a material change in their financial condition.

2. Notification of Unemployment Benefit Claim Determination
A.9268-A (Burdick) / S.6828-A (Mayer) – Passed Both Houses

This bill would require the Department of Labor to notify claimants applying for unemployment benefits within 30 days whether the claim has been approved or denied. The notice would be provided no later than 30 days after the claimant has submitted the required information. If the Commissioner is unable to issue a determination within the prescribed time frame due to exigent circumstances, such notice would inform the claimant of a new estimated time frame, the retroactive effective date from which the claimant would receive benefits if approved, and how the claimant can confirm the status of the determination if not received within the new time frame.

3. Income Tax Deducted from Unemployment Insurance Benefits
A.9462 (Wallace) / No Same-as – Reported to Ways and Means

This bill would increase the rate of state income tax withholding deducted and withheld from an individual's payment of unemployment benefits.

4. Establish Overpayment Waiver Process
A.9965 (Joyner) / No Same-as – Reported to Ways and Means

This bill would amend the Labor Law to increase the period of time to determine non-fraud improper payments, and it would establish a waiver process for the recovery of overpayments.

5. Attorney Fees and Expenses for Unemployment Insurance Proceedings
A.10197 (Taylor) / S.9337 (Ramos) – Chapter 432 of the Laws of 2022

This legislation amends Chapter 831 of the Laws of 1981 to extend such provisions relating fees and expenses for unemployment insurance proceedings for an additional two years.

6. Amnesty Period for Employer Contributions
A.10202 (Stirpe) / No Same-as – Passed Assembly

This bill would provide an amnesty period for employer contributions to the Unemployment Insurance Trust Fund (TF).

D. Workers' Compensation, Paid Family Leave, and Temporary Disability Insurance

Workers' compensation insurance provides weekly cash benefits and medical care, including rehabilitation, to workers who become partially or totally disabled as a result of a disease or injury caused by their employment. If a worker dies from a compensable injury or illness, workers' compensation also guarantees payments to qualified dependents. In addition, New York State requires employers to obtain coverage for temporary disability insurance (TDI) benefits in order to provide weekly cash benefits to replace, in part, wages lost due to injuries or illnesses that do not arise out of the course of employment. Finally, the Paid Family Leave program ensures that hard-working New Yorkers can afford to take paid time off to bond with a new child, take care of a family member who has fallen ill, or relieve family pressures when a family member is called to active military service abroad, without the risk of losing their job or income. Each year, the Committee considers bills that would facilitate access to these benefits, improve the processing of claims, and ensure that injured workers are able to access the quality care and treatment options that meet their needs.

1. Defines "Temporary Total Disability"

A.1118 (Bronson) / S.768 (Gounardes) – Passed Both Houses

This legislation would define temporary total disability as the inability to perform preinjury employment duties, or a job offered by the employer that has been modified to meet the abilities of the injured worker.

2. Worker's Comp Mental Injury: Extraordinary Work-Related Stress

A.2020-A (Reyes) / S. 6373-B (Savino) – Passed Both Houses

This legislation would remove from the worker's compensation law a requirement that to be eligible to receive workers' compensation benefits for claims for mental injury premised upon extraordinary work-related stress, a worker must be a police officer, firefighter, emergency medical technician, paramedic, emergency dispatcher, or other person certified to provide medical care in emergencies and clarifies that such mental injury must only have been sustained at work.

3. Minimum Benefit for Workers' Compensation

A.7178-A (Joyner) / S.8271-A (Sanders) – Passed Both Houses

This bill would increase the minimum weekly compensation for claimants that receive workers' compensation benefits to no less than one-fifth of the statewide average weekly wage. This would provide equity and fairness to low-wage workers and ensure that future benefits are adjusted automatically with inflation.

**4. Applications for Attorney’s Fees in Worker’s Compensation Claims
A.8708 (Bronson) / S.7762 (Gaughran) – Chapter 27 of the Laws of 2022**

This legislation amended Chapter 824 of the Laws of 2021 to clarify the requirements for attorneys to submit fee applications to the New York State Workers’ Compensation Board and extended the effective date from immediate to January 1, 2023.

**5. Uninsured Employers Fund as Responsible Party When Insurance Carrier Cannot be Identified
A.8726 (Jacobson) / S.7785 (Skoufis) – Chapter 35 of the Laws of 2022**

This legislation amends Chapter 717 of the Laws of 2021 to increase from 10 days to 30 days the amount of time before the New York State Workers' Compensation Board is required to appoint the Uninsured Employers' Fund as the responsible carrier for a workers’ compensation claim when the responsible carrier cannot be determined.

**6. Worker’s Compensation Board Translation of Certain Documents and Forms
A.8791 (Rozić) / S.7843 (Ramos) – Chapter 131 of the Laws of 2022**

This legislation amends Chapter 622 of the Laws of 2021 to clarify that the types of documents relating to workers’ compensation benefits subject to this chapter includes all documents and forms published by the Board that injured employees complete, as well as all Board documents that provide general information to injured employees on the process of applying for workers’ compensation benefits.

**7. Coverage of Treatment Rendered by a Massage Therapist
A.8930 (Woerner) / S.2138 (Ramos) – Passed Both Houses**

This legislation would amend the Workers' Compensation Law to include massage therapists as authorized providers.

**8. New York Black Car Operators’ Injury Compensation Fund, Extender
A.9619 (Cruz) / S.8568 (Savino) – Chapter 417 of the Laws of 2022**

This legislation amended Chapter 730 of the laws of 2019 to extend certain provisions of the NY Black Car Operators Injury Fund for an additional three years.

**9. State Insurance Fund Policy Issuance when Balance is Due on Prior Policy
A.10078 (Fernandez) / S.9096 (Ramos) – Chapter 349 of the Laws of 2022**

This legislation provided authority to the New York State Insurance Fund ("NYSIF") to issue a policy to a former policyholder with an unpaid balance due on a prior policy provided that the former policyholder consents to a payment plan for the prior policy; any required payroll audits are completed before the new policy is issued; the employer’s prior payment and policy history meet SIF’s underwriting standards; and the employer has established the ability to pay premiums and installments on the prior and new policy.

A policyholder defaulting on such a policy would thereafter be ineligible for an additional policy until all amounts due from all prior cancelled policies have been paid.

**10. Department of Labor Report on State Summer Youth Employment Programs
A.10154 (Gibbs) / No Same-As – Passed Assembly**

This legislation would extend the time in which the Office of Temporary and Disability Assistance (OTDA) would produce the report regarding summer youth employment programs funded by the state, federal, and local appropriations.

**11. Temporary Commission to Study Utilization of Paid Family Leave
A.10224-A (Nolan) / S.9167-A (Addabbo) – Veto Memo 67**

This legislation would create and direct a temporary state commission to conduct a study and produce a report on the utilization of Paid Family Leave. The report would include demographic information of the persons receiving Paid Family Leave benefits, average amount of benefits received, type of leave taken, employers' experiences on the use of paid family leave, and any existing barriers employees face in utilizing Paid Family Leave benefits.

**12. Limiting the Effects of Determinations by the Board of Worker's Compensation
A.10349 (Joyner) / S.9149 (Gounardes) – Passed Both Houses**

This legislation enacts the "Justice for Injured Workers Act" and bars a court or other forum from granting preclusive or collateral estoppel effect to decisions by the Workers' Compensation Board in any other action or proceeding arising out of the same occurrence, other than the determination of the existence of an employer-employee relationship.

E. Other Significant Legislation

**1. Registry for Contractors Bidding on Public Works Projects
A.1338-C (Magnarelli) / S.5994-C (Ryan) – Passed Both Houses**

This legislation creates a registration system for contractors that bid on contracts for public work and commence work on certain covered projects in New York. It provides requirements for written registration prior to bidding on a contract or commencing work on a covered project under private contract, such as providing relevant contact information, any outstanding wage assessments, and any previous violations of New York Labor Law, Workers Compensation Law, Employment Tax Law, and regulations. A contractor is required to submit documentation to the Commissioner proving workers' compensation insurance for all workers and submit a non-refundable registration fee. This legislation provides notice and documentation requirements in the event of an "unfit" contractor as well as civil penalties for violations and establish a publicly accessible online system to make available all registrations and disclosures required.

2. Safety Training for Workers in the Construction and Demolition Industries
A.1948-A (Barnwell) / No Same-as – Reported to Ways and Means

This bill would direct the Commissioner of Labor to implement a safety training program to ensure safety standards of covered projects, which include building sites, or demolition sites, four or more stories, or forty or more feet in height. Upon the completion of such program, the worker shall be provided with documentation certifying completion of the program, which will be valid for five years and recorded in a publicly accessible registry available on the Department's website.

3. Requirements for Modular Construction Projects
A.2039-B (Dilan) / S.4738-A (Ramos) – Passed Both Houses

This bill would require that modular construction projects comply with applicable local plumbing, gas piping, electrical, and fire suppression licensing requirements, when such final construction project is to be located in a city with a population of one million or more. It would also direct the Commissioner of Labor to conduct a statewide survey to examine safety and codes compliance issues related to modular construction projects.

4. Use of Automated Employment Decision Tools
A.7244-A (Joyner) / No Same-as – Advanced to Third Reading

This bill would provide requirements with which employers must comply to use automated employment decision tools in the hiring process. The bill would require a disparate impact analysis to be conducted no less than annually. While this analysis shall not be publicly filed, a summary of the most recent disparate impact analysis shall be made publicly available on the employer's website prior to the implementation or use of such tool. Additionally, such summary shall be provided to the Department of Labor no less than annually.

5. Study on the Employment Rate of Transgender Persons in New York State
A.8133 (Paulin) / S.5933-A (Parker) – Chapter 492 of the Laws of 2022

This legislation directs the Department of Labor, in consultation with the Division of Human Rights, to conduct a study on the employment rates of transgender persons in New York State. The study shall work to determine whether a disparity exists between the employment rate of transgender persons and other residents in the state and to identify barriers impacting the employment rate of transgender persons. The study will also include policy recommendations to improve the employment rate and expand opportunities for such persons. The Department of Labor is directed to issue a report of its findings and recommendations to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate and to publish the report on its website within one year of the effective date.

**6. Public Awareness Campaign for the New York State Job Bank
A.8458-A (Stirpe) / S.6803-A (Kaplan) – Chapter 489 of the Laws of 2022**

This legislation authorized the NYS Department of Labor to develop a public awareness campaign promoting the New York State Job Bank. The campaign will be made available to the public by any means deemed appropriate by the Department of Labor, including but not limited to, internet, radio newspapers, and print advertising.

**7. Protection of Personal Data in Publication of Work Opportunity Tax Credit Information
A.8768 (Joyner) / S.7725 (Bailey) – Chapter 10 of the Laws of 2022**

This legislation amended Chapter 647 of the Laws of 2021 to make a technical change to clarify that no personally identifiable information, including information identifying specific employers, shall be disclosed by the New York State Department of Labor when publishing information about Work Opportunity Tax Credit certifications.

**8. Study on Immigrant and Refugee Participation in Adult Education and the Workforce
A.8868 (Fahy) / S.7429 (Gounardes) – Veto Memo 79**

This bill would direct the Commissioner of Labor, in consultation with the Commissioner of the Office of Temporary Disability Assistance, the Commissioner of Education, and the New York State Office for New Americans, to conduct a comprehensive study on immigrant and refugee participation in adult education and the workforce. The study would identify barriers that immigrants and refugees face and assess current levels of participation to better identify the needs of this population.

**9. Establish Worker Opportunity Tax Credit
A.9171-A (Joyner) / S.8463-B (Kaplan) – Reported to Ways and Means**

This bill would establish a Worker Opportunity Tax Credit, which would be available for an employee's first year of work. The credit would be equal to 25% of wages paid to qualified individuals who perform between 120-399 hours of service for the employer, and 40% for employees with 400 or more hours, applicable to the first \$6,000 of wages paid, for a maximum credit of \$2,400. For qualified disabled veterans, the credit would apply to the first \$24,000 in wages, for a maximum credit of \$9,000.

**10. Clarification of the Full-Time Employment for the Public Service Loan Forgiveness Program
A.9523-B (Epstein) / S.8389-C (Thomas) – Chapter 562 of the Laws of 2022**

This bill clarified the definition of full-time employment for the purposes of the public service loan forgiveness (PSLF) program.

**11. Use of Electronic Storage Technology by the NYS Department of Labor
A.10153 (Sillitti) / S.9095 (Ramos) – Chapter 294 of the Laws of 2022**

This legislation authorized the Department of Labor to use electronic storage technology to store public records, papers, documents and matters required by law to be recorded to allow for more secure and efficient collection and storage.

▪ STATE FISCAL YEAR 2022-23 ENACTED BUDGET ▪

Each year during budget negotiations, the Assembly Standing Committee on Labor strongly advocates for proposals that would support working families and strengthen existing labor programs. The Committee also works closely with the Assembly Standing Committee on Ways and Means to secure funding for various programs and initiatives that help to improve the security and well-being of New York State’s workers and job seekers.

This year, the State Fiscal Year (SFY) 2022-23 Enacted Budget included a one-year extension of Section 33 of Chapter 277 of the Laws of 2021 which relates to the calculation of partial unemployment benefits. Additionally, there were several efforts to promote the use of renewable energy and provide fair labor standards. Labor standards were included in the implementation to the “Clean Water, Clean Air, and Green Jobs Environmental Bond Act of 2022.” The Enacted Budget also included an initiative to increase the use of zero-emission school busses; labor standards are provided to protect against discharge or displacement of workers and the impairment of existing collective bargaining agreements during the transition to zero-emission vehicles. This will ensure that workers have the opportunity to keep their jobs and gain training as the progression toward green initiatives continues.

A. Partial Unemployment Insurance Benefits

The SFY 2022-23 Enacted Budget provides for a one-year extension until April 1, 2023 of the date by which certain provisions of Chapter 277 of the Laws of 2021 relating to the implementation of the new calculation of partial unemployment insurance benefits must take effect.

B. Labor Standards in the “Clean Water, Clean Air, and Green Jobs Environmental Bond Act of 2022”

This legislation includes labor standards to support prevailing wage and worker protections. Projects funded under this Act are subject to prevailing wage. Projects that cost greater than \$50,000,000 and receive at least \$25,000,000 in Bond Act funding are required to use apprenticeship agreements, and construction projects receiving at least \$25,000,000 in Bond Act funding are required to abide by project labor agreement requirements as set forth in the New York State Labor Law. Also included is a Buy American provision which requires the structural iron and structural steel used or supplied in public work projects under this article to be produced or made in whole or substantial part in the United States, its territories or possessions. The Buy American provision may be waived if it would not be in the public interest, would result in unreasonable costs, or the iron or steel cannot be produced or made available in the United States.

C. Worker Protections for the Introduction of Zero-Emission School Buses

The SFY 2022-23 Enacted Budget also included legislation to introduce zero-emission school busses to school districts in the state. To protect against significant job loss and

prepare current workers for the transition, the legislation included worker protections which encourage the retraining of employees, protect against the displacement of workers, and uphold existing collective bargaining agreements.

Additionally, prior to the procurement process for the new zero-emission school busses, omnibuses, vehicles, charging infrastructure or equipment, fueling infrastructure or equipment, or other equipment, the school district, private school bus company, or other employer whose workers will provide pupil transportation services or other services are required to create and implement a workforce development report. The legislation also includes Buy American provisions and a waiver process in the event that the procurement of such materials in the United States, its territories and possessions is not feasible.

▪ PUBLIC HEARINGS AND ROUNDTABLES ▪

A. Addressing Workforce Shortages

On November 22, 2022, the New York State Assembly Standing Committee on Labor and the Subcommittee on Emerging Workforce conducted a public hearing in Albany to examine the persistent increase in people leaving the workforce, widely known as the Great Resignation, and identify the factors contributing to this trend and potential solutions for workers and affected industries.

The Committee and Subcommittee heard vital testimony regarding these unprecedented quit and separation rates. The Labor Bureau of the New York State Office of the Attorney General highlighted the employment issues impacting the state as a result of the pandemic, including recommendations for future enforcement efforts. Furthermore, the Center for New York City Affairs at the New School, the Brennan Center for Justice at New York University School of Law, and the Business Council of New York State, Inc. provided insightful background and statistics on the progression of employment rates and the industries that have been affected.

The Committee and Subcommittee heard from several worker and union groups, including the New York State Nurses Association, the Coalition for Behavioral Health, One Fair Wage, and RAISE: High Road Restaurants who discussed specific impacts on the health care and restaurant industries and provided potential solutions for addressing ongoing and upcoming challenges.

▪ OUTLOOK FOR 2023 ▪

In the upcoming 2023 Legislative Session, the Assembly Standing Committee on Labor will remain steadfast in its commitment to advancing legislation that aims to strengthen and protect the health, safety, and viability of New York State's workforce. Given the ongoing challenges resulting from the COVID-19 pandemic, the Committee will also continue exploring solutions for reducing unemployment and increasing job opportunities for New Yorkers.

In 2023, the Committee will continue to advocate for the rights of low-income workers and fight to ensure that unscrupulous employers are held accountable for abuses of the New York State Labor Law, including instances of wage theft, retaliation, discrimination, and other harmful employment practices. In the upcoming legislative session, the Committee will remain dedicated to enhancing the rights and benefits of all workers in the State in order to prevent the further erosion of these basic labor protections.

In the upcoming session, the Committee will also continue to monitor the recent updates to the unemployment insurance system, including changes to the partial unemployment insurance benefits structure, in order to ensure that claimants have proper access to benefits as we strive to restore the economy and get New Yorkers back to work. The Committee will also continue to monitor the State's workers' compensation system in order to ensure that all injured workers receive timely and appropriate medical care and continue to have access to the rights and benefits promised to them.

As evidenced by this report, the 2022 Legislative Session held many triumphs as well as many challenges for workers throughout New York State. The Committee is prepared to confront these challenges in the 2023 Legislative Session and we look forward to continuing to serve the hard-working people of the great State of New York.

APPENDIX A

2022 SUMMARY SHEET

**Summary of Action on All Bills Referred to the
New York State Assembly Standing Committee on Labor**

Total Number of Committee Meetings Held: 5

	Assembly Bills	Senate Bills	Total Bills
Bills Reported Favorable To:			
Codes	8	0	8
Judiciary	0	0	0
Ways and Means	14	0	14
Rules	12	0	12
Floor	1	0	1
TOTAL	35	0	35
Committee Action			
Held for Consideration	19	0	19
Defeated	0	0	0
Enacting Clause Stricken	11	0	11
Remaining in Committee	251	15	266
Bills Reference Changed To:			
Government Operations	0	0	0
Local Governments	0	0	0
Ways and Means	7	0	7
TOTAL	7	0	7

APPENDIX B

CHAPTER LAWS OF 2022

CHAPTER NUMBER	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
10	A.8768 (Joyner)	S.7725 (Bailey)	Amends Chapter 647 of the Laws of 2021 to make a technical change to clarify that no personally identifiable information, including information identifying specific employers, shall be disclosed by the New York State Department of Labor when publishing information about Work Opportunity Tax Credit certifications.
27	A.8708 (Bronson)	S.7762 (Gaughran)	Amends Chapter 824 of the Laws of 2021 to clarify the requirements for attorneys to submit fee applications to the New York State Workers' Compensation Board and extends the effective date from immediate to January 1, 2023.
35	A.8726 (Jacobson)	S.7785 (Skoufis)	Amends Chapter 717 of the Laws of 2021 to increase from 10 days to 30 days the amount of time before the New York State Workers' Compensation Board is required to appoint the Uninsured Employers' Fund as the responsible carrier.
119	A.8727 (Bronson)	S.7811 (Mayer)	Amends Chapter 823 of the Laws of 2021 to specify that the chapter applies to public work worksites.
131	A.8791 (Rozic)	S.7843 (Ramos)	Amends Chapter 622 of the Laws of 2021 to clarify the types of documents relating to workers' compensation benefits subject to this chapter.
157	A.8769 (Joyner)	S.7773 (Ramos)	Amends Chapter 419 of the Laws of 2021 to provide clarifying language and a provision requiring the employee, or third party acting on the employee's behalf, to provide the contractor notice of the alleged violation prior to bringing a civil suit.

CHAPTER NUMBER	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
294	A.10153 (Sillitti)	S.9095 (Ramos)	Authorizes the Department of Labor to use electronic storage technology to store public records, papers, documents and matters required by law to be recorded.
301	A.10181 (Joyner)	S.9338 (Ramos)	Amends Chapter 451 of the Laws of 2021 to extend the sunset date by two years, thereby allowing certain voluntary deductions from employee wages.
349	A.10078 (Fernandez)	S.9096 (Ramos)	Provides authority to the New York State Insurance Fund ("NYSIF") to issue a policy to a former policyholder with an unpaid balance due on a prior policy.
372	A.9598 (Joyner)	S.8648 (Ramos)	Redefines the term "covered renewable energy system" to include systems with a capacity of one or more megawatts alternating current.
417	A.9619 (Cruz)	S.8568 (Savino)	Amends Chapter 730 of the laws of 2019 as amended by Chapter 64 of the laws of 2020 to extend these provisions for an additional three years.
432	A.10197 (Taylor)	S.9337 (Ramos)	Amends Chapter 831 of the Laws of 1981 to extend such provisions relating fees and expenses for unemployment insurance proceedings for an additional two years.
489	A.8458-A (Stirpe)	S.6803-A (Kaplan)	Authorizes the NYS Department of Labor to develop' a public awareness campaign promoting the New York State Job Bank.
492	A.8133 (Paulin)	S.5933-A (Parker)	Directs the Department of Labor to conduct a study on the employment rate of transgender persons in New York State.

CHAPTER NUMBER	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
584	A.3913-B (McMahon)	S.1961-B (Brooks)	Requires the New York State Department of Labor to create and distribute a poster for veterans' benefits and services.
604	A.8092-B (Reyes)	S.1958-A (Krueger)	Clarifies that it is retaliation for an employer to discipline workers by assessing points or deductions because an employee has used any legally protected absence.
562	A.9523-B (Epstein)	S.8389-C (Thomas)	Clarifies the definition of full-time employment for the purposes of the public service loan forgiveness (PSLF) program.
672	A.1236-A (Paulin)	S.4844-B (Biaggi)	Expands the rights of nursing mothers in the workplace by requiring employers, upon request, to designate a room or other location which shall be made available for use by such employee to express breast milk.

APPENDIX C

BILLS VETOED IN 2022

VETO MEMO	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
67	A.10224-A (Nolan)	S.9167-A (Addabbo)	Would create and direct a temporary state commission to conduct a study and produce a report on the utilization of Paid Family Leave.
79	A.8868 (Fahy)	S.7429 (Gounardes)	Would direct the Commissioner of Labor to conduct a comprehensive study on immigrant and refugee participation in adult education and the workforce.

APPENDIX D

PASSED BOTH HOUSES IN 2022

ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
A.181-A (Gunther)	S.4885-A (Savino)	Would add home care nurses to the restrictions against mandatory overtime by establishing that no health care employer shall require a nurse to work more than their regularly scheduled home care visits.
A.286-A (Gunther)	S.1997-A (Jackson)	Would provide a mechanism for a civil penalty in the event an employer violates the provisions of law, which place restrictions on consecutive hours of work for nurses. This legislation also directs the Department of Labor to appoint an enforcement officer to oversee and prompt investigations of violations.
A.1118 (Bronson)	S.768 (Gournardes)	Would define temporary total disability as inability to perform the job, in which injured, or a job offered by the employer that has been modified to meet the abilities of the injured worker.
A.1338-C (Magnarelli)	S.5994-C (Ryan)	Would create a registration system for contractors that bid on contracts for public work and commence work on certain covered projects in New York.
A.2020-A (Reyes)	S.6373-B (Savino)	Would expand workers' ability to receive workers' compensation benefits for claims for mental injury premised upon extraordinary work-related stress.
A.2039-B (Dilan)	S.4738-A (Ramos)	Would require that modular construction projects comply with applicable local plumbing, gas piping, electrical, and fire suppression licensing requirements, when such final construction project is to be located in a city with a population of one million or more. It would also direct the Commissioner of Labor to conduct a statewide survey to examine safety and codes compliance issues related to modular construction projects.
A.7178-A (Joyner)	S.8271-A (Sanders)	Would increase the minimum weekly compensation for claimants that receive workers' compensation benefits to be not less than one-fifth of the statewide average weekly wage.

A.7595 (Otis)	S.6805 (Harckam)	Would require digital copies of posters and other documents physically displayed at an employer’s worksite to be made available electronically to employees.
A.8822 (Jacobson)	S.6525 (Skoufis)	Would include the Stewart International Airport in the definition of covered airport location for the purposes of minimum wage and supplemental benefit rates as outlined in the Healthy Terminals Act.
A.8874-B (Joyner)	S.8063-A (Ramos)	Would prevent an employer from declaring a staffing emergency for routine nurse staffing needs and impose monetary penalties for violation of the law.
A.8930 (Woerner)	S.2138 (Ramos)	Would amend the Workers' Compensation Law, in relation to including coverage of treatment rendered by a massage therapist.
A.9268-A (Burdick)	S.6828-A (Mayer)	Would require the Department of Labor to notify claimants applying for unemployment benefits within 30 days whether the claim has been approved or denied.
A.9368-A (Bronson)	S.8369-B (Gounardes)	Would require freelance workers be paid the contracted for amount on or before the due date under the terms of the contract or if not specified under contract, no later than 30 days after the completion of the worker’s services.
A.10020-A (Joyner)	S.8922-A (Ramos)	Would protect warehouse workers against inhumane quotas that have increased workplace injuries. It requires employers to maintain records of work speed data and notify employees of changes in quotas to ensure employer accountability and fully inform employees.
A.10349 (Joyner)	S.9149 (Gounardes)	Would enact the “Justice for Injured Workers Act” and bar a court or other forum from granting preclusive or collateral estoppel effect to decisions by the Workers' Compensation Board in any other action or proceeding.
A.10477 (Joyner)	S.9427-A (Ramos)	Would require employers to disclose the compensation or range of compensation for a job, promotion, or transfer opportunity when advertising such opportunities.

APPENDIX E

PASSED ASSEMBLY IN 2022

ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
A.1861-C (Dinowitz)	No Same-as	Would prohibit employers from requesting or requiring username and login information including passwords for personal accounts as a condition of hiring, employment status, or for use in disciplinary actions.
A.6666 (Joyner)	S.6169 (Hoylman)	Would require the Commissioner of Labor to waive certain overpayments of unemployment benefits that have occurred during the COVID-19 pandemic, in addition to certain overpayments going forward.
A.10154 (Gibbs)	No Same-as	Would extend the time in which the Office of Temporary and Disability Assistance (OTDA) would produce the report regarding summer youth employment programs funded by the state, federal, and local appropriations.
A.10202 (Stirpe)	No Same-as	Would provide an amnesty period for employer contributions to the Unemployment Insurance Trust Fund (TF).