

# 2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

COMMITTEE ON  
LABOR



Sheldon Silver, Speaker

Susan V. John, Chair



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

SUSAN JOHN  
Assemblymember 131<sup>ST</sup> District  
Monroe County

CHAIR  
Committee on Labor

December 15, 2008

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

Dear Speaker Silver,

I am pleased to submit the 2008 Annual Report of the Assembly Standing Committee on Labor. This year the committee considered a wide range of important issues and diverse legislation. The Labor Committee considered 358 bills and reported eighty-seven. Of these, twenty-three became law.

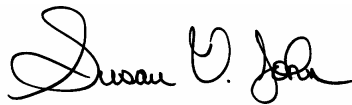
While the committee maintained its primary focus on protecting the rights of workers, much energy was expended during and after the passage of the budget addressing the souring economy and working with the change in executive administration. These events forced the committee to decrease its appropriations for a number of important programs. Nonetheless the committee was able to successfully restore funding to a half-dozen programs, including worker retraining and assistance programs and to grant funding to training initiatives aimed at giving job skills to young workers in underprivileged areas.

This year, the Labor Committee reported and supported the passage of legislation that will aid many working people of different vocations. Through instruments such as Wicks Law Reform and subcontractor surety bond legislation, the committee passed a number of reforms aimed at helping small and minority owned businesses compete with large contractors on public projects. The committee supported legislation that will protect the rights of airport employees, broadcast employees and workers in toll plazas, and finally after many years, the committee was able to facilitate an agreement between hospital employees and management groups that culminated in a meaningful statute that guarantees the health and safety of nurses while simultaneously protecting patient care. Also, the committee was able to help pass legislation that protected the benefits of injured workers by creating a temporary funding plan for the Workers' Compensation Board in the face of a number of insolvent group trusts and a court-ordered stay of collections from defunct businesses who owed assessments to the Board. In addition to many other important pieces of legislation, we were able to secure an increase in funding of \$4 million for the Occupational Safety and Health Clinics this year. As a house the Assembly passed a number of bills aimed at guaranteeing pay equity among genders and races and granting basic labor rights to domestic and farm workers.

Under your leadership the Assembly has successfully navigated through this difficult year. It will be the goal of the Labor Committee during the 2009 legislative session to continue to advocate for the rights of working people of all occupations. We look forward to your leadership as we continue to address the problems with our state's Unemployment Insurance system; to expand health and safety protections for workers; and to advocate for a Paid Family Leave program so that employees can use their disability benefits to care for their loved ones. Under your management, the Labor Committee will continue to work together with other Assembly Standing Committees to work toward IDA reform, employee privacy protections, and a solution to employee misclassification.

In closing, I want to thank you for your leadership and all of the members of the Labor Committee for their dedication and hard work during these difficult economic times. I look forward to 2009 as an opportunity to further help the working men and women of the State of New York.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan V. John". The signature is fluid and cursive, with the first name "Susan" being the most prominent.

Susan V. John

Chair

Assembly Labor Committee

**NEW YORK STATE ASSEMBLY  
HON. SHELDON SILVER, SPEAKER  
HON. SUSAN V. JOHN, CHAIR  
STANDING COMMITTEE ON LABOR  
2008 ANNUAL REPORT**

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## INTRODUCTION

The Labor Committee considers a range of issues relevant to the Labor and Workers' Compensation Laws. In 2008 the Labor Committee considered 358 bills and reported a total of eighty-seven [Appendix A]. The committee is responsible for protecting fundamental workers rights, such as the right to a day of rest, a minimum wage, the right to a safe workplace and the ability to organize.

The Labor Committee considers bills from a number of sources including Members of the Assembly, the Governor's Program Bills and Departmentals introduced at the request of the Department of Labor, the Workers' Compensation Board and the State Insurance Fund. Many of these bills address administrative issues which allow these departments and the programs they oversee to run more efficiently. Others allow for stronger regulations 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 as well as classifications or groups of workers. A representative sample of the legislative proposals acted upon this year included consideration of a "sweat-free consortium" to prevent abusive and exploitative labor practices in the apparel industry; the strengthening of workers' compensation protections for Lyme Disease patients; "safe-patient handling" for the protection of nurses from lower back injuries; granting farm and domestic workers the basic rights guaranteed to other workers; allowing parking employees working for production companies in New York City to organize; and, a Paid Family Leave proposal.

During the budget process the Labor Committee works with the staff of the Ways and Means Committee in order to provide funding for numerous programs and initiatives. This year the committee successfully restored funding to programs such as the Displaced Homemakers and the Jobs for Youth programs. The committee restored funding to various programs aimed at helping to retrain unemployed workers in order to bring them back into the workforce with valuable skills.

Throughout the year, the Labor Committee works in conjunction with other committees and departments. For example, this year, the Labor Committee and the Consumer Affairs Committee worked together to ensure the protection of employee privacy on ID cards; the Local Governments Committee in order to protect labor rights as part of IDA and Wicks Reform; and the Social Services Committee in order to fund and implement the new Career Pathways Program which pairs non-profits and businesses in order to train youths in underprivileged areas with skills needed for today's marketplace.

The Labor Committee holds hearings each year on important issues that affect the state workforce. These hearings serve as a sounding board wherein professionals, academics, workers and other public constituents provide testimony to Members of the Assembly. This year the Labor Committee participated in hearings on the employment of war veterans in New York State and on the circumstances surrounding domestic worker employment.

The Labor Committee remains committed to ensuring the rights of working people and streamlining and strengthening government processes and protections.

## SIGNIFIGANT LEGISLATION

### APPAREL INDUSTRY

The apparel industry operates in a global marketplace which limits the ability of the State DOL to adequately regulate manufacturers and protect workers' rights. Many garment-industry jobs which were once performed by American workers have been outsourced to other countries because of the cheaper costs of labor abroad. Unfortunately, we are not immune to worker abuse even in New York State. Some apparel-manufacturers located in New York State are guilty of abusive and exploitative labor, as evidenced by the recent investigation of Jin Shun Inc. of Queens in July of 2008. This investigation revealed that Jin Shun had underpaid its workers by \$2.5 million and forced its employees to work ninety straight days. The Labor Committee has sought to end such abusive practices by advancing legislation that assists workers in securing wages, safety and health protections, and manageable work weeks as well as educating workers to their rights and helping non-English-speaking workers interact with management and the DOL for their labor protections. Further, the Labor Committee has sought to pass legislation aimed at educating consumers about the plight of sweatshop workers in order to bring market pressure to bare against companies which use abusive and exploitative labor.

#### 1. Significant Legislation included:

- (a) **Chapter 62 of 2008:** Requires the apparel industry special task force to submit annual reports to the governor, legislature and chairpersons of legislative labor committees. These reports will describe the number of complaints and investigations by the Department of Labor into apparel industry abuse. They will also detail the number of investigators employed by the department, the annual amount of money allocated to such investigations and any recommendations the department may have for improving enforcement efforts against apparel manufacturers and contractors who violate the law. **A6350 (Ortiz)/ S4473 (Maltese).**
- (b) **A5923 (John)/ S6860 (Maltese):** Would provide for the labeling of apparel manufactured without the use of abusive and exploitative labor. This bill passed both Houses and was vetoed by the Governor in message 15.
- (c) **A891 (Englebright)/ S4249 (Maltese):** Would prohibit public universities and community colleges from licensing their trademarks for use on unlawfully manufactured apparel. This bill passed both Houses and was vetoed by the Governor in message 158.

## SIGNIFIGANT LEGISLATION

### FARM AND DOMESTIC WORKER PROTECTIONS

Articles five and six of the Labor Law contain some of the most basic wage and hour protections that New Yorkers assume are guaranteed to every worker: the right to a day of rest, to a forty-hour workweek and to a minimum wage. However, farm workers and domestic workers are explicitly excluded from these statutory protections. The Labor Committee is committed to guaranteeing these workers the same basic rights that other workers enjoy. Specifically, the committee will continue to fight for the right of farm and domestic workers to a day of rest, adequate wages, safety and health protections, and the right to organize.

#### 1. Significant Legislation included:

- (a) **A7528 (Nolan)/ S3884 (Flanagan):** Would enact the farm workers fair labor practices act, granting collective bargaining rights, workers' compensation and unemployment benefits to farm workers. This bill advanced to third reading calendar 794.
- (b) **A11425A (Wright):** Would allow farm workers and domestic workers one day of rest each week and overtime pay. This bill was ordered to third reading rules calendar 554.



## SIGNIFIGANT LEGISLATION

### OCCUPATIONAL SAFETY AND HEALTH

One goal of the Labor Committee is to consider legislation that will prevent workplace injuries and protect the health of New York's workforce. Such legislation helps protect lives and lowers employer's workers' compensation premiums. Occupational Safety and Health programs offer opportunities for employee-management partnerships wherein both parties benefit from their cooperation to avoid unnecessary injury and expense. Such programs drastically decrease the number of workers who are hurt on the job as well as the severity of injuries that do occur. The committee continues to reach out to organized labor in order to address current problems in this area and to expand these programs whenever possible.

#### 1. Significant Legislation included:

- (a) **Chapter 4 of 2008:** Relates to health concerns associated with the renovation of cafeterias in school districts in the city of New York. **A9428A (John)/ S6487B (Maziarz).**
- (b) **Chapter 31 of 2008:** Relates to permitting employees to donate blood during work hours. **A9429 (Gottfried)/ S6490 (Nozzolio).**
- (c) **Chapter 47 of 2008:** Relates to compliance with new regulations providing for safety equipment for certain firefighters. **A9473 (John)/ S6500 (Maziarz).**
- (d) **Chapter 91 of 2008:** Establishes a task force on toll plaza air quality in New York City. **9458 (Abbate)/ S6488B (Maltese).**
- (e) **Chapter 100 of 2008:** Requires airports to post signs which state the laws and penalties relating to assault or intimidation of airport employees, and requires these signs to contain the telephone numbers of local law enforcement personnel. **A2936 (Abbate)/ S889 (Trunzo).**
- (f) **Chapter 111 of 2008:** Extends the effectiveness of safety regulations relating to industry work practices, procedures and standards applicable to high voltage, electrical power lines. **A10266 (Magnarelli)/ S7222 (Robach).**
- (g) **Chapter 139 of 2008:** Creates regulatory changes to Self Insurance workers' compensation programs. A portion of this law included a long awaited \$4 million appropriation for 2009 Occupation Safety and Health programs. **A11756 (John)/ S8708 (Rules).**
- (h) **Chapter 229 of 2008:** Creates sanctions against asbestos violators and successors. This law granted the Commissioner of Labor discretion to deny the issuance or renewal of

asbestos licenses to entities who have previously committed serious asbestos violations and their successors. It increased the civil penalties associated with initial and subsequent violations and provided for license revocation and debarment of substantially owned affiliated entities of asbestos violators. **A7702 (John)/ S3712 (Maziarz)**.

- (i) **A4508B (John)/ S6913 (Maltese)**: Would create a dedicated occupational safety and health training and education and occupational health clinic programs fund. This bill would link funding for occupational training and health education and occupational health clinics to the annual increase in the maximum workers' compensation benefit instituted in 2007. This bill passed the Assembly and died in the Senate Rules Committee.
- (j) **A4921 (Schroeder)/ S2715 (Stachowski)**: Would authorize and direct the department of labor to study hostile workplace behavior and its consequences. This bill was ordered to third reading on calendar 392.
- (k) **A11532 (Lancman)/ S8490 (Lanza)**: Would require the buildings department in New York City to report to the Occupational Safety and Health Administration any code violations which would potentially endanger workplace safety as well as to submit an annual report on such referrals. This bill was referred to the Assembly Rules Committee.

## SIGNIFIGANT LEGISLATION

### PAY EQUITY

Gender pay discrimination is not a problem of the past. Women of all races continue to be paid less than their male counterparts. Sometimes job titles are used to circumvent pay equality. By providing a woman with a different job title, but with the same or substantially similar duties as their male counterpart, employers are able to circumvent pay equity laws. The Labor Committee remains devoted to creating and supporting legislation aimed at providing the same pay for substantially the same job, regardless of the gender or race of the worker who holds the position.

#### 1. Significant Legislation included:

- (a) **A2712 (John)/ S3936 (Johnson):** Would enact the New York State Fair Pay Act. It would require employers to establish a job comparison system in order to eliminate discriminatory wage practices which traditionally undervalue the work of women and minorities performing substantially the same work as men under different job titles. Passed Assembly and died in Senate.
- (b) **A6959A (Lifton)/ S2665A (Stavisky):** Would make it a discriminatory practice to compensate employees of different sexes differently for work that is of comparable worth. Passed Assembly and died in Senate.

## SIGNIFIGANT LEGISLATION

### PREVAILING WAGE

Article eight of the New York State Labor Law requires that employees working under government contracts be paid the prevailing wages for all public work. The prevailing wage is the median wage paid to workers in a specific locality and is determined by the State Department of Labor. Separate prevailing wages are determined and set for each county and trade. State agencies, counties, municipalities and all other political subdivisions of the state award public contracts under which prevailing wage and supplement rates apply. The Labor Committee is committed to enforcing the prevailing wage law and to increasing employee knowledge of their rights in this area.

#### 1. Significant Legislation included:

- (a) **Chapter 8 of 2008:** Increases the penalties against contractors who willfully fail to pay the prevailing wage to their employees and authorizes criminal felony charges against these employers. The bill will further improve enforcement by mandating that local governments collect the payroll records of contractors who perform public work. **A9483A (Alessi)/ S6519A (Flanagan).**
- (b) **A2720A (John)/ S6077A (Maziarz):** This bill would increase enforcement options for the Department of Labor against contractors who establish a pattern and practice of continually using subcontractors who violate the prevailing wage laws. Passed Assembly and died in Senate.
- (c) **A3629A (John):** This bill would create an action for damages against a contractor for failure to pay prevailing wages or taxes, contributions, assessments, or benefits. Passed Assembly and died in Senate.
- (d) **A6598A (John)/ S6797 (Marcellino):** This bill would include certain off-site custom fabrication work as public work for the purposes of payment of prevailing wage. This bill was ordered to third reading rules calendar 565.

## SIGNIFIGANT LEGISLATION

### UNEMPLOYMENT INSURANCE

Unemployment insurance (UI) is designed to be a safety net wherein workers who are ready, able and willing to work, but have lost their jobs, can receive benefits until they find new employment. Unemployment insurance benefits help workers to meet their basic needs. In this changing economy UI training under the section 599 program is essential to assist individuals in learning new work skills or upgrading existing skills for which there are reasonable current or expected employment opportunities associated with those skills. Unemployment insurance benefits also function as “automatic stabilizers” that help the state economy during times of economic hardship by providing liquidity to unemployed workers who are likely to spend the money immediately, thereby providing liquidity to businesses. The benefits are paid from an unemployment insurance fund which is funded both through employer contributions and federal grant money. However, the state unemployment insurance benefit has not been raised since 2001 to reflect the increased cost of living. Even with the current inadequate maximum UI benefit, the recent economic downturn has caused a spike in unemployment rates and threatens to cause fund insolvency. This year the Labor Committee supported a number of bills designed to overhaul the unemployment insurance system in New York. The committee remains dedicated to increasing fund efficiency and providing an adequate benefit to all workers facing unemployment.

#### 1. Significant Legislation included:

- (a) **Chapter 369 of 2008:** Allows an individual filing for unemployment benefits to elect the deduction and withholding of state income tax. **A9868 (Paulin)/ S7737 (Maziarz).**
- (b) **Chapter 551 of 2008:** Relates to the confidentiality of unemployment insurance information. **A10848 (John)/ S8206 (Robach).**
- (c) **Chapter 634 of 2008:** Extends provisions relating to the registration of agents by the unemployment appeal board. **A11638 (Alfano)/ S8425 (Alesi).**
- (d) **A2515 (John)/ S4845 (Maziarz):** Would mandate that any provisions which make eligibility contingent upon the presence or absence of reasonable assurance of continued employment shall not apply to part-time professional employment in an instructional, research, or principally administrative capacity with SUNY, CUNY and any public community college. This bill was reported to the Ways and Means Committee.
- (e) **A6597A (John)/ S8099 (Thompson):** Would include non-professional employees in addition to professional employees employed by certain educational institutions in relation to their eligibility to receive unemployment benefits. This bill was reported to the Ways and Means Committee.

- (f) **A11637 (John):** Would institute many important reforms to the state's unemployment insurance program. It would incrementally raise the unemployment insurance benefit to one-half the average weekly wage in 2010 while also raising the taxable wage base to fund the benefit. It would address concerns relating to voluntary separation from employment and mandate that the claims of professional and non-professional employees of academic institutions be judged on a case-by-case basis. In addition, the bill would increase funding to unemployment retraining programs, increase the amount of remuneration an employer must pay in order to be liable for unemployment insurance payments and allow survivors of domestic abuse who must leave work because of their abuse to receive benefits. This bill was reported to the Ways and Means Committee.
- (g) **A11642 (John):** Would incrementally raise the unemployment insurance benefit until it reaches one-half the average weekly wage in 2010, incrementally raise the taxable wage base for unemployment insurance and index it to inflation, and increase the benefit for low wage workers from 1/25<sup>th</sup> to 1/22<sup>nd</sup> of their highest quarter pay. This bill was reported to the Ways and Means Committee.
- (h) **A11740 (John):** Would relate to the duration of entitlement to unemployment insurance benefits and claims. Passed Assembly and died in Senate.

## SIGNIFIGANT LEGISLATION

### WORKERS' COMPENSATION

Workers' Compensation insurance provides coverage for employees, who become disabled as a result of disease or injury connected with their employment, with weekly income payments and 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 Labor Committee is committed to making the Workers' Compensation system more efficient and effective for both employers and employees.

#### 1. Significant Legislation included:

- (a) **Chapter 11 of 2008:** Replaces the Workers Compensation Rating Board with the Superintendent of Insurance for most functions relating to the rate-setting of workers compensation premiums. The bill also switched the system of rate setting for workers compensation premiums to a "loss cost" system. **A9817 (John)/ S6798 (Maziarz).**
- (b) **Chapter 130 of 2008:** Secured \$4 million in funding for the Occupational Safety and Health Training and Education and Occupational Training and Health Clinics programs. See also Occupational Health and Safety section I (g).
- (c) **Chapter 322 of 2008:** Requires workers' compensation insurance carriers, as well as the State Insurance Fund (SIF), to notify the Chair of the Workers Compensation Board within thirty days of the issuance, amendment, or reinstatement of insurance contracts. It established penalties against carriers, SIF and group self-insured trusts for failing to furnish such notification within the required time period. **A11700 (Benedetto)/ S8400 (Robach).**
- (d) **Chapter 392 of 2008:** Establishes the Livery Driver Benefit Fund in order to fund workers' compensation coverage for livery drivers. The law sets up a fund as a type-c not-for-profit corporation and established a board of directors to oversee the fund. The statute establishes various penalties and appeals processes for violations and mandated that the presumptive wage for the geographic area in which the independent livery base operates will be the basis for the calculation of lost wages when workers compensation claims are approved. **A11759 (Espaillat)/ S 8715 (Rules).**
- (e) **A9153 (Peralta)/ S6260 (Libous):** This bill would stipulate that black car operators who are injured on the job must be in the course of a dispatch in order to receive workers compensation payments from the New York Black Car Operators' Injury Compensation Fund. Passed both Houses and was vetoed by the Governor in message 160.
- (f) **A4128 (Perry)/ S7849 (Robach):** This bill would require employers to provide to employees injured on the job all the information necessary to file a workers' compensation claim. Passed both Houses and was vetoed by the Governor in message 168.

## SIGNIFICANT LEGISLATIVE PROPOSALS 2008

### WICKS LAW REFORM

**Chapter 57 of 2008:** This statute balances the interests of fair, competitive bidding protections with cost savings and efficiencies for local governments. Originally, the Wicks Law was created to combat corruption, prevent fraud, increase expertise on projects and protect the constitutional rights of workers to the prevailing wage. This reform raised the monetary threshold under which the Wicks provisions apply, allowed for the use of cost-saving Project Labor Agreements at the discretion of local governments, established a sealed-bid list for subcontractors and required the prompt payment of subcontractors by general contractors. This law protects the rights of workers, increases project efficiency by establishing policies aimed at avoiding costly labor disputes, and saves local governments money. **A9808C/S6807C (Budget).**

### REGISTRATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS

**Chapter 201 of 2008:** This law established that two or more violations of the registration requirements of professional employee organizations shall result in the revocation of that organization's registration and a prohibition against a new issuance within two years. In addition it established civil penalties against both the PEO and its client and increased criminal penalties against both the PEO and its client for knowingly failing to comply with registration requirements. **A10850 (Kavanagh)/ S8209 (Robach).**

### WORKFORCE INVESTMENT BOARD

**Chapter 355 of 2008:** Requires veterans and individuals with experience in mature worker issues to be on the New York State Workforce Investment Board. **A9649B (Schimminger)/ S6634C (Alesi).**

### BROADCAST EMPLOYEES FREEDOM TO WORK ACT

**Chapter 398 of 2008:** This law codifies and strengthens the prohibition of media executives from the practice of implementing non-compete clauses, barring radio and television personalities from working in a given geographic market following tenure with such employer. **A2124A (John)/ S2393A (Leibell).**

### STATE WARN WORKER PROTECTIONS

**Chapter 475 of 2008:** This Labor departmental increases the protections of the federal Worker Adjustment and Retraining Notification Act (WARN) in order to provide employees with greater notification of layoffs. This law requires employers with fifty or more employees to give ninety days notice to workers prior to laying them off, while allowing for situational exceptions. This



law and its wage protections will give workers more time to prepare for pending unemployment. **A10847 (Eddington)/ S8212 (Robach).**

## **MANDATORY NURSE OVERTIME**

**Chapter 493 of 2008:** This law will end compulsory overtime for nurses in hospitals and private and public health-care facilities. This law limits the managerial practice of mandatory overtime except in certain emergency situations. Mandatory overtime decreases an overworked nurse's ability to adequately provide care and exacerbates the nursing shortage by providing workers with an unpleasant working situation. This law will raise the level of care by providing patients with rested nurses while making nursing more attractive as an employment field. **A11711 (Gunther)/ S8637 (Morahan).**

## **REPLACEMENT WORKERS**

**Chapter 609 of 2008:** This law excluded lockouts from the category of industrial controversies that result in the suspension of an employee's right to accumulate benefits. It mandated that an employee is exempted from the seven-week suspension of benefit accumulation normally associated with certain industrial controversies once his or her employer hires a permanent replacement worker. It further stated that replacement workers are presumed to be permanent unless an employer certifies in writing that they will hire back the original employee following termination of the industrial controversy. The law made the employer liable for a fine per week per employee which the employer certifies they will re-hire, but does not. **A11271 (Nolan)/ S6489-A (Marcellino).**

## **FIREWORKS AND EXPLOSIVES**

**A9006B (Lancman)/ S3911B (Maziarz):** This Labor departmental bill would grant the Department of Labor greater ability to regulate explosives. The bill would allow the DOL greater regulatory and enforcement power to seize illegal and illegally-stored explosives and to promulgate regulations for the certification of workers handling and transporting such explosives. The intent of this bill is to provide the department with the ability to address modern security and safety concerns in the explosives and pyrotechnics industries. This bill was delivered to the Senate where it was referred to the Rules Committee.

## **MINIMUM WAGE INCREASE**

**A9186A (Silver):** This bill would increase the state's hourly minimum wage from \$7.15 to \$7.75 in 2009, \$8.00 in 2010, \$8.25 in 2011 and on and after 2012 index the minimum wage to inflation. This bill would continue to keep New York's minimum wage above the federal minimum wage, thereby reflecting the higher cost of living in this state. The bill aims to increase the earning and spending power of those workers earning the lowest wages in the state. Such earning power increases self-sufficiency, helps the economy and functions as a kind of safety net that keeps workers off of public assistance. The bill was reported and advanced to third reading.

## **WAGE AND HOUR ENFORCEMENT**

**A10852 (Zebrowski)/ S8208 (Robach):** This bill would enhance the enforcement of employee wage and hour protections for workers by allowing the Commissioner of the Department of Labor to bring an action on behalf of workers for unpaid wages as well as to recover 25% of the wages due. The bill shifts the burden of proof to employers to prove that underpayment of their employees was in compliance with the law, similar to the Fair Labor Standards Act. The bill also increased penalties against employers for underpayment of wages. This bill advanced to third reading on calendar 1123.

## OUTLOOK FOR 2009

In 2009 the Labor Committee will continue its obligation to protect the rights of workers and to establish policies that enhance efficiency in government. The committee remains dedicated to expanding basic workers' rights to the underprivileged and addressing the needs of workers and businesses around the state. In addition to many other issues, the Labor Committee faces the following specific challenges in 2009:

**Paid Family Leave:** This year the Assembly introduced and supported a Paid Family Leave bill which would amend the Temporary Disability section of the Workers' Compensation Law to grant an employee the ability to take time off of work to care for a sick parent or partner, or to bond with a newborn or adopted child. The Committee remains committed to passing a Paid Family Leave bill which would provide an adequate benefit to all employees so that workers will not have to choose between their jobs and the health of their loved ones.

**Unemployment Insurance Reform:** Recent reports by the Commissioner of the Department of Labor as well as the Fiscal Policy Institute and the National Employment Law Project (NELP) project that, due to the economic downturn and subsequent rise in unemployment, the unemployment insurance fund will become insolvent early in 2009. At the same time the maximum UI benefit has not been adjusted since 2001 and is inadequate to allow a worker to continue to afford food, utilities, rent and healthcare as he or she seeks new employment. In addition to these problems there is a heightened need in the current changing economy to increase the funding for UI retraining programs and to address the process wherein certain employees are excluded from UI benefits. The Committee will continue to advocate for many changes to the UI program in 2009.

**Employee Misclassification:** The misclassification of an employee as an "independent contractor" allows employers to avoid unemployment and workers' compensation payments and frees the employer from many other tax and safety regulations. In February, 2008, the Governor's office released its "Report of the Joint Enforcement Task Force on Employee Misclassification," and discussion is now underway establishing classification methods. The committee remains committed to implementing policy aimed at curbing misclassification.

**Minimum Wage:** In 2009 the Committee will continue to advocate raising the minimum wage. The cost of living in New York is higher than many other states in the nation, and the current minimum wage is inadequate to meet the basic needs of workers in New York, even taking into consideration the scheduled federal increase to \$7.25 in 2009. Raising the minimum wage helps the economy by providing those who are most likely to spend money with more money. It also functions as a safety net which saves government tax dollars by keeping individuals off of public assistance. However, this safety net only functions if the minimum wage is sufficient to allow a worker to purchase food, utilities, health care, gas and rent.

**Pay Equality:** While the Assembly passed numerous pieces of legislation aimed at pay equality, for instance **A2712 (John)**, **A7404 (Rosenthal)**, **A6959A (Lifton)** and **A957 (Destito)**, these bills did not pass the Senate. The Labor Committee will continue to fight for equal pay for jobs that are fundamentally the same.

APPENDIX A

**2008 SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE LABOR COMMITTEE**

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE	6	0	6
TO FLOOR; RECOMMITTED AND DIED	0	0	0
TO WAYS AND MEANS	20	0	20
TO CODES	42	0	42
TO RULES	9	0	9
TO JUDICIARY	0	0	0
TOTAL	77	0	77
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO _____ COMMITTEE			
TO _____ COMMITTEE			
TO _____ COMMITTEE			
TO _____ COMMITTEE			
TOTAL	0	0	0
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		18	18
RECALLED		0	0
TOTAL		18	18
<b>BILLS DEFEATED IN COMMITTEE</b>	0	0	0
<b>BILLS NEVER REPORTED, HELD IN COMMITTEE</b>	52	0	52
<b>BILLS NEVER REPORTED, DIED IN COMMITTEE</b>	190	20	210
<b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>	1	0	1
<b>MOTIONS TO DISCHARGE LOST</b>	0	0	0
<b>TOTAL BILLS IN COMMITTEE</b>	320	38	358
<b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>	12		

APPENDIX B

**2008 ENACTED LABOR LEGISLATION**

chp. 4	Relates to standards and requirements for public school cafeterias in school districts of cities with a population of one million or more	A9428A John
chp. 7	Relates to the prevailing wage paid by individuals who are awarded public works contracts	A8582A Alessi
chp. 8	Relates to guaranteeing payment of prevailing wages to the workers of New York state	A9483A Alessi
chp. 11	Relates to rates for workers' compensation insurance and sets forth conditions for a workers' compensation rate service organization; repealer	A9817 John
chp. 31	Relates to permitting employees to use leave time to donate blood; allows employers to comply with provisions requiring the use of leave time by employees for the purposes of donating blood by allowing employees to participate in blood drives at the place of employment without the use of leave time	A9429 Gottfried
chp. 47	Relates to compliance with new regulations for safety equipment for certain firefighters	A9473 John
chp. 62	Requires the apparel industry special task force to submit annual reports to the governor, legislature and chairpersons of legislative labor committees	A6350 Ortiz
chp. 63	Requires that workers receive written notification of the prevailing wage rates and supplements	A9427 Brodsky
chp. 89	Directs the commissioner of labor to promulgate rules and regulations necessary to implement the provisions of article 4-A of the labor law, relating to the employment and education of child performers	A9158A Weinstein
chp. 91	Establishes a seventeen member task force on toll plaza air quality in New York City; establishes the powers and duties of such task force; requires such task force to report its findings, conclusions, recommendations and	A9458 Abbate

	activities already undertaken by the task force to the governor and the legislature	
chp. 100	Requires airports to post signs stating the laws and penalties relating to crimes of assaulting an airport employee and providing telephone numbers to call law enforcement officials for those witnessing such acts	A2936 Abbate
chp. 111	Extends the effectiveness of chapter 206 of the laws of 1974, relating to industry work practices, procedures and standards applicable to energized high voltage line until July 1, 2013	A10266 Magnarelli
chp. 139	Relates to individual and group self-insurers and security for payment of compensation and a default offset fund, creates a task force on group self-insurers	A11756 Rules (John)
chp. 201	Relates to the registration of professional employer organizations	A10850 Kavanagh
chp. 229	Establishes sanctions against asbestos violators and successors	A7702 John
chp. 322	Requires notification of the issuance, amendment or reinstatement of insurance contracts and imposes penalties for failure to notify	A11700 Rules (Benedetto)
chp. 355	Requires the governor to appoint one veteran and one individual with experience in mature worker issues who are nominated from a list provided by the New York state AFL-CIO to the New York state workforce investment board; increases the number of members from forty-one to forty-nine	A9649B Schimminger
chp. 369	Allows an individual filing for unemployment benefits to elect the deduction and withholding of state income tax from the individual's payment of unemployment benefits	A9868 Paulin
chp. 392	Establishes a livery driver benefit fund	A11759 Rules (Espaillat)
chp. 398	Enacts the "broadcast employees freedom to work act"	A2124A John

chp. 475	Enacts the worker adjustment and retraining notification (WARN) act	A10847 Eddington
chp. 493	Restricts consecutive hours of required work by nurses	A11711 Rules (Gunther)
chp. 551	Relates to the confidentiality of unemployment insurance information	A10848 John
chp. 591	Requires public utility companies, their contractors and subcontractors, to certify their payrolls when applying for a permit to use or open a street	A10774 Gianaris
chp. 609	Provides that otherwise applicable waiting periods for unemployment benefit rights in industrial controversies do not apply to certain employer-hired replacement workers	A11271 Nolan
chp. 619	Requires certain individuals or entities to provide payment bonds under certain circumstances	A2457 John
chp. 634	Extends provisions relating to the registration of agents by the unemployment appeal board until December 31, 2010	A11638 Rules (Alfano)

APPENDIX C

**2008 LABOR LEGISLATION PASSED ASSEMBLY ONLY**

A149 Lafayette	Provides mandatory leave of absence for employees in private business who are organ or bone marrow donors and insurance reimbursement to employers for wages
A786 Wright	Requires police officers who have discharged their weapon in the course of their employment to be tested for the presence of drugs and/or alcohol
A787A Latimer	Provides that the failure to post a statement of wage rates and supplements shall be subject to prosecution as a misdemeanor and subject to a civil penalty
A1378 Brodsky	Establishes a nuclear whistleblower access and assistance program to promote public health and safety
A1725 Peralta	Authorizes the commissioner of labor to implement rules and regulations regarding the removal of lead, asbestos and other hazardous waste
A1726 Peralta	Requires farm labor contractors to provide certified copies of payroll records to the commissioner of labor
A2325 John	Establishes on-track safety standards for New York City transit authority employees
A2483 Morelle	Provides for the creation of the manufacturing technology act to provide grant assistance for retraining and upgrading existing factories
A2712 John	Enacts the New York state fair pay act
A2718 John	Provides that every procurement contract entered into by a state agency shall contain a statement from the contractor that no forced labor was used
A2720A John	Relates to contractors who continually use sub-contractors who fail to pay the prevailing wage
A3628 John	Provides that utility companies shall use competent workers and shall pay the prevailing wage on projects where a permit to use or open a street is issued
A3629A John	Creates an action for damages against a contractor for failure to pay prevailing wages or taxes, contributions, assessments, or benefits
A4508B John	Relates to the dedicated occupational safety and health training and education and occupational health clinic programs fund



A4920 Schroeder	Requires state agencies to provide labor organizations with certified payroll records of the contractors hired to perform public work by such agency
A5111 Hooper	Permits the workers' compensation board chair and members to teach in institutions of higher education if to do so would not conflict with their duties as board members
A9006B Lancman	Relates to the regulation of explosives
A9228 Cusick	Relates to work hours for lifeguards
A10628A Bradley	Prohibits employers from using an employees' social security number for identification purposes
A10790 Magnarelli	Makes permanent chapter 206 of the laws of 1974, relating to industry work practices, procedures and standards applicable to energized high voltage lines
A10851 Latimer	Requires employees to be given written notice of the terms and conditions of employment and acknowledge in writing the receipt thereof
A11740 Rules (John)	Relates to the duration of entitlement to unemployment insurance benefits and claims

## APPENDIX D

### 2008 BILLS REPORTED BY THE LABOR COMMITTEE

**A891 (Englebright)/ S4249 (Maltese):** Would prohibit public universities and community colleges from licensing their trademarks for use on unlawfully manufactured apparel. This bill passed the Assembly and was returned to the Senate.

**A1378 (Brodsky)/ S250 (Morahan):** Would establish a nuclear whistleblower access and assistance program to promote public health and safety. This bill passed the Assembly and was returned to the Senate where it was referred to Rules.

**A2457 (John)/ S7180 (Robach):** Would require certain individuals or entities to provide payment bonds under certain circumstances. This bill passed the Assembly and was returned to the Senate.

**A2718 (John)/ S6927 (Trunzo):** Would provide that every procurement contract entered into by a state agency shall contain a statement from the contractor that no forced labor was used. This bill passed the Assembly and was returned to the Senate where it was referred to Rules.

**A2720A (John)/ S6077A (Maziarz):** Would relate to contractors who continually use sub-contractors who fail to pay the prevailing wage. This bill passed the Assembly and was returned to the Senate where it was referred to Rules.

**A2723 (John)/ S6078 (Maziarz):** Would require that a contractor or sub-contractor may not engage another person to do work on a public works project unless it is pursuant to a written agreement. This bill passed the Assembly and was returned to the Senate where it was referred to Rules.

**A2900 (Alessi):** Would provide that employers may not fire volunteer firefighters and medical services personnel who respond to states of emergency in New York. This bill advanced to third reading on calendar 859.

**A2936 (Abbate)/ S889 (Trunzo):** Requires airports to post signs stating the laws and penalties relating to crimes of assaulting an airport employee. This bill was delivered to the Governor and signed into law in chapter 100.

**A3629A (John):** Would create an action for damages against a contractor for failure to pay prevailing wages or taxes, contributions, assessments, or benefits. This bill passed the Assembly and was returned to the Senate where it was referred to Rules.

**A3897 (Brodsky)/ S2038 (Lavalle):** Would include Lyme disease as an occupational disease which is compensable under the workers' compensation law. This bill was delivered to the Governor and vetoed in message 66.

**A4128 (Perry)/ S7849 (Robach):** Would require employers to provide to employees injured on the job all information necessary to file a workers' compensation claim. This bill passed the Assembly and was returned to the Senate.

**A4508B (John)/ S6913 (Maltese):** Would relate to the dedicated occupational safety and health training and education and occupational health clinic programs fund. This bill passed the Assembly and was returned to the Senate where it was referred to Rules. See also Occupational Safety and Health section I (g).

**A4921 (Schroeder)/ S2715 (Stachowski):** Would authorize and direct the department of labor to study hostile workplace behavior and its consequences. This bill was ordered to third reading on calendar 392.

**A5923 (John)/ S6860 (Maltese):** Would provide for the labeling of apparel manufactured without the use of abusive and exploitative labor. This bill was delivered to the Governor and vetoed in message 15.

**A6350 (Ortiz)/ S4473 (Maltese):** Requires the apparel industry special task force to submit annual reports to the governor, legislature and chairpersons of legislative labor committees. This bill was delivered to the Governor and signed into law in chapter 62.

**A6598A (John)/ S6797 (Marcellino):** Would relate to the inclusion of certain off-site custom fabrication as public work for the purposes of payment of prevailing wage. This bill was ordered to third reading rules calendar 565.

**A6929 (Parment)/ S3552 (Young):** Would authorize minors who are members of a religious community to engage or assist in employment which minors are otherwise prohibited from performing. This bill was committed to Codes.

**A7528 (Nolan)/ S3884 (Flanagan):** Would enact the Farmworkers Fair Labor Practices Act, granting collective bargaining rights, workers' compensation and unemployment benefits to farmworkers. This bill advanced to third reading calendar 794.

**A7702 (John)/ S3712 (Maziarz):** Establishes sanctions against asbestos violators and successors. This bill was delivered to the Governor and signed into law in chapter 229.

**A9006B (Lancman):** Would relate to the regulation of explosives. This bill passed the Assembly and was returned to the Senate where it was referred to Rules.

**A9153 (Peralta)/ S6260 (Libous):** Would relate to the New York Black Car Operators' Injury Compensation Fund, Inc. This bill passed the Assembly and was returned to the Senate.

**A9168A (Silver):** Would raise the minimum wage and makes technical corrections relating thereto. This bill was ordered to third reading rules calendar 38.

**A9427 (Brotsky)/ S6493 (Leibell):** Provides technical corrections to chapter 629 of the laws of 2007. This bill was delivered to the Governor and signed into law in chapter 63.

**A9428A (John)/ S6487B (Maziarz):** Relates to the renovation of cafeterias in school districts of N.Y. city; repealer. This bill was delivered to the Governor and signed into law in chapter 4.

**A9429 (Gottfried)/ S6490 (Nozzolio):** Relates to permitting employees to use leave time to donate blood. This bill was delivered to the Governor and signed into law in chapter 31.

**A9458 (Abbate)/ S6488B (Maltese):** Establishes a task force on toll plaza air quality in New York city; repealer. This bill was delivered to the Governor and signed into law in chapter 91.

**A9473 (John)/ S6500 (Maziarz):** Relates to compliance with new regulations for safety equipment for certain firefighters. This bill was delivered to the Governor and signed into law in chapter 47.

**A9483A (Alessi)/ S6519A (Flanagan):** Relates to guaranteeing payment of prevailing wages to the workers of New York state; repealer. This bill was delivered to the Governor and signed into law in chapter 8, as noted in approval memo 2.

**A9649B (Schimminger)/ S6634C (Alesi):** Requires veterans and individuals with experience in mature worker issues to be on the New York state workforce investment board. This bill was delivered to the Governor and signed into law in chapter 355.

**A9817 (John)/ S6798 (Maziarz):** Relates to rates for workers' compensation insurance and sets forth conditions for a workers' compensation rate service organization; repealer. This bill was delivered to the Governor and signed into law in chapter 11.

**A9868 (Paulin)/ S7737 (Maziarz):** Allows an individual filing for unemployment benefits to elect the deduction and withholding of state income tax. This bill was delivered to the Governor and signed into law in chapter 369.

**A10266 (Magnarelli)/ S7222 (Robach):** Extends the effectiveness of chapter 206 of the laws of 1974, relating to industry work practices, procedures and standards applicable to energized high voltage line. This bill was delivered to the Governor and signed into law in chapter 111.

**A10628A (Bradley)/ S7828A (Leibell):** Would prohibit employers from using an employee's social security number for identification purposes. This bill passed the Assembly and was returned to the Senate where it was referred to Rules.

**A10774 (Gianaris)/ S7916A (Padavan):** Would require public utility companies applying for a permit to use or open a street to comply with certain provisions applicable to public work. This bill passed the Assembly and the Senate and was returned to the Assembly.

**A10785 (Hevesi)/ S1629A (Maziarz):** Would relate to the appointments to the public work advisory board. This bill was delivered to the Governor and vetoed in message 12.

**A10790 (Magnarelli)/ S8304 (Robach):** Would make permanent chapter 206 of the laws of 1974, relating to industry work practices, procedures and standards applicable to energized high voltage line. This bill passed the Assembly and was delivered to the Senate.

**A10847 (Eddington)/ S8212 (Robach):** Enacts the worker adjustment and retraining notification (WARN) act. This bill was delivered to the Governor and signed into law in chapter 475.

**A10848 (John)/ S8206 (Robach):** Relates to the confidentiality of unemployment insurance information. This bill passed both the Senate and Assembly and was signed by the Governor as chapter 551.

**A10850 (Kavanagh)/ S8209 (Robach):** Relates to the registration of professional employer organizations. This bill was delivered to the Governor and signed into law in chapter 201.

**A10851 (Latimer)/ S8211 (Robach):** Would require employees to be given written notice of the terms and conditions of employment and acknowledge in writing the receipt thereof. This bill passed the Assembly and was delivered to the Senate.

**A10852 (Zebrowski)/ S 8208 (Robach):** Would enhance enforcement of employee wage and hour protections. This bill advanced to third reading on calendar 1123.

**A11271 (Nolan)/ S6489A (Marcellino):** Relates to waiting periods for benefits in the case of certain permanent replacement workers. This bill passed the Assembly and was returned to the Senate.

**A11425A (Wright):** Allows farm workers and domestic workers one day of rest each week and overtime pay. This bill was ordered to third reading rules calendar 554.

**A11638 (Alfano)/ S8425 (Alesi):** Extends provisions relating to the registration of agents by the unemployment appeal board. This bill passed the Assembly and was returned to the Senate.

**A11676 (John):** Provides that certain people or corporations shall be ineligible to submit a bid on or be awarded public contracts under certain circumstances. This bill was ordered to third reading rules calendar 766.

**A11700 (Benedetto)/ S8400 (Robach):** Requires notification of the issuance, amendment or reinstatement of insurance contracts and imposes penalties for failure to notify. This bill was delivered to the Governor and signed into law in chapter 322.

**A11711 (Gunther)/ S8637 (Morahan):** Restricts consecutive hours of required work by nurses. This bill was delivered to the Governor and signed into law in chapter 493, as noted in approval message 27.

**A11740 (John):** Relates to the duration of entitlement to unemployment insurance benefits and claims. This bill passed the Assembly and was delivered to the Senate.

**A11756 (John)/ S8708 (Rules):** Relates to individual and group self-insurers and security for payment of compensation and a default offset fund, creates a task force on group self-insurers. This bill was delivered to the Governor and signed into law in chapter 149.

**A11759 (Espaillat)/ S 8715 (Rules):** Establishes livery driver benefit fund. This bill was delivered to the Governor and signed into law in chapter 392.