

# 2018 Legislative Wrap-Up Paid Family Leave Update

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Working to create economic growth, good jobs and strong communities across New York State.

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# Trump Changes

## Department of Labor

- Drug testing for unemployment benefits
- Prohibition on tip pooling
- Persuader rule
- Administrators Interpretation 2015-01 – Independent Contractors
- Administrators Interpretation 2016-01 – Joint Employers
- Overtime Rule



# Trump Changes

- Obama Era Revised Form EEO-1
  - On August 29, 2017, the Office of Management and Budget announced it was suspending implementation of the revised form to review effectiveness
  - EEO-1 Form must be filed by March 31, 2018 – providing traditional EEO information. No salary data required
- Supreme Court - *Janus vs AFSCME*
- PAID program

# Trump and the NLRB

- *Hy-Brand Industrial Contractors (365 NLRB No. 156 (2017))* – Reverses Browning-Ferris re: Joint Employment
- General Counsel Memo GC-18-02 rescinds GC-15-04
  - Policies and Procedures (Employee Handbooks)
    - Disrespectful Conduct
    - Use of Company Logo
    - No Camera/Recording
  - Use of employer's email system (*Purple Communications*)

“Now we have a challenging time because we have a federal government that is against everything this state stands for.”

- Governor Cuomo



# The Governor's "Lurch to the Left"

- Workers' Compensation reforms
- Ban on plastic bags
- Voting rights for parolees
- Renewable energy
- Gun control
- Legalized recreational marijuana
- ICE Executive Order

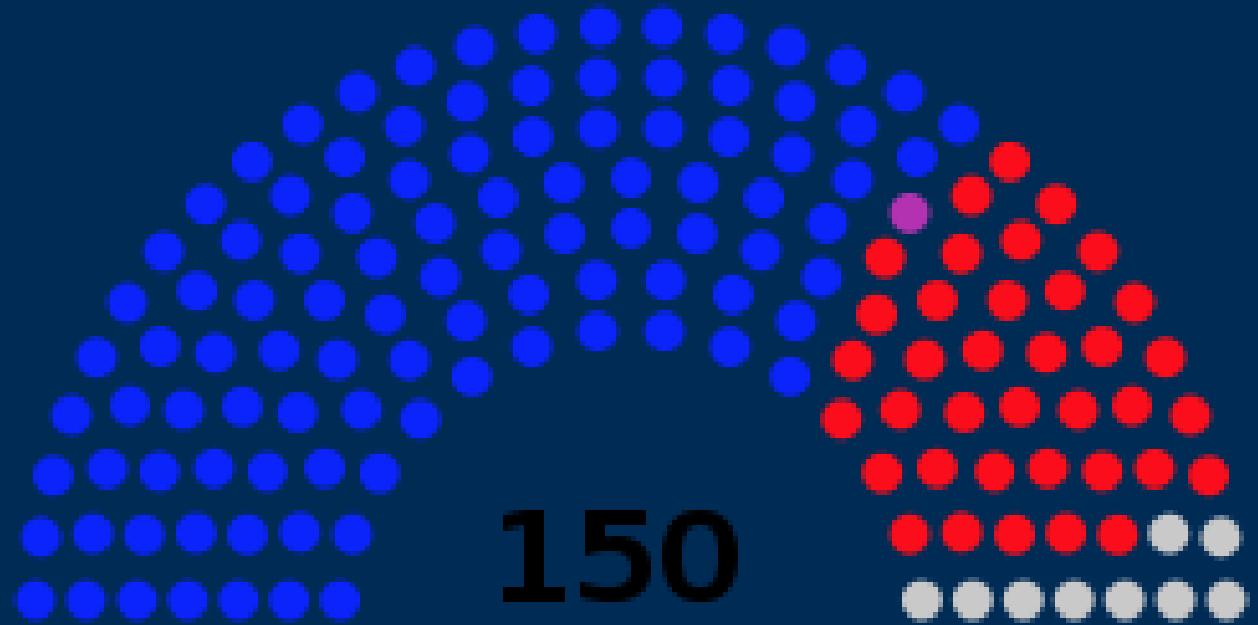






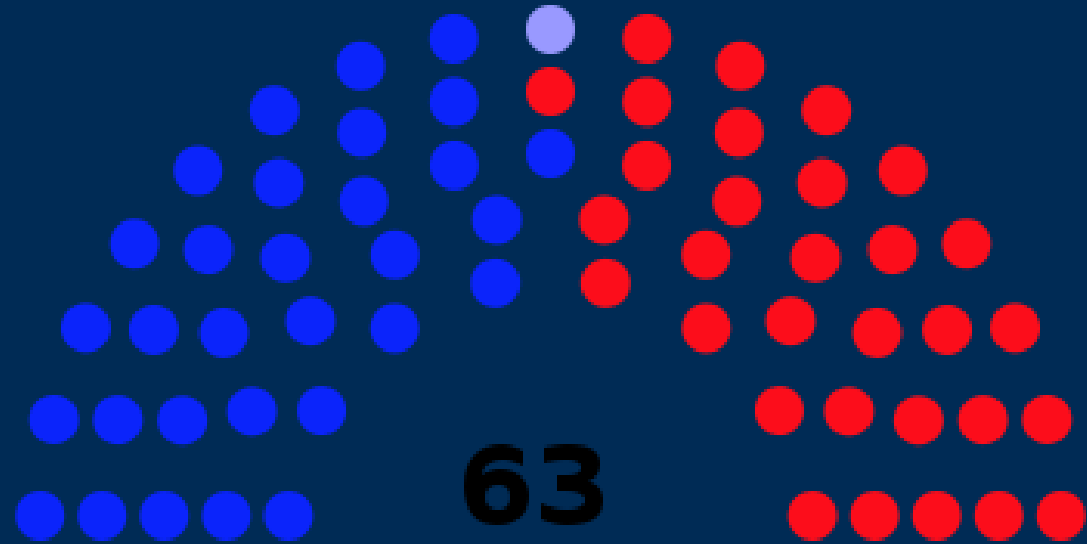
# New York State Assembly

- 104 Democrat (Carl Heastie-Bronx)
- 37 Republican (Brian Kolb-Ontario)
- 9 Vacant



# New York State Senate

- 31 Republican (John Flanagan – Northport)
- 32 Democrat (Andrea Stewart-Cousins – Yonkers)
- Simcha Felder – Brooklyn



# Mayor de Blasio and New York City

- Paid sick leave
- Pregnancy discrimination
- Predictive scheduling
- Ban the box
- Restrictions on the use of credit checks
- Salary history ban
- New Sexual Harassment Laws
- Right to disconnect



# The Budget - Sexual Harassment

- State Contractors – Effective January 1, 2019
- Public Employees - Effective immediately
- Arbitration Clauses – Effective July 11, 2018
- Nondisclosure Agreements – Effective July 11, 2018
- Non-Employees – Effective immediately
- Model Sexual Harassment Policy – Effective October 9, 2018
- Model Sexual Harassment Training – Effective October 9, 2018



# Opt-in Payroll Tax - Tax Law Article 24

*TBC webinar Tuesday, 6/26 @ 11am – 12 noon*

## Key Provisions

- Any entity subject to tax withhold mandate can opt-in
- Payroll tax is 1.5, 3 then 5%
- Applies to employees with total wages over \$40,000
- Must opt-in annually by 12/1

## Key Concerns

- Impact of TCJA on employees
- Wage adjustments?
- Impact on non-resident employees
  - Tax credits
  - 14 day rule
- Employee communications
- IRS uncertainties



# Governor Cuomo and New York State

- “Women’s Agenda”
  - Executive Order #162
  - Executive Order #177
  - Comparable Worth
  - Salary History Prohibitions
- Criminal justice reform
  - Ban the Box
  - Article 23-A
- Secure Choice
- Single Payer Health Insurance
  - [realitiesofsinglepayer.com](http://realitiesofsinglepayer.com)
- Elimination of tipped wage
- “On-Call” Regulations
- Method of payment of wages
- Prevailing wage
- Non-compete agreements
- Paid sick leave
- Expand PFL
- Scaffold law



# Paid Family Leave

- Premium maximum
- Employer's right to know
- Early submission of claims
- September 1, 2018
- Paid Sick Leave
- Bereavement
- Family definition

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