



nypta NEW YORK
PUBLIC TRANSIT
ASSOCIATION, INC.

NYPTA Budget Update and Covid-19 Best Practices

April 8, 2020 | 2:30 – 4:00 pm

WWW.NYTRANSIT.ORG

State Budget Overview & Related Provisions

- **Overall State Budget and Financial Outlook**
- **Other Provisions Impacting Transit**

New York State Emergency Paid Sick Leave Law:

Under the Emergency Paid Sick Leave Law All Employers must:

- Notify their employees of the leave policies;
- Provide forms for employees to apply for Paid Family Leave(PFL) and Short Term Disability(DBL)

Employers of 10 or fewer as of January 1, 2020 must provide unpaid, job protected sick time during an employee's period of ordered quarantine or isolation, except those employers with net income of more than \$1 million, which must provide five days of paid sick leave

Employers of 100 or more must provide up to fourteen days of paid sick leave

Public employers must provide at least fourteen days of paid sick leave

New York law requires that in the event of federal action on the coronavirus, employers must apply the plan most generous to employees

Emergency Provisions Continued

- Benefits would not be available to employees deemed asymptomatic or not yet diagnosed with any medical condition and physically able to work, through remote access or other means
- Such sick leave shall be provided without loss of an employee's accrued sick leave. This leave is in addition to whatever leave is already provided by the employer and is to be used first.
- This leave is job protected and employees are not eligible to use this leave if the employee is returning from personal travel to one of the destinations on the CDC travel advisory list. However, these employees would be able to use any available employer provided leave time or, absent that, unpaid sick leave for the duration of the quarantine.
- There is no waiting period for the commencement of DBL payments under these circumstances. PFL/DBL benefits may also be used to care for a dependent minor child under such a mandatory quarantine of isolation order; However, this provision does not apply in cases where the child's school is closed and requires daycare.
- For employers of 99 employees or less, should an employee's period of quarantine or isolation extend beyond available sick time as described above, the employee would be able to apply for Paid Family Leave (PFL) and New York State Short Term Disability (DBL) concurrently. Benefit amounts would be a combination of PFL and DBL up to 100% of an employee's average weekly wage for those employees earning up to \$150,000 per year. For example:
 - An employee making \$150,000 per year (\$2,884.62 per week) may be eligible for:
 - \$840.70 payment from PFL (60% of average weekly wage to the 2020 maximum benefit amount), and
 - \$2,043.92 payment from DBL (a significant – temporary increase over the current maximum of \$170/wk.

New York State Sick Leave – Effective 9/30/2020

Sick Leave Requirements for Employers in any calendar year:

- For employers with four or fewer employees, each employee shall be provided with up to forty hours of unpaid sick leave.
- For employers with four or fewer with a net income of greater than one million dollars in the previous tax year will provide each employee with up to 40 hours of paid sick leave.
- For employers with between five and ninety- nine, each employee shall be provided with up to forty hours of paid sick leave.
- For employers with one hundred or more employees, each employee shall be provided with up to fifty-six hours of paid sick leave.

***Nothing prevents an employer from providing in excess of the requirements in this section or from adopting a paid sick leave policy that provides additional benefits to employees.**

- Employees shall accrue sick leave at a rate of not less than one hour per every thirty hours worked, beginning at the commencement of employment or the effective date of this section, whichever is later, subject to the use and accrual limitations set forth in this section. An employer may, however, provide sick leave benefits at the beginning of the calendar year.

An employee's unused sick leave shall be carried over to the following calendar year, provided that:

- An employer with fewer than one hundred employees may limit the use of sick leave to forty hours per calendar year; and
- An employer with one hundred or more employees may limit the use of sick leave to fifty-six hours per calendar year.

New York State Sick Leave Continued

- An employer may set a reasonable minimum increment for the use of sick leave which shall not exceed four hours. Employees will receive compensation at his or her regular rate of pay, or the applicable minimum wage or whichever is greater for the use of paid sick leave.
- *Nothing in this section shall be construed to require an employer to pay an employee for unused sick leave upon termination, resignation, retirement, or other separation from employment.**
- *No employer etc. shall discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee because the employee has exercised his or her right to request and use sick leave**
- An employer shall not be required to provide any additional sick leave if they already have a sick leave policy that meets or exceeds the requirements
- A collective bargaining agreement is not prohibited and may be entered into, on or after the effective date of this section as long as it provides comparable benefits for the employees.
- Upon return to work following any sick leave taken ,an employee shall be restored by his or her employer to the position of employment held by the employee prior to any sick leave taken with the same pay and other terms and conditions of employment.
- Upon the oral or written request of an employee, an employer shall provide a summary of the amounts of sick leave accrued and used by the employee in the current calendar year and/or any previous calendar year. The employer will provide the information to the employee within three business days of their request.

New York State Sick Leave Continued

- Employers must maintain and preserve for not less than six years contemporaneous, true, and accurate detailed payroll records.
- For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the payroll records shall include the regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked, and the number of overtime hours worked. For all employees paid a piece rate, the payroll records shall include the applicable piece rate or rates of pay and number of pieces completed at each piece rate.

On and after January 1st, 2021 and upon oral or written request of an employee, an employer shall provide accrued sick leave for the following purposes:

- For mental or physical illness, injury, or health condition of such employee or employee's family member, regardless of whether it has been diagnosed or requires medical care at the time that the employee requests the leave.
- For the diagnosis, care, or treatment of mental or physical illness, injury or health condition, or need for medical diagnosis, or preventative care for, an employee or an employee's family member.
- For an absence from work when the employee or employee's family member has been the victim of domestic violence pursuant to subdivision 34 of section 292 of the executive law, a family offense, sexual offense, stalking, or human trafficking.
- An employer may not require the disclosure of confidential information relating to the purposes for requesting sick leave as a condition of providing sick leave.

Path to the Final State Budget:

“What a Long Strange Trip It’s Been”

- January: Executive Budget – Increased transit funding, great start
- February: NYPTA recommends more capital and upstate STOA
- **March: COVID-19 Crisis Changes Everything**
- Late March: \$10 to 15 billion state revenue shortfall predicted
- Late March: Federal CARES Act = \$25 billion for transit/\$4.1 billion for New York State
- April: Enacted Budget Funding = Executive Budget Funding
- SFY 2020-21: Governor can reduce appropriations to balance budget

2020-21 State Transit Funding Recap

STOA

- Upstate systems: 4.2% increase
- Downstate suburban county systems: 16.3% increase
- MTA: 13% increase

State Capital Funding

- \$84.5 million for Non-MTA systems
- \$20 million for electric buses
- \$26 million for NFTA rail system
- \$3 billion for MTA; Equal NYC Match

Rural Transit

- \$4 million in DOH budget for rural transit?

Other Provisions in the Budget

- **\$3 billion Mother Nature Bond Act**
- **Authorizes e-bikes and e-scooters**
- **Amends election day leave law**
- **Requires NYC match to MTA capital appropriation and paratransit costs**
- **Provides MTA with additional borrowing ability**
- **Extends several MTA financing provisions**
- **Revises NEMT transportation broker provisions**

Federal CARES Act

- **Additional 5307 and 5311 funding**
- **Nearly 3 times the annual 2020 apportionments**
- **Eligible expenses from January 20, 2020:**
 - All normally eligible 5307 and 5311 activities
 - Cost to operate service for all recipients, including large urbanized areas are eligible beginning 1/20/2020
 - No limit on amount of funds used for operating expenses
 - Pay administrative leave for employees due to reduced service
- **100% federal share at recipient's option, no local match required**
- **All federal requirements apply except TIP/STIP**
- **Funds do not lapse; Recipients urged to use funds expeditiously**
- **Additional FTA guidance - April 6th PowerPoint**

Next Steps/Questions

- Impact of any April 30 (or later) state budget adjustments
- May STOA payments
- STOA Hold Harmless for Formula Systems
- NYSDOT allocation of 5311 funding
- Additional FTA guidance on CARES Act funding
- Strategy for using CARES Act funding

Covid-19 Best Practices:

- Service adjustments – fixed route and paratransit
- Vehicle capacity limits
- Ridership trends
- Fare policy
- Driver/employee protections
- Cleaning protocols
- Obtaining PPE
- Other uses of transit vehicles – e.g. delivering food, equipment, transporting patients

Be Safe. Be Well. Thank You.

Visit us at www.nytransit.org

Email us at info@nytransit.org

