

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL SERVICE AND LABOR

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May 22, 2017
Start: 11:21 a.m.
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HELD AT: 250 Broadway - Committee Rm,
16th Fl.

B E F O R E:

I. DANEEK MILLER
Chairperson

COUNCIL MEMBERS:

Elizabeth S. Crowley
Daniel Dromm
Costa G. Constantinides
Robert E. Cornegy, Jr.
Brad S. Lander

A P P E A R A N C E S (CONTINUED)

2 [sound check]

3 [pause]

4 CHAIRPERSON MILLER: Good morning

5 everyone, thank you for coming out and pardon the
6 tardiness -- bad weather and I guess we have four of
7 the members of the Committee from the County of
8 Queens and the County of Queens is doing their
9 business this morning, so we are now here and we're
10 gonna get this thing moving. So I am Council Member
11 I. Daneek Miller; I'm the chair of the Committee on
12 Civil Service and Labor.

13 Today we are voting on a package of
14 legislation dubbed the "Fair Work Week" bills, and on
15 two resolutions which I sponsor regarding the status
16 of labor movement in light of the current Washington
17 situation. [laugh] Nicely put; right? [background
18 comments] Okay. We've done some hearings on that,
19 so we know that they have some impact, whether it's
20 due to budget, Department of Labor and its impact on
21 them, and so those are resolutions that we'll talk
22 about.

23 The first bill in the Fair Work Week
24 package is Proposed Intro 1384, a Local Law to amend
25 the Administrative Code of the City of New York in

2 relation to providing fast food employees the ability
3 to make voluntary contributions to not-for-profit
4 organizations of their choice through payroll
5 deductions, sponsored by Council Member Ferreras-
6 Copeland.

7 This bill would create a mechanism for
8 fast food workers to make small contributions from
9 their salaries to a not-for-profit of their choice
10 via payroll deduction and would require employees to
11 deduct and remit such donations to the Office of
12 Labor Policy and Standards and sign up workers in
13 fast food restaurants to make such donations. A
14 threshold of at least 500 employees, not necessarily
15 the same employer, would be necessary before
16 contributions to particular not-for-profits could be
17 collected. The bill would explicitly exclude labor
18 organizations from being able to register for such
19 deductions consistent with federal labor laws.

20 Before we get on to Intro 1387, let me
21 just say that 1384 is a bill which certainly seeks to
22 lend a, and provide a voice for those who are
23 currently not organized within the labor movement and
24 particularly, all the work that has been done for
25 those in the fast food industry, but it was not

2 without concern throughout the entire labor movement;
3 we wanna keep this movement strong and I think that
4 there has been, over the past week and this past
5 weekend, great concern -- and I wanna thank all those
6 from the Legislative Department; I wanna thank all
7 those in the Speaker's Office and the Administration
8 for working on it; I'd like to thank -- I see
9 Mr. McGinnis out there -- for his expertise on this
10 as well, and with all those great minds coming
11 together, I think that we have satisfied the concerns
12 of the labor movement, understanding the potential
13 unintended consequences and the protections that have
14 been put in place and that therefore we are ready to
15 move forward with this legislation and to be able to
16 expedite this legislation.

17 So with that being said; the second bill
18 in the package, Proposed Intro 1387, a Local Law to
19 amend the Administrative Code of the City of New York
20 in relation to prohibiting on-call scheduling for
21 retail employees, sponsored by Council Member
22 Johnson.

23 This bill would ban the practice of on-
24 call scheduling for certain retail employees. On-
25 call scheduling is when an employer requires an

2 employee to be available to work, to contact the
3 employer or to wait to be contacted by the employer,
4 to determine whether the employee must report to
5 work. This bill will prohibit retail employers from
6 canceling scheduled work shifts within 72 hours of
7 the start of the shift requiring a retail employee to
8 work with less than 72 hours notice unless the
9 employee consents in writing or requiring a retail
10 employee to contact a retail employer to determine
11 whether the retail employee should work a shift when
12 there is fewer than 72 hours notice before the start
13 of the shift.

14 This bill will allow a retail employee to
15 request time off or trade shifts with another retail
16 employee, though the bill will not require the
17 employer to grant such request. The retail employer
18 could make changes to a retail employee's work
19 schedule with less than 72 hours notice if the
20 employer's operation were unable to begin or continue
21 due to various emergency situations.

22 The bill also would require a retail
23 employer to post the work schedule 72 hours in
24 advance and provide copies of the work schedule upon
25

2 request by the employee. The bill would exempt
3 workers subject to collective bargaining agreement.

4 A third bill is Proposed Intro 1388, a
5 Local Law to amend the Administrative Code of the
6 City of New York in relation to banning consecutive
7 work shifts in fast food restaurants involving both
8 closing and opening the restaurant, sponsored by
9 Council Member Johnson.

10 This bill would ban "clopenings" for fast
11 food employees; fast food employers would not be able
12 to require fast food workers to work back-to-back
13 shifts when one shift is closing of the establishment
14 and the next shift, by the same employee, is opening
15 of the establishment on the next day or same times in
16 the same day; first shift when past midnight, with
17 fewer than 11 hours in between. An employer would
18 have to pay an employee who volunteers to work a
19 "clopening" shift \$100 for each instance that such
20 employee works such shifts.

21 The next bill in the package is Proposed
22 Intro 1395, a Local Law to amend the Administrative
23 Code of the City of New York in relation to requiring
24 fast food employers to offer work shifts to current
25

1 employees before hiring additional employees,
2 sponsored by Council Member Lander.

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4 This bill would require fast food
5 employers with available work hours to offer shifts
6 to existing employees before hiring new employees.
7 This bill is intended to provide part-time fast food
8 workers with a path toward gaining additional hours
9 and eventual full-time employment, should they want
10 it. Employers would only be required to offer hours
11 to current employees up until the point at which the
12 employer would be required to pay overtime, and/or
13 until the employees have rejected available hours,
14 whichever comes first. Only after the employers have
15 exhausted these options to provide such shifts to
16 current workers would they then be allowed to hire
17 additional workers.

18 The last bill in the package is Proposed
19 Intro 1396, a Local Law to amend the Administrative
20 Code of the City of New York in relation to
21 establishing general provisions governing fair work
22 practices and requiring certain fast food employers
23 to provide advance notice of schedules to employees
24 and provide a schedule change premium when hours are
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2 changed after required notice, sponsored by Council
3 Member Lander.

4 This bill has two main parts; a general
5 provision, subchapter one and subchapter [sic] that
6 applies to scheduling shifts for fast food workers,
7 subchapter two, the general provision applied to all
8 the bills in the Fair Work Week package, except Intro
9 1384, because that bill would create a separate
10 chapter. These general provisions contain
11 definitions generally applicable for requirements of
12 provisions contained definitions recording,
13 recordkeeping prohibiting against retaliation
14 enforcement authority for the Office of Labor
15 Standards and administrative penalties and remedies.
16 Employees may bring a private civil action for
17 certain violations, unlike the provision in
18 subchapter one, which applies more broadly the
19 advance scheduling required in subchapter two of this
20 scheduling bill are limited to fast food employers
21 and their employees. Fast food employers must
22 provide employees with an estimate of their work
23 schedule upon hire, provide a work schedule 14 days
24 in advance, including regular and on-call shifts,
25 post the work schedule in a conspicuous place

2 accessible to all employees, and pay employees a
3 premium for certain changes to work schedules that
4 occur within 14 days' notice. Changes that would
5 trigger premium pay include canceling, shortening or
6 moving shifts, adding hours to schedule work, and
7 adding shifts. Premium amounts would increase as the
8 start of the work shift nears. A fast food employer
9 would not need to provide premium amounts if
10 employer's operation could not begin or continue due
11 to threat to employees or employer's property, the
12 failure of public utilities or shutdown of public
13 transportation, a fire, flood or other natural
14 disaster, a state of emergency or severe weather
15 conditions that pose a threat to employee safety,
16 although, where an employer adds shifts to an
17 employee's schedule to replace an other employee who
18 cannot safely travel to work, the employer must
19 provide replacement employee with applicable premium
20 pay. A fast food employer also would not need to
21 provide premiums when the employer requires a
22 schedule change in writing to employees trade shift
23 or an employer is required to pay overtime for the
24 shift. [sic] This bill also would renumbers existing
25 provisions requiring and regarding shipboard gambling

1
2 to accommodate these and future additions to Title 20
3 of the Administrative Code.

4 In addition, we are voting on two
5 resolutions today that we heard in the hearing last
6 month, which is the top of the labor movement in New
7 York City in the aftermath of 45 resolutions. [sic]

8 The first resolution affirms New York
9 City's right to collective bargaining and the second
10 is against pending federal legislation to national
11 "right-to-work," to make that permanent and across
12 the state. [sic]

13 I would like to thank the Legislative
14 Counsel, Matt Carlin, of course; Garfor Zoloff, and
15 Kendall Stephenson, and Ann Dickerson, Alexia
16 Watzenberg [sp?], Wesley Jones, Michelle Lee from the
17 legislative staff, and I see you over there, Tazer
18 [sic]; thank you so much. And again, to those folks
19 that we mentioned.

20 And so now... [background comment] Okay.
21 And so I'd like to introduce the members of the
22 Committee. To my left we have Council Member Liz
23 Crowley, Council Member Danny Dromm, Council Member
24 Robert Cornegy, and Council Member Costa
25 Constantinides. Before we begin and take a vote, I

1
2 would like to give Council Member Lander, the sponsor
3 of this legislation, an opportunity to say a few
4 words.

5 COUNCIL MEMBER LANDER: Thank you
6 Mr. Chair. This is a very exciting day; I think we
7 all know that across the country the challenge of
8 good jobs, the challenge of income inequality, the
9 challenge of shift and contingent work that makes it
10 possible for people to put together enough income to
11 lead a decent life, especially in this expensive
12 city, but all across the country is very real and
13 that even though of course that was a feature
14 discussed in the election, at the federal level we
15 are going backwards on those issues; we're not gonna
16 have a labor department that looks out for workers,
17 and so after we... it's exciting to be in a city that
18 is moving forward to give workers a fair shake and a
19 decent shot at a stable schedule and enough income to
20 make ends meet and to organize together with their
21 fellow workers. At the hearing we heard from just
22 fast food and retail workers especially, talking
23 about the challenges presented by shifting shifts, by
24 not getting enough advance notice of what their
25 schedule is, by being forced to work "clopenings," by

2 not being able to get full-time work or more hours
3 even if they want them, and about their efforts,
4 especially led by the Fight for 15 and Fast Food
5 Forward and 32BJ to come together to make that
6 happen, and I'm thrilled that we're at this point
7 where we're able to adopt this legislation.

8 My legislation, 1395-A and 1396-A, as you
9 mentioned, focuses specifically on the schedules for
10 fast food workers and will make sure that they have
11 two weeks' advance notice of their schedule so they
12 can put the rest of their lives together and if their
13 schedules are shifted, especially if shifts are taken
14 away, after that, they'll receive schedule pay
15 premiums. And then 1395-A makes sure that for
16 workers who want to get more hours, they'll have that
17 opportunity to do so, up to becoming full-time
18 employees, because before an employer posts for a new
19 hire, if somebody leaves, instead of posting for a
20 new hire, they've gotta offer those shifts to
21 existing workers who have the chance to take them to
22 get more hours to become full-time employees.

23 I'm highly enthusiastic about the rest of
24 the package as well and I appreciate the work that
25 you did so that everyone could feel comfortable with

1 this new form of worker organizing. I think it is
2 gonna prove to be an exciting model; I, you know, was
3 out on the picket line, you know just the other day..
4 you know we'll be out there with workers under their
5 traditional rights to organize, under the National
6 Labor Relations Act, and I'm glad these resolutions
7 go at the same time to make clear how strongly we
8 stand for those, but we know that new forms of
9 organizing are needed as well to help workers in
10 other kinds of industries that have a harder time
11 forming a labor union to have the chance to have
12 their voice heard too. So this is a great package; a
13 lot of work has gone into it; I'm not gonna name all
14 the staff and all the hours they put in, but many,
15 many, many hours and I just really wanna thank the
16 staff, thank all our partners, thank the chair and
17 the other council members. This... This... and when we
18 pass this on the floor, really a great day for fast
19 food and retail workers especially, but I think for
20 the idea of a more fair and equal economy in this
21 city and as a beacon for what that can, should and
22 some day will look like across the rest of the
23 country as well. Thank you.

2 Oh and also, I'm excited that -- I never
3 have been involved in legislation before that touched
4 on shipboard gambling, I will flag for the public;
5 we're just moving the sections that are connected to
6 shipboard gambling to create more room in this
7 chapter so we can do other things in it; we are not
8 making any changes to the rules and regulations
9 covering shipboard gambling in New York City. Thank
10 you.

11 CHAIRPERSON MILLER: Thank you for that
12 clarity, Council Member Lander. And before we vote,
13 I do wanna take the privilege to affirm the
14 resolutions, our commitment to these resolutions,
15 which is the commitment to the right to collective
16 bargaining, and one would think that in these times,
17 and particularly in New York State, as state of such
18 union density and activity, that it would not be
19 necessary, but if we just look to our left and right
20 and look at the 28 states throughout the country that
21 have adopted right-to-work laws and its impact on its
22 workers, certainly we wanna take a proactive, stay
23 ahead of the curve position, and so we are affirming
24 the right to collective bargaining here in New York
25 City and the right to organize, and those things, if

2 we have those very basic concepts around organizing
3 and organized labor her in New York City, we can do
4 all the things that we say that we... we can continue
5 to value workers and ensure that they have the
6 quality of life and the opportunity for the qualify
7 of life that they deserve. So that is my piece on
8 the two resolutions, and with that, I would ask that
9 we call the roll to vote.

10 COMMITTEE CLERK: Committee Clerk Matthew
11 DeStefano, Committee on Civil Service and Labor, roll
12 call on Intro Nos. 1384-A, 1387-A, 1388-A, 1395-A,
13 1396-A, and Resolutions 1444 and 1445. Chair Miller.

14 CHAIRPERSON MILLER: Proudly, I vote aye
15 on all.

16 COMMITTEE CLERK: Crowley.

17 COUNCIL MEMBER CROWLEY: I vote aye.

18 COMMITTEE CLERK: Dromm.

19 COUNCIL MEMBER DROMM: Aye on all.

20 COMMITTEE CLERK: Constantinides.

21 COUNCIL MEMBER CONSTANTINIDES: Aye on
22 all.

23 COMMITTEE CLERK: Cornegy.

24 COUNCIL MEMBER CORNEGY: Permission to
25 explain my vote.

2 CHAIRPERSON MILLER: Permission granted.

3 COUNCIL MEMBER CORNEGY: So on 1384-A, I
4 had a secret, very important goal that seemed to be
5 achieved by the bill. In my community, oftentimes
6 the lowest paid workers don't have the opportunity to
7 vote for their interest or to put in on their
8 interest, such as United Negro College Fund, the
9 Urban League; the NAACP and I felt like this was an
10 opportunity or could provide an opportunity for
11 people to actually put in on their specific interest.
12 I am going to abstain on that today, until I can get
13 specifics on whether or not it reaches my goal and
14 whether or not that goal can be reached without
15 legislation, so on 1384-A I abstain and aye on
16 everything else.

17 COMMITTEE CLERK: By a vote of 5 in the
18 affirmative, 0 in the negative and no abstentions,
19 the items have been adopted, with the exception of
20 Intro 1384-A, where the vote was 4 in the
21 affirmative, 0 in the negative and 1 abstention.

22 CHAIRPERSON MILLER: Thanks everyone for
23 coming out; with that, we call... this hearing is now
24 adjourned.

25 [gavel]

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COMMITTEE ON CIVIL SERVICE AND LABOR

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date June 22, 2017