



Legislation Text

File #: Res 0959-2003, **Version:** *

Res. No. 959

Resolution calling upon the Occupational Safety and Health Hazard Abatement Board of the New York State Department of Labor to promptly establish strong and enforceable track safety standards to protect transit workers and riders that mirror or exceed the safety standards used by the Federal Railroad Administration.

By Council Members Liu, Comrie, Davis, Felder, Foster, Jennings, Nelson, Seabrook, Espada, Gennaro, Gentile and the Public Advocate (Ms. Gotbaum)

Whereas, Within the past two years, there have been five (5) transit workers killed on the subway tracks of the New York City Transit Authority (NYCTA) due to hazardous working conditions; and

Whereas, NYCTA track employees work in tunnels twenty-four hours a day, seven days a week, and there is no system "down time" provided to upgrade and repair the tracks; and

Whereas, NYCTA subway tracks carry more people on a daily basis than any other rail transportation system in the country; and

Whereas, Previous attempts to improve transit worker safety through collective bargaining, the employer's verbal commitments to "the highest possible safety standards available," voluntary standards of safety adopted by the Metropolitan Transportation Authority (MTA), the parent entity of NYCTA, and through NYCTA's assurances to the union and the workers about improved procedures, have all fallen short of achieving a safe workplace environment; and

Whereas, While public agencies struggle with fiscal difficulties, transit worker safety may be compromised because management could be more attentive to maximizing production rather than optimizing safety; and

Whereas, There are federal track safety standards in effect that do not currently apply to NYCTA subway tracks because, while the Federal Railroad Administration (FRA) is responsible for track safety nationwide, the FRA's oversight does not extend to "intra-city" rail systems such as NYCTA; and

Whereas, Due to this jurisdictional difference, the New York State Department of Labor's (NYSDOL) Division of Public Employees Safety and Health (PESH) is responsible for NYCTA safety enforcement; and

Whereas, Although PESH is responsible for enforcing the federal Occupational Safety and Health Administration (OSHA) standards on NYCTA property, OSHA does not have specific railroad safety standards; and

Whereas, Because the FRA does not impose or enforce its track safety standards on "intra city" rail systems, NYCTA self-enforces its own safety rules without any objective oversight by other entities; and

Whereas, The Long Island Railroad (LIRR) and Metro North, two subsidiaries of the MTA, are subject to the federal track safety standards; and

Whereas, There have been no track worker fatalities on LIRR or Metro North tracks since the introduction in 1997 of the federal standards; and

Whereas, On many occasions there are track workers of the LIRR, Metro North and NYCTA working in the same subway tunnels at the same time because in a number of locations, such as Penn Station, Atlantic Avenue and Jamaica, the tracks that service NYCTA run side by side with those other rail lines and there is no reason why different sets of workers should operate under two separate sets of safety standards; and

Whereas, A potential safety enforcement mechanism already exists because PESH is currently responsible for the NYCTA system; and

Whereas, The Occupational Safety and Health Hazard Abatement Board (HAB) of the NYSDOL is authorized, pursuant to Section 27-a of the New York State Labor Law, to provide the Commissioner of Labor with recommendations, after a public hearing, regarding new safety standards for public employees, including transit workers; and

Whereas, The safety of transit workers would be greatly improved if the NYSDOL promulgated new safety standards for track workers that mirror or exceed the standards used by the FRA, which are currently applicable to the LIRR and Metro North track workers; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Occupational Safety and Health Hazard Abatement Board of the New York State Department of Labor to promptly establish strong and enforceable track safety standards to protect transit workers and riders that mirror or exceed the safety standards used by the Federal Railroad Administration.

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