Legislation Details (With Text)

File #:	Int 0743-2015 **Version:** A	**Name:**	Relating to the designation of an agency to enforce the Earned Sick Time Act.
Type:	Introduction	**Status:**	Enacted
		In control:	Committee on Civil Service and Labor
On agenda:	4/16/2015		
Enactment date:	11/30/2015	**Enactment #:**	2015/104

Title: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the establishment of an office of labor standards, and to repeal subdivision (i) of section 20-a of such charter and section 20-925 of such code, relating to the designation of an agency to enforce the Earned Sick Time Act

Sponsors: Melissa Mark-Viverito, Rory I. Lancman, Corey D. Johnson, Stephen T. Levin, Julissa Ferreras-Copeland, I. Daneek Miller, Maria Del Carmen Arroyo, Fernando Cabrera, Margaret S. Chin, Costa G. Constantinides, Daniel Dromm, Mathieu Eugene, Vanessa L. Gibson, Peter A. Koo, Karen Koslowitz, Annabel Palma, Donovan J. Richards, Andrew Cohen, Ydanis A. Rodriguez, Helen K. Rosenthal, Ritchie J. Torres, Carlos Menchaca, Ben Kallos, Brad S. Lander, Inez D. Barron

Indexes: Agency Rule-making Required, Oversight, Report Required

Attachments: 1. Summary of Proposed Int. No. 743-A, 2. Summary of Int. No. 743, 3. Int. No. 743 - 4/16/15, 4. April 16, 2015 - Stated Meeting Agenda with Links to Files, 5. Committee Report 4/20/15, 6. Hearing Testimony 4/20/15, 7. Hearing Transcript 4/20/15, 8. Committee Report 11/10/15, 9. Hearing Transcript 11/10/15, 10. November 10, 2015 - Stated Meeting Agenda with Links to Files, 11. Fiscal Impact Statement, 12. Int. No. 743-A (FINAL), 13. Hearing Transcript of the Stated Meeting - November 10, 2015, 14. Mayor's Letter, 15. Int. No. 743-A - FINAL, 16. Local Law 104, 17. Minutes of the Stated Meeting - November 10, 2015

Date	Ver.	Action By	Action	Result
4/16/2015	*	City Council	Introduced by Council	
4/16/2015	*	City Council	Referred to Comm by Council	
4/20/2015	*	Committee on Civil Service and Labor	Hearing Held by Committee	
4/20/2015	*	Committee on Civil Service and Labor	Laid Over by Committee	
4/20/2015	*	Committee on Women's Issues	Hearing Held by Committee	
4/20/2015	*	Committee on Women's Issues	Laid Over by Committee	
11/10/2015	*	Committee on Civil Service and Labor	Amendment Proposed by Comm	
11/10/2015	*	Committee on Civil Service and Labor	Amended by Committee	
11/10/2015	A	Committee on Civil Service and Labor	Approved by Committee	Pass
11/10/2015	*	Committee on Civil Service and Labor	Hearing Held by Committee	
11/10/2015	A	City Council	Approved by Council	Pass
11/10/2015	A	City Council	Sent to Mayor by Council	
11/30/2015	A	Mayor	Hearing Held by Mayor	

11/30/2015	A	Mayor	Signed Into Law by Mayor
11/30/2015	A	City Council	Recved from Mayor by Council

Int. No. 743-A

By The Speaker (Council Member Mark-Viverito) and Council Members Lancman, Johnson, Levin, Ferreras-Copeland, Miller, Arroyo, Cabrera, Chin, Constantinides, Dromm, Eugene, Gibson, Koo, Koslowitz, Palma, Richards, Cohen, Rodriguez, Rosenthal, Torres, Menchaca, Kallos, Lander and Barron

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the establishment of an office of labor standards, and to repeal subdivision (i) of section 20-a of such charter and section 20-925 of such code, relating to the designation of an agency to enforce the Earned Sick Time Act

Be it enacted by the Council as follows:

Section 1. Chapter one of the New York city charter is amended by adding a new section 20-a to read as follows:

§ 20-a. **Office of Labor Standards**. a. The mayor shall establish an office of labor standards. Such office may, but need not, be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor. Such office shall be headed by a director who shall be appointed by the mayor or head of such department.

b. The director shall:

(i) plan, make recommendations, conduct research and develop programs for worker education, worker safety and worker protection;

(ii) facilitate the exchange and dissemination of information in consultation with city agencies, federal and state officials, businesses, employees, independent contractors and nonprofit organizations working in the field of worker education, safety, and protection;

(iii) provide educational materials to employers and develop programs, including administrative support, to assist employers with compliance with labor laws;

(iv) implement public education campaigns to heighten awareness of employee and independent

contractor rights under federal, state, and local law;

(v) collect and analyze available federal, state, and local data on the city's workforce and workplaces and coordinate with federal and state officials and other city agencies to identify gaps and prioritize areas for the improvement of working conditions and practices for employees and independent contractors in the city and within particular industries, and to promote the implementation and enforcement of laws, rules and regulations designed to improve such working conditions and practices; and

(vi) recommend efforts to achieve workplace equity for women, communities of color, immigrants and refugees, and other vulnerable workers.

c. Notwithstanding any other provision of law, the director shall have all powers of the commissioner of consumer affairs as set forth in section 2203 of this charter in connection with the enforcement of chapter 8 of title 20 of the administrative code of the city of New York regarding the earned sick time act and shall have the power to enforce chapter 9 of title 20 of such code regarding mass transit benefits.

d. The director, in the performance of his or her functions, powers and duties, including but not limited to those functions, powers and duties pursuant to subdivision c of this section, shall be authorized to receive complaints, conduct investigations in response to complaints or upon his or her initiative, hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, mediate disputes, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of any law the director is empowered to enforce. The director shall have the power to promulgate rules necessary to carry out such functions, powers, and duties.

e. 1. The director shall be authorized, upon due notice and hearing, to render decisions and orders, including the imposition of civil penalties, and to order equitable relief or the payment of monetary damages for the violation of any rules, regulations or laws the director is empowered to enforce pursuant to this section, the provisions of subchapter four of chapter one of title three of the administrative code of the city of New York or any other general, special or local law. The remedies or penalties provided for in this subdivision shall be in

addition to any other remedies or penalties provided by law for the enforcement of such provisions.

2. All such actions or proceedings shall be commenced by the service of a notice of violation. The director shall prescribe the form and wording of such notices. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and if sworn and affirmed, shall be prima facie evidence of the facts contained therein.

3. The office of administrative trials and hearings may exercise all adjudicatory powers conferred upon the director by the charter, the administrative code of the city of New York, or any other general, special or local law consistent with chapter 45-A of the charter.

f. The director shall possess such powers in addition to any other powers that may be assigned to him or her, pursuant to any other provision of law, by the mayor or head of such department wherein the office has been established.

g. Notwithstanding any other provision of law, the mayor may designate an agency or agencies other than the office of labor standards to perform any of the functions of the director, as described in this section and subchapter four of chapter one of title three of the administrative code of the city of New York. Such agency or agencies may be within any other office of the mayor or within any department the head of which is appointed by the mayor. Upon such designation, such agency or agencies shall be deemed to have the powers of the director as set forth in this section and subchapter four of chapter one of title three of such administrative code with respect to the function or functions so designated.

§ 2. Subdivision (i) of section 2203 of the New York city charter is REPEALED.

§ 3. Chapter one of title 3 of the administrative code of the city of New York is amended by adding a new subchapter 4 to read as follows:

SUBCHAPTER 4

OFFICE OF LABOR STANDARDS

§ 3-140 **Office of Labor Standards**. a. For purposes of this section, "director" means the director of the

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office of labor standards.

b. No later than February 15, 2017, and no later than every February fifteenth thereafter, the director shall post on the office's website the following information for the prior calendar year regarding enforcement of chapter 9 of title 20 of the code:

i. the number of complaints against employers filed with the office;

ii. the number of investigations conducted by the director;

iii. the results of each enforcement action undertaken by the director; and

iv. such other information as the director may deem appropriate.

§ 4. Subdivision s of section 20-912 of the administrative code of the city of New York, as added by local law number 7 for the year 2014, is amended and a new subdivision w is added to such section to read as follows:

s. "Department" shall mean [the department of consumer affairs or] such office or [other] agency as the mayor shall designate pursuant to [section 20-925 of this chapter] section 20-a of the charter.

w. "Commissioner" shall mean the head of such office or agency as the mayor shall designate pursuant to section 20-a of the charter.

§ 5. Section 20-925 of the administrative code of the city of New York is REPEALED.

§ 6. Section 20-926 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. For the purposes of this chapter, "department" shall mean such office or agency as the mayor shall designate pursuant to section 20-a of the charter and "commissioner" shall mean the head of such office or agency.

§ 7. Section three of local law number 53 for the year 2014 is amended to read as follows:

§ 3. This local law shall take effect January 1, 2016, provided that (i) the [commissioner of consumer affairs] the head of such office or agency as the mayor shall designate pursuant to section 20-a of the New York city

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charter, as added by section one of this local law, shall, prior to the effective date of this local law, promulgate such rules, and take such other steps, as may be necessary to effectuate the provisions of this local law on its effective date and (ii) in the event qualified transportation benefits are no longer permitted to be excluded from an employee's gross income for federal income tax purposes and from an employer's wages for federal payroll tax purposes, this local law shall no longer be effective.

§ 8. Any rule promulgated by the department of consumer affairs pursuant to a power transferred by this local law to the office of labor standards, as described in section 20-a of the New York city charter, as added by section one of this local law or such office or agency as the mayor shall designate pursuant to subdivision g of such section, and in force upon the effective date of such transfer shall continue in force as the rule of the agency or officer to whom such power is transferred, unless and until such rule is superseded, amended, or repealed.

§ 9. Unless otherwise provided by law, all actions and proceedings commenced by the department of consumer affairs under or by virtue of a power transferred by this local law to the office of labor standards, as described in section 20-a of the New York city charter, as added by section one of this local law or such office or agency as the mayor shall designate pursuant to subdivision g of such section, and pending immediately prior to such transfer may be prosecuted and defended to final effect in the same manner by the agency or officer to whom such power is transferred as if such power were not so transferred. All interested parties to such actions shall be informed by the designated office or agency of the transfer of the action or proceeding within thirty days of the transfer.

§ 10. The enactment of this local law shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such enactment takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such local law had not been enacted.

§ 11. This local law takes effect one hundred and twenty days after its enactment into law except that:

a. Prior to such date the director of the office of labor standards, as described in section 20-a of the New

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York city charter, as added by section one of this local law, shall take such actions, including the promulgating of rules, as are necessary to implement the provisions of this local law;

b. Sections six and seven of this local law shall take effect on the same date and in the same manner as local law number 53 for the year 2014; and

c. Any reference to chapter 9 of title 20 of the administrative code of the city of New York set forth in sections one and three of this local law shall take effect on the same date on the same date and in the same manner as local law number 53 for the year 2014.

MWC
LS 4454-2013
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