

May 4, 2020

The Honorable Corey Johnson
Speaker
New York City Council
Via Electronic Mail

The Honorable I. Daneek Miller
Chair, Committee on Civil Service and Labor
New York City Council
Via Electronic Mail

Re: Intro 1918, Intro 1926 & Intro. 1923

Dear Speaker Johnson & Chair Miller:

The undersigned nonprofit organizations and coalitions have grave reservations regarding Intro 1918 (pay premiums for essential workers), Intro 1926 (expansion of worker coverage under the Earned Safe and Sick Time Act) and Intro 1923 (just cause employment protections for essential workers). These bills will seriously hamper service delivery to New York's highest risk populations especially in these challenging times.

Intro 1923 also creates an untenable situation for human services providers by preventing organizations from cutting hours or laying off workers except for performance-based reasons or misconduct without being subject to large fines. Non-profit providers are being forced to lay off staff due to reduced and lost government contracts in response to the City and State budget deficits and this bill would further damage their ability to provide services even in a limited capacity. Over 70% of recently surveyed New York City human services providers believe they will need to lay off staff due to these lost and reduced government contracts combined with the fact they were underfunded going into this crisis, have been left out of COVID-19 relief efforts and have increased spending due to this pandemic. We urge you to thoughtfully determine the impact on non-profit human service providers before amending these bills.

We unequivocally support our workers and we wholeheartedly believe that our workforce is essential to the lifeblood of the City. We reached that conclusion long before COVID-19 arrived in New York City. Year after year you hear from us advocating for our workers, including paid-time-off and for increased rates of pay across all sectors. We fought for the \$15 minimum wage and we are fighting to save COLA past FY20, for comprehensive pay parity, and for incentive pay for our frontline workers. We are proud to have successfully obtained partial pay parity for child-care workers.

One of the lessons learned from these efforts was to determine early on how these benefits to workers would be funded. Underfunded contracts and unfunded mandates have made it difficult for human services providers to be nimble and respond to crushing and growing needs

across New York in the wake of COVID-19 and adding more will bring the sector to a breaking point.

Key Concerns and Best Practices for Future Relief:

Intro 1918 (pay premiums for essential workers):

- The bill as written may be aimed at the private sector but neither exempt nonprofits nor provides the necessary funding to enable them to comply.
- Must avoid unwieldy legislation and policies considered without deliberation and instead prioritize fully funding organizations to support their essential workers.
- Incentive pay policies need to be implemented in coordination with City, State, and Federal officials in order to:
 - Ensure that pockets of essential workers are not excluded
 - Allot sufficient emergency funding
 - Create clear, streamlined guidance on how to enact on a programmatic level
- Human services nonprofits are considered essential by definition, but without the funding or priority that other essential services receive. We have incurred substantial costs in the last month in response to COVID-19. Most applicants for the Federal Paycheck Protection Program (PPP) did not receive these funds and are struggling with cash flow issues as a result.
- Continuing to implement piece-meal pay policies may exclude staff leading to further pay inequity, and at the same time is overly unwieldy on a programmatic level.
 - The City is implementing incentive pay for front-line staff in residential settings (e.g., shelters, congregate care settings, and supportive housing). This is applied on a program by program basis, looking at functional assessments of who has direct contact with clients on a daily basis. The process is long and cumbersome, and nonprofits have yet to see approved plans and funds flow.
 - Layering Intro 1918 on top would further muddy who sees an increase and by how much- hourly would see one increase by City Council, but City agencies would provide a different increase for staff with daily interactions with clients, regardless of hourly/salary. Who is excluded, and do some get double incentives?
- Providers need funded incentive pay for all frontline program staff in essential programs, not partial applications to only hourly workers, or on such a granular level that requires slogging through an unnecessarily complicated administrative process.

Intro 1926 (expansion of worker coverage under the Earned Safe and Sick Time Act):

- This bill's intent to grant paid sick leave rights to independent contractors and freelancers who were previously excluded from the Safe and Sick Time Act is targeted at the private sector but will also deeply impact human service providers.
- Many human services providers rely on contracted workers for seasonal programs and to provide clients at senior centers and other services sites with wellness courses and specialized classes under City contracts.
- A March/April 2020 survey of 61 human services providers done by the Human Services Council showed that over 20% of reported staff fall outside of being classified as full-time or part-time workers and could be impacted by this bill.
- It is also unclear if New York City's home health care workers who are paid through Medicaid dollars will also be included under the scope of this bill. If this language is not clarified to explicitly exclude this workforce or backed with the needed funding to cover these potential additional costs in full, it could create a huge fiscal burden to New York City's over 900 Licensed Home Care Services Agencies.

To fix these bills, it is essential that Intro. 1918 and Intro. 1926 include funding for human services nonprofits to fulfill the requirements. Without funding, these bills pit the needs of providing human services workers with the benefits they deserve against ensuring that human services institutions are financially stable enough to provide immediate and long-term critical services.

Intro 1923 (just cause employment protections for essential workers):

- The intent of protecting workers from termination during a pandemic is a good cause. However, this bill fails to address how the staffing levels of government contracted nonprofits are directly connected to City and State funding which was underfunded going into this crisis and continues to be cut.
- To hold non-profits harmless from staff cuts due to losses or reductions of City contracts, the Council must legislate that the City will continue to fund 100% of budgeted personnel costs for cancelled or reduced contracts for all current and new City contracts moving forward, until agencies can shift effected staff to new positions within other programs/funding streams.
- 64% New York nonprofit human services organizations believe they will have to start scaling back services and over 70% will need to lay off staff as a result of COVID-19 related budget shortfalls; this bill will only add to this crisis by imposing large fines and administrative burdens.
- This bill defines essential employees to encompass everyone at an essential business, not just frontline workers, which is vastly different from other City and State guidance. This would mean that all human services nonprofits would be unable to cut back hours or layoff any staff, even if they lose City and State government contracts or discretionary funding due to the budget deficit.

- Recent cuts to the City’s Summer Youth Employment Program with less than 24-hours directly led to sudden layoffs of staff members. If this bill was in effect then, it would have imposed fines on the effected nonprofits despite the loss of that funding being totally outside of their control.
- There is no included sunset date for this sweeping change of New York’s at-will employment standard.

We believe that all essential workers have pay, benefit and worker protection needs and are important to address. But, these bills, as written, are not constructive first steps towards meeting those needs. One meaningful step towards addressing these urgent concerns is to ensure human services contracts are amended with additional funding to cover the cost associated with these bills and quickly paid. Moreover, imposing fines on nonprofits for staffing changes that are mandated by City budget decisions is not a collaborative approach.

The nonprofit human services field stands ready to work with you in a thoughtful way to meet the needs of essential workers. To facilitate that conversation or for more information on these bills, please contact: Eric Lee, Homeless Services United (elee@hsunited.org); MJ Okma, Human Services Council (okmam@humanservicescouncil.org); Rebecca Saur, Supportive Housing Network of New York (rasuer@shnny.org); or Nadia Chait, The Coalition for Behavioral Health (nchait@coalitionny.org).

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