Committee on Civil Service and Labor

Bianca Vitale, *Legislative Counsel*

Elizabeth Arzt, *Policy Analyst*

Nevin Singh, *Financial Analyst*



The Council of the City of New York

COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION

Jeffrey Baker, *Legislative Director*

Andrea Vazquez*, Deputy Director, Human Services Division*

COMMITTEE ON CIVIL SERVICE AND LABOR

Hon. I. Daneek Miller, *Chair*

**November 30, 2021**

**INT. NO. 2325-2021:** By Council Members Miller and Kallos (by request of the Mayor)

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to protections for restaurant, food service and airport workers displaced due to the COVID-19 disaster emergency

**INT. NO. 2454-2021:** By Council Members Miller and Yeger

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to the New York city collective bargaining law

1. **Introduction**

On November 30, 2021, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, will hold a legislative hearing. The Committee will hear Int. No. 2325-2021, A Local Law to amend the administrative code of the city of New York, in relation to protections for restaurant, food service and airport workers displaced due to the COVID-19 disaster emergency, sponsored by Council Members Miller and Kallos (by request of the Mayor).

The Committee will also hear Int. 2454-2021, A Local Law to amend the administrative code of the city of New York, in relation to the New York city collective bargaining law, sponsored by Council Members Miller and Yeger.

Those invited to testify at this hearing include representatives from the Mayor’s Office of Labor Relations (“OLR”), the New York City Office of Collective Bargaining (“OCB”), the New York City Department of Consumer and Worker Protection (DCWP), municipal labor organizations and other interested parties.

1. **BACKGROUND**

*Int. No. 2325-2021: Right to Recall*

In March 2020, Governor Andrew M. Cuomo issued statewide Executive Order 202.6

putting “New York on PAUSE.”[[1]](#footnote-2) The order closed much of the state by issuing stay-at-home orders to those individuals above the age of 70 and temporarily banning all non-essential gatherings and travel.[[2]](#footnote-3) The order also delineated specific industries and occupations that were deemed “essential” and allowed to continue operations in some form—all other businesses were ordered to close in-person operations.[[3]](#footnote-4) These measures, although necessary to combat COVID-19, brought about a steep economic downturn and numerous layoffs as employers struggled with a sharp reduction in revenue.[[4]](#footnote-5) The New York metropolitan area lost more than one million jobs in 2020.[[5]](#footnote-6) These jobs were concentrated in low wage industries that cannot be done from home.[[6]](#footnote-7)

As the pandemic has evolved, these executive orders have been relaxed and modified.[[7]](#footnote-8) However, most industries still operate in a truncated fashion and must comply with a variety of social distancing requirements and vaccine mandates.[[8]](#footnote-9) As the workforce begins to return to in-person work, municipalities across the country have implemented a spate of “right to recall” laws, which generally require employers to first offer previously laid off workers their jobs back before hiring other applicants.[[9]](#footnote-10) California, Connecticut, and Nevada, along with more than a dozen cities around the country have enacted right to recall laws in response to layoffs from the COVID-19 pandemic.[[10]](#footnote-11) These measures vary in scope, mechanics, and duration, but largely focus on the hard-hit hospitality and food service industries.[[11]](#footnote-12)

New York City’s hospitality sector was devastated by the pandemic, suffering a 62.1% decline between May 2019 and May 2020, falling from 961,000 to 364,100 employees.[[12]](#footnote-13) In April 2020, New York City, passed Local Law 99 of 2020, which establishes protections for displaced hotel service workers when a hotel changes ownership. Once new ownership commences, the hotel owners must provide employment and maintain wages to the existing hotel workers for a period of 90 days.[[13]](#footnote-14) After the 90-day period, the new employer must perform a written evaluation of each employee and if the employee’s performance is deemed to be satisfactory, then the successor hotel must offer the employee continued employment.[[14]](#footnote-15) If the successor hotel reduces its staff, they must retain employees by seniority and experience within each job classification.[[15]](#footnote-16) The bill also provides further protections, including remedies such as back pay and liquidated damages.[[16]](#footnote-17)

Representatives for the hospitality industry claim that these mandates hamper economic recovery by creating a new operational burden, which delays reopening.[[17]](#footnote-18) The laws add to a range of other factors employers must consider when recalling laid-off workers, such as requirements set by collective bargaining or the company’s own internal policies.[[18]](#footnote-19)

As the economy rebounds, there are few guarantees that employers will rehire laid off workers.[[19]](#footnote-20) According to a report by economists from the Federal Reserve and the University of Chicago, about 10% of firms who were adding employment between February and June 2020 were adding external hires, rather than recalling their laid off workforce.[[20]](#footnote-21) Labor unions contend that recessions force employers to cut costs causing older and more experienced workers to be terminated and replaced with younger, cheaper labor.[[21]](#footnote-22) They stress that the pandemic and subsequent economic downturn has reinforced the importance of job and income security for workers. [[22]](#footnote-23)

*Int. No. 2454-2021: Collective Bargaining*

On June 27, 2018, the Supreme Court ruled in *Janus v. AFSCME, Council 31*[[23]](#footnote-24) that unions could no longer collect mandatory “fair share” fees to cover the costs of collective bargaining, reversing a 40-year precedent that let unions charge partial dues.[[24]](#footnote-25) The case was brought by Mark Janus, an Illinois government worker who objected to paying a portion of his salary to American Federation of State County and Municipal Employee (AFSCME).[[25]](#footnote-26) Janus’s attorneys argued that mandatory “fair share” fees to cover costs of collective bargaining in the public sector amounted to forced political speech.[[26]](#footnote-27) Since the 1977 ruling in *Abood vs. Detroit Board* *of Education*,[[27]](#footnote-28) the Supreme Court held that because a union must advocate on behalf of all workers, they may charge fees to recoup collective bargaining costs.[[28]](#footnote-29) But in 2018, the Court agreed with Janus’s attorneys that collective bargaining in the government realm is inherently political and requiring workers to pay for it is therefore unconstitutional.[[29]](#footnote-30) The decision applies to 5.9 million state and local public employees in 22 states and has destabilized public-sector labor relations.[[30]](#footnote-31)

Union leaders feared that the Court’s decision would encourage more public workers to withdraw from their unions, magnifying the “free rider” effect where employees can reap the benefits of union bargaining without supporting the union financially.[[31]](#footnote-32) In anticipation of an adverse outcome, in the years leading to the Court’s decision, major public sector unions, including AFSCME, Service Employees International Union (SEIU), and American Federation of Teachers (AFT), launched membership campaigns to convert passive fee payers into full-time members.[[32]](#footnote-33) This included updating their membership records, polling public workers to learn their concerns, and enlisting workers to sign “enhanced” union membership cards.[[33]](#footnote-34) The success rates vary across unions.[[34]](#footnote-35) AFSCME, the respondent in the case, had a net loss of 70,000 members and fee payers from 2017 to 2019.[[35]](#footnote-36) While the union added 40,000 full-time members, it wasn’t enough to offset the 110,000 agency fee payers lost.[[36]](#footnote-37) Similarly, SEIU had a net loss of 55,000 members over the same period.[[37]](#footnote-38) However, other unions had more success. The AFT had a net gain of 1,800 members and fee payers over the same period, signing up more than 92,000 members.[[38]](#footnote-39)

Within two weeks of the Court’s ruling, about one third of the 22 affected states passed laws to shield unions from the decision’s full impact.[[39]](#footnote-40) States with high union density adopted legislation aimed at helping unions recruit and retain members by allowing public sector unions to withhold full benefits of membership from non-members.[[40]](#footnote-41) In New York, the 2018 State budget included an amendment to the Taylor Law, a statute originally passed in 1967 that redefined a union’s duty of fair representation, reducing the number of services that New York’s public-sector unions must provide to workers who opt not to join the union.[[41]](#footnote-42) The unions will not have to provide certain union-specific benefits such as free legal representation, pension counseling or continuing education to non-members.[[42]](#footnote-43) The law also makes it easier for unions in New York to sign up public-sector workers by requiring a public employer to notify the union within 30 days after a worker is hired and to share their name, home address, and work location.[[43]](#footnote-44) Under the law, the public employer must begin dues deductions within 30 days of receiving authorization[[44]](#footnote-45). The law does not stop unions from representing non-members in collective bargaining.[[45]](#footnote-46)

While public sector unions have organized to buffer against the impact of the Court’s ruling, anti-union groups continue to work to expand the scope of the Janus decision. In January 2021, the Supreme Court declined to hear six cases which sought to retroactively recoup partial union dues collected prior to the Court’s 2018 decision.[[46]](#footnote-47) This upholds the decision of the lower courts who all sided in favor of the unions, avoiding millions of dollars in financial liability if the employees’ claims were sustained.[[47]](#footnote-48)

1. **ANALYSIS OF LEGISLATION**

***Analysis of Int. No. 2325-2021***

*A Local Law to amend the administrative code of the city of New York, in relation to protections for restaurant, food service and airport workers displaced due to the COVID-19 disaster emergency*

The COVID-19 pandemic has caused severe economic hardship throughout New York City and has led to the greatest concentration of job losses the City has seen in a generation. The Displaced Restaurant, Food Service and Airport Worker Right to Recall Law would provide certain employees who have been laid off due to the economic and health crises caused by COVID-19 with a crucial right to return to their previous jobs once their former employers are able to restart or scale up operations. Covered employers will be required to offer laid-off employees available positions for which they are qualified before they can hire new employees, ensuring that such laid-off employees have priority to return to work. Covered employers will also be required to provide laid-off employees with a notice of their right to recall under this legislation. The provisions in this legislation will be enforceable by workers through a private right of action in civil court. These protections will be vital to providing laid-off employees in hard-hit industries with the opportunity to return to work as their industries and our city begin their recovery and a return to normalcy.

The bill would take effect immediately and remain in effect until December 31, 2031.

***Analysis of Int. No. 2454-2021***

*A Local Law to amend the administrative code of the city of New York, in relation to New York city collective bargaining law*

This bill would amend the New York City Collective Bargaining Law to account for the U.S. Supreme Court's decision in *Janus v. AFSCMC.*[[48]](#footnote-49) The bill would provide that there are certain services and benefits that public unions are not required to provide to non-members. In addition, it would remove a reference to “agency fees” which are no longer required to be paid by non-members. It would also allow non-members, in certain circumstances and with the permission of the union, to proceed through the grievance process and arbitration without union representation, so long as the non-member assumes the cost for arbitration that would otherwise be paid by the union.

This bill would take effect 30 days after it becomes law.

**[PAGE INTENTIONALLY LEFT BLANK]**

Int. No. 2325

By Council Members Miller and Kallos (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to protections for restaurant, food service and airport workers displaced due to the COVID-19 disaster emergency

..Body

Be it enacted by the Council as follows:

Section 1. Title 20 of the administrative code of the city of New York is amended by adding a new chapter 14 to read as follows:

CHAPTER 14

DISPLACED RESTAURANT, FOOD SERVICE AND AIRPORT WORKERS

§ 20-1401 Short title. This chapter shall be known and may be cited as the “Displaced Food Service and Airport Worker Right to Recall Law.”

§ 20-1402 Definitions. As used in this chapter, the following terms have the following meanings:

Airport. The term “airport” means John F. Kennedy International Airport and LaGuardia Airport.

Airport hospitality operation. The term “airport hospitality operation” means a business that provides food or beverage service, passenger lounge service, retail or other consumer goods or services to members of the public at an airport.

Airport service provider. The term “airport service provider” means any person that performs, under contract with a certificated passenger air carrier: (i) food service, including for in-flight food or beverage service; or (ii) functions on the property of an airport that are directly related to the air transportation of persons, property or mail, including the loading or unloading of property on aircraft, assistance to passengers under part 382 of title 14 of the code of federal regulations, security, airport ticketing or check-in functions, ground-handling of aircraft or aircraft cleaning, sanitization functions or waste removal.

Covered employer. The term “covered employer” means an airport hospitality operation, airport service provider, food service contractor, or a private entity whose employees or contractors are regularly scheduled to work at an event center, that meets the definition of “employer” set forth in section 20-912. The term “covered employer” does not include the port authority of New York and New Jersey and air carriers certificated by the federal aviation administration.

Department. The term “department” means the department of consumer and worker protection.

Employee. The term “employee” means a person who meets or met the definition of “employee” set forth in section 20-912 and is or was employed by a covered employer.

Event center. The term “event center” means a publicly or privately owned structure with a seating capacity of 10,000 or more, or 50,000 or more square feet of meeting or exhibition space, that is used for public performances, sporting events, business meetings or similar events, including a concert hall, stadium, sports arena, racetrack, coliseum or convention center. The term “event center” includes any contracted, leased or sublet premises connected to or operated in conjunction with the purpose of such a structure, including food preparation facilities, concessions, retail stores, restaurants, bars and structured parking facilities.

Food service. The term “food service” means the on-site preparation, service or cleanup of food or beverages.

Food service contract. The term “food service contract” means a contract for the provision of food service, for a term of at least one year, that requires the food service contractor to provide all food service workers providing such food service.

Food service contractor. The term “food service contractor” means any person who, directly or through subcontracting, enters into a food service contract to provide food service to or on behalf of another person.

Laid-off employee. The term “laid-off employee” means any employee who was employed by a covered employer for six months or more between January 31, 2019 and January 31, 2020, and whose most recent separation from employment (i) was initiated by such covered employer, (ii) occurred after January 31, 2020 and before January 1, 2022 and (iii) was due to a government order, layoff, lack of business, reduction in force or other economic, non-disciplinary reason.

Seniority. The term “seniority” means a ranking of employees based on length of service, computed from the first date of work, including any probationary period, unless such service has been interrupted by more than six months, in which case length of service shall be computed from the date that service resumed. An absence shall not be deemed an interruption of service if such absence was the result of military service, illness, educational leave, leave protected or afforded by law or any discharge due to a government order, layoff, lack of business, reduction in force or other economic, non-disciplinary reason, or that is in violation of any local, state or federal law, including this chapter.

§ 20-1403 Right to recall. a. 1. Until and including December 31, 2024, before hiring a new employee, a covered employer shall, pursuant to this section, offer any positions that become available after the effective date of the local law that added this chapter to its laid-off employees who are qualified for such position.

2. A covered employer’s obligation to offer such positions to a laid-off employee shall be extinguished if (i) the covered employer has offered such a position to the laid-off employee pursuant to this section, and the laid-off employee has accepted such offer; (ii) the covered employer has made three or more comparable offers to the laid-off employee pursuant to this section; or (iii) the laid-off employee has informed the covered employer in writing that such employee does not intend to return to work for such covered employer. For purposes of this paragraph, a comparable offer means an offer of a position for which the laid-off employee is qualified pursuant to paragraph 4 of this subdivision, at a work schedule totaling at least 85 percent of the hours that the laid-off employee worked for the covered employer pursuant to the laid-off employee’s regular work schedule or weekly work schedule when the laid-off employee was laid off.

3. Covered employers shall make such offers in writing by registered mail, by email or by text message to the laid-off employee’s last known contact information, except that for any layoff occurring after the effective date of the local law that added this chapter, the covered employer shall use the method and contact information chosen and provided by the laid-off employee when such employee is laid off.

4. A laid-off employee is qualified for a position, without regard to title, if the laid-off employee (i) was employed in the same or a similar position by the covered employer when the laid-off employee was laid off or (ii) can perform the requirements of the position or would be able to perform the requirements of the position with the same training that would be provided to a new employee hired for the position.

5. A covered employer shall offer such positions to laid-off employees in the order of priority corresponding to items (i) and (ii) of paragraph 4 of this subdivision. If multiple laid-off employees in the same priority category are qualified for such a position, the covered employer shall offer the position to the laid-off employee with the greatest seniority for the covered employer.

b. A laid-off employee offered a position pursuant to this section shall be given no fewer than ten days from the date of receipt of the written offer to accept or decline the offer. A covered employer may make simultaneous conditional offers of employment to laid-off employees, with a final offer of employment conditioned on application of the priority system set forth in paragraph 5 of subdivision a of this section.

c. A covered employer that does not offer such a position to a laid-off employee on the grounds of lack of qualifications, and instead recalls another laid-off employee with less priority or hires someone other than a laid-off employee, shall provide the laid-off employee determined to be unqualified a written notice of non-qualification within thirty days identifying all reasons for such determination.

d. The requirements of this chapter also apply if:

1. The ownership of the covered employer changed after a laid-off employee’s separation from employment, and the covered employer is conducting the same or similar operations as were conducted before January 31, 2020;

2. The form of organization of the covered employer changed after January 31, 2020, and the covered employer is conducting the same or similar operations as before such change;

3. Substantially all of the covered employer’s assets were acquired by another person that conducts the same or similar operations using substantially the same assets; or

4. The covered employer relocated the operations at which a laid-off employee was employed before January 31, 2020 to a different location within the city.

§ 20-1404 Layoff procedures and requirements. a. Written notice of layoff. A covered employer shall provide a laid-off employee with written notice of the layoff, either in person or in writing to the employee’s last-known address, or to the employee’s phone number or email address if authorized by the employee. Such notice shall be provided at the time of layoff or within 60 days of the effective date of the local law that added this chapter if the layoff took place before such date. A covered employer shall provide notice to each laid-off employee in a language understood by such employee. The written notice shall include:

1. A notice of the layoff and the layoff’s effective date;

2. The laid off-employee’s seniority at the time of layoff; and

3. A summary of the rights provided by this chapter, including the right to recall and to receive and accept job offers made based on seniority, the right to be free from retaliation and the right to enforce one’s rights in court.

b. The department shall make publicly available on its website, in a downloadable format in each designated citywide language as defined in section 23-1101, a notice containing the information that a covered employer must provide to a laid-off employee pursuant to paragraph 3 of subdivision a of this section.

c. When laying off an employee, a covered employer shall request the employee’s preferred mailing address, phone number or email address for purposes of receiving offers of open positions pursuant to section 20-1403.

d. Recordkeeping. Covered employers shall retain the following records for each laid-off employee, for at least two years from the date the written notice of layoff was required to be provided to such laid-off employee pursuant to subdivision a of this section: name; job classification at the time of separation from employment; date of hire; last known address; last known email address and phone number, if applicable; a copy of the written notice of layoff provided to the laid-off employee; proof of any offers of available positions to the laid-off employee; and proof of any notices of non-qualification provided to the laid-off employee.

§ 20-1405 Retaliatory action prohibited. No person shall refuse to employ, terminate, reduce in compensation or otherwise take any adverse action against any employee for seeking information or to enforce their rights under this chapter, for participating in any proceeding related to this chapter, for opposing or reporting any practice proscribed by this chapter or for otherwise asserting any right under this chapter. This section shall apply to any employee who mistakenly, but in good faith, alleges a violation of this chapter.

§ 20-1406 Enforcement. a. This chapter may be enforced in a civil action in any court of competent jurisdiction brought by one or more employees on their own behalf or on behalf of themselves and other similarly situated employees. An employee may designate an agent or representative to maintain such an action.

b. If a court finds that a covered employer violated this chapter, it may enjoin the covered employer from engaging in such violation and may award any other appropriate affirmative relief, including compensatory damages, back pay and reinstatement or hiring of employees with or without back pay including fringe benefits. Interim earnings or amounts earnable with reasonable diligence by employees prevailing in such action shall operate to reduce any back pay otherwise allowable. Before such interim earnings are deducted from such back pay, the court shall deduct from such interim earnings any reasonable amounts expended by such employees in searching for, obtaining or relocating to new employment. A court may also order punitive damages if it finds that a covered employer violated this chapter with malice or with reckless indifference to the requirements of this chapter. If a court finds that a covered employer terminated an employee in violation of section 20-1405, the court may award, in addition to reinstatement, three times the amount of back pay and compensatory damages awarded.

c. If a covered employer takes an adverse action against an employee within 60 days of such employee’s exercise of rights pursuant to, or any other activity protected by, this chapter, there shall be a rebuttable presumption that such adverse action was taken in violation of section 20-1405.

d. If an employee prevails in a civil action brought under this section, the court shall award reasonable attorney’s fees and costs and expert witness fees incurred in bringing such action.

§ 20-1407 Expiration. This chapter expires on December 31, 2031.

§ 2. This local law takes effect immediately and remains in effect until December 31, 2031, when it is deemed repealed, provided that all actions and proceedings arising from events that occurred prior to such date may be prosecuted and defended to final effect in the same manner as they might if this local law were not so repealed.

Int. No. 2454

By Council Members Miller and Yeger

A Local Law to amend the administrative code of the city of New York, in relation to the New York city collective bargaining law

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 12-306 of the administrative code of the city of New York, as amended by local law number 26 for the year 1998, is amended to read as follows:

b. Improper public employee organization practices. It shall be an improper practice for a public employee organization or its agents:

(1) to interfere with, restrain or coerce public employees in the exercise of rights granted in section 12-305 of this chapter, or to cause, or attempt to cause, a public employer to do so, provided, however, that an employee organization does not interfere with, restrain, or coerce public employees when, in accordance with this section, it limits its services to and representation of non-members of the employee organization;

(2) to refuse to bargain collectively in good faith with a public employer [or] on matters within the scope of collective bargaining provided the public employee organization is a certified or designated representative of public employees of such employer;

(3) to breach its duty of fair representation to public employees under this chapter. Notwithstanding any law, rule or regulation to the contrary, an employee organization’s duty of fair representation to a public employee it represents but who is not a member of the employee organization shall be limited to the negotiation or enforcement of the terms of an agreement with the public employer. No provision of this chapter shall be construed to require an employee organization to provide representation to a non-member of the employee organization:

(a) During questioning by the employer;

(b) In statutory or administrative proceedings or to enforce statutory or regulatory rights; or

(c) In any stage of a grievance, arbitration or other contractual process concerning the evaluation or discipline of a public employee where the non-member is permitted to proceed without the employee organization and be represented by his or her own advocate. Nor shall any provision of this chapter prohibit an employee organization from providing legal, economic or job-related services or benefits beyond those provided in the agreement with a public employer only to its members.

§ 2. The introductory paragraph of subdivision a of section 12-307 of the administrative code of the city of New York, as amended by local law number 56 for the year 2005, is amended to read as follows:

a. Subject to the provisions of subdivision b of this section and subdivision c of section 12-304 of this chapter, public employers and certified or designated employee organizations shall have the duty to bargain in good faith on wages (including but not limited to wage rates, pensions, health and welfare benefits, uniform allowances and shift premiums), hours (including but not limited to overtime and time and leave benefits), working conditions and provisions for the deduction of dues from the wages or salaries of employees in the appropriate bargaining unit [who are not members of the certified or designated employee organization of an agency shop fee to the extent permitted by law, but in no event exceeding sums equal to the periodic dues uniformly required of its members by such certified or designated employee organization] and for the payment of the sums so deducted to the certified or designated employee organization, subject to applicable state law, except that:

§ 3. Subdivisions c and g of section 12-312 of the administrative code of the city of New York are amended to read as follows:

c. Arbitrators appointed under arbitration provisions relating to municipal agencies shall be persons on the register of the board of collective bargaining. The costs of such arbitration shall be determined and allocated pursuant to section [eleven hundred seventy-four] 1174 of the charter. The board of collective bargaining, in its discretion, may publish arbitration awards. To the extent the certified employee organization grants permission to proceed to a non-member of the employee organization pursuant to paragraph (3) of subdivision g of this section, the non-member shall be responsible for the public employee organization’s share of any costs associated with the grievance or arbitration pursuant to section 1174 of the charter.

g. An employee may present his or her own grievance either personally or through an appropriate representative, provided that:

 (1) a grievance relating to a matter referred to in paragraph two, three or five of subdivision a of section 12-307 of this chapter may be presented and processed only by the employee or by the appropriate designated representative or its designee, but only the appropriate designated representative or its designee shall have the right to invoke and utilize the arbitration procedure provided by executive order or in the collective agreement to which the designated representative is a party; and provided further that

(2) any other grievance of an employee in a unit for which an employee organization is the certified collective bargaining representative may be presented and processed only by, the employee or by the certified employee organization, but only the certified employee organization shall have the right to invoke and utilize the arbitration procedure provided by executive order or in the collective agreement to which the certified representative is a party[.]; and provided further that

(3) a designated or certified employee organization may permit a non-member of such employee organization to proceed, including through arbitration, without representation by the employee organization and be represented by his or her own advocate for matters excluded from the duty of fair representation pursuant to paragraph (3) of subdivision b of section 12-306. In such matters, the employee organization retains the right to participate in the proceeding.

§ 4. This local law takes effect 30 days after it becomes la

1. *Executive Order 202.- 202.79* (Declaring a State of Emergency in New York State due to the COVID-19 global pandemic), *available at* [https://www.nyshta.org/uploads/1/0/9/1/109195421/covid-19\_executive\_order\_summary\_chart\_updated\_ 12.04.20.pdf](https://www.nyshta.org/uploads/1/0/9/1/109195421/covid-19_executive_order_summary_chart_updated_%2012.04.20.pdf) (accessed on Nov. 21, 2021). [↑](#footnote-ref-2)
2. *Id.* [↑](#footnote-ref-3)
3. *Id.* [↑](#footnote-ref-4)
4. Lauren Bauer *et. al.*, *Ten Facts about COVID-19 And the U.S. Economy,* Brookings (Sept. 17, 2020), *available at* <https://www.brookings.edu/research/ten-facts-about-covid-19-and-the-u-s-economy/> (accessed on Nov. 19, 2021). [↑](#footnote-ref-5)
5. *Metropolitan Area Employment and Unemployment: December 2020*. U.S. Bureau of Labor Statistics, *available at* <https://www.bls.gov/news.release/archives/metro_02032021.htm> (accessed on Nov. 19, 2021). [↑](#footnote-ref-6)
6. Patrick McGeehan, *For New York City Glimmers of Hope and Signs of Revival,* The New York Times(Aug. 23, 2021), *available at* <https://www.nytimes.com/2021/04/02/nyregion/nyc-economy-recovery.html> (accessed on Nov. 19, 2021). [↑](#footnote-ref-7)
7. *Id.* at 1. [↑](#footnote-ref-8)
8. *Id.* at 1. [↑](#footnote-ref-9)
9. Stacy James, Thelma Akpan, *Recall Rights and Retention Obligation: How Local Ordinances are Changing Workplace Regulation in the COVID-19 Era*, Litter (Feb. 1, 2021), *available at* <https://www.littler.com/publication-press/publication/recall-rights-and-retention-obligations-how-local-ordinances-are#:~:text=The%20Right%20of%20Recall%20Ordinance%20requires%20that%20employers%20in%20the,of%20the%20business%20changes%20hands> (accessed on Nov. 19, 2021). [↑](#footnote-ref-10)
10. Chris Marr, *Pandemic ‘Recall’ Laws Give Non-Union Workers Union-Style Protections.* Bloomberg Law (Aug. 4, 2021), *available at* <https://news.bloomberglaw.com/daily-labor-report/pandemic-recall-laws-give-nonunion-workers-union-style-rights> (accessed on Nov. 19, 2021). [↑](#footnote-ref-11)
11. Mark Wilson, *Right of Recall Laws for Employees During Pandemic Emerge in California,* HR Policy Association (Oct. 23, 2020), *available at* <https://www.hrpolicy.org/news/story/right-of-recall-laws-for-employees-laid-off-during-pandemic-emerge-in-california-17990> (accessed on Nov. 19, 2021). [↑](#footnote-ref-12)
12. *Leisure and Hospitality employment in New York down 62% for the year ending in May 2020,* Bureau of Labor Statistics (Jun. 24, 2020), *available at* <https://www.bls.gov/opub/ted/2020/leisure-and-hospitality-employment-in-new-york-down-62-point-1-percent-for-the-year-ended-may-2020.htm> (accessed on Nov. 19, 2021). [↑](#footnote-ref-13)
13. Act of Sept. 28, 2020, Pub. L. No. 2020/099 (relating to displaced hotel service workers and hotel service disruption notifications). [↑](#footnote-ref-14)
14. *Id.* [↑](#footnote-ref-15)
15. *Id.* [↑](#footnote-ref-16)
16. *Id.* [↑](#footnote-ref-17)
17. Alana Semuels, *Workers Who Were Laid-Off Say That They Are Being Passed Over for Their Own Jobs,* Time (Oct.15, 2020), *available at* <https://time.com/5900062/coronavirus-layoffs-right-to-recall/> (accessed on Nov. 19, 2021). [↑](#footnote-ref-18)
18. *Id.* at 10. [↑](#footnote-ref-19)
19. Tomaz Cajner, Leland D. Crane, Ryan A. Decker, John Grigsby, Adrian Hamins-Puertolas, Erik Hurst, Christopher Kurz, and Ahu Yildirmaz, *The U.S. Labor Market During the Beginning of the Pandemic Recession* (July 2020), *available at* <https://bfi.uchicago.edu/wp-content/uploads/HurstBFI_WP_202058_Revision.pdf> (accessed on Nov. 19, 2021). [↑](#footnote-ref-20)
20. *Id.* [↑](#footnote-ref-21)
21. *Id.* at 10. [↑](#footnote-ref-22)
22. *Id.* at 10. [↑](#footnote-ref-23)
23. 138 S. Ct. 2448 (2018). [↑](#footnote-ref-24)
24. Ian Kullgren and Aaron Kessler, *Unions Fend Off Membership Exodus in 2 years Since Janus Ruling*, (June 26, 2020) Bloomberg Law, *available at* <https://news.bloomberglaw.com/daily-labor-report/unions-fend-off-membership-exodus-in-2-years-since-janus-ruling> (accessed on June 26, 2020). [↑](#footnote-ref-25)
25. *Id.* [↑](#footnote-ref-26)
26. *Id.* [↑](#footnote-ref-27)
27. **431 U.S. 209 (1977).** [↑](#footnote-ref-28)
28. *Id.* [↑](#footnote-ref-29)
29. *Id.* [↑](#footnote-ref-30)
30. Daniel Disalvo, *Public Sector Unions after Janus: An Update* (Feb. 2019) Manhattan Institute, *available at* <https://www.manhattan-institute.org/public-sector-unions-after-janus#notes> (accessed on Nov. 21, 2021). [↑](#footnote-ref-31)
31. *Id.* [↑](#footnote-ref-32)
32. *Id.* [↑](#footnote-ref-33)
33. *Id.* [↑](#footnote-ref-34)
34. *Id.* at 24. [↑](#footnote-ref-35)
35. *Id.* at 24. [↑](#footnote-ref-36)
36. *Id.*at 24. [↑](#footnote-ref-37)
37. *Id.*at 24. [↑](#footnote-ref-38)
38. *Id.* at 24. [↑](#footnote-ref-39)
39. *Id.* at 24. [↑](#footnote-ref-40)
40. Daniel D. Schudroff and Megann K. McManus, *The Practical Implications of Janus v. AFSCME Council 31* (Sept. 28, 2018), American Bar Association, *available at* [https://www.americanbar.org/groups/business\_law/ publications/blt/2018/09/02\_mcmanus/](https://www.americanbar.org/groups/business_law/%20publications/blt/2018/09/02_mcmanus/) (accessed on Nov. 19, 2021). [↑](#footnote-ref-41)
41. Max Parrot, *Cuomo’s Anti-Janus Labor Law May Divide Workers, Critics Contend* (June 29, 2018), City and State, *available at* <https://www.cityandstateny.com/policy/2018/06/cuomos-anti-janus-labor-law-may-divide-workers-critics-contend/178318/> (accessed on Nov. 21, 2021). [↑](#footnote-ref-42)
42. *Id.* [↑](#footnote-ref-43)
43. *Id.* [↑](#footnote-ref-44)
44. *Id.* [↑](#footnote-ref-45)
45. *Id.* [↑](#footnote-ref-46)
46. Mark Walsh, *High Court Declines Appeals from Teachers Seeking Union Fee Refunds Based on ‘Janus’ Case,* (January 25, 2021) Education Week, *available at* <https://www.edweek.org/policy-politics/high-court-declines-appeals-from-teachers-seeking-union-fee-refunds-based-on-janus-case/2021/01> (accessed on Nov. 21, 2021). [↑](#footnote-ref-47)
47. *Id.* [↑](#footnote-ref-48)
48. 138 S. Ct. 2448 (2018). [↑](#footnote-ref-49)