



99 PINE STREET  
ALBANY, NEW YORK 12207

[WWW.FWC-LAW.COM](http://WWW.FWC-LAW.COM)

PHONE: (518) 436-0786  
FAX: (518) 427-0452

## The Week That Was

03-31-17

### 1. Tempus Fugit

#### *Our Spin:*

In the apparently elusive effort to enact an on time budget, the Governor and Legislative Leaders have found that time flies. How many Budget Bills are in print? One, the debt service bill. How many more need to be printed? At least 9. Will it be an April Fools errand, an Easter basket or a summer surprise?

#### *The Story:*

Saturday is the first day of a new state fiscal year but as of Friday evening, Governor Andrew Cuomo and the Legislature are still negotiating. This circumstance is making it unlikely any votes on budget bills could start before the key deadline comes and goes. For the last several years, Cuomo has prided himself on passing on-time, or at the very least "timely," budgets during his seven-year tenure. Messages of necessity, which waive the standard three-day aging process for bills, will be needed to get legislation on the floor in time to be voted on over the weekend. Depending on who you ask, the final deal is hung up on the details of a plan to raise the age of criminal responsibility to eighteen, or on funding for charter schools, or, a late entry, aid to cancer screening programs. After a quick conference with its members on Thursday night, Assembly Democratic Majority Leader Joe Morelle said there wasn't a blowup over "Raise the Age" during the day, but that members of the Black, Puerto Rican, Hispanic & Asian Legislative Caucus and other Assembly Democrats are

working to make sure their priorities are heard. Senate mainline Democratic Leader Andrea Stewart-Cousins also had a meeting with the Governor on Thursday to discuss "Raise the Age." She told reporters her conference had concerns that reforms would leave too many cases involving sixteen and seventeen-year-old offenders in a so-called "youth court" as opposed to family court, where many Democrats want to see the majority of such matters handled. Stewart-Cousins worried that the youth court would be nothing more than "a nice room within the criminal court" that would represent no real change.

[Times Union](#)  
[WNYC](#)

### 2. How Much is that Job in Upstate?

#### *Our Spin:*

How much is that job in Upstate? The one with waggly funding? How much is that job in Upstate? I do hope that job's for real. Cuomo must take a trip to a swing state, and leave my poor Upstate alone. If we had more jobs Upstate won't be forlorn, and the citizens would have a good home.

#### *The Story:*

After years of state efforts to transform a high-tech Canandaigua facility into a statewide hub failed, the state has agreed to sell the facility to a small private company. Akoustis Technologies Inc. agreed last week to pay

\$2.75 million for SUNY Polytechnic Institute's Smart Systems Technology & Commercialization Center in Ontario County and its equipment, a price well below its current appraised value of \$7.7 million and the \$39 million SUNY Poly's own website says the facility cost to build. Since becoming Governor in 2011, Andrew Cuomo has spent a lot of time and money into projects like this, in an attempt to revive Upstate's declining economy. He has increased state subsidies, launched several bold initiatives and traveled the state to announce state-funded projects he frequently described as "game-changers."

"Economic success is shared all across the state. It's not just New York City that's doing well, it's the entire state," the Governor declared in his 2017 State of the State address in Syracuse.

However, a recent study published this week found that maybe the Upstate success Governor Cuomo constantly refers to is largely elusive. The Investigative Post, ProPublica, and the Columbia University Graduate School of Journalism teamed up to assess the state's economic development efforts since Cuomo took office. They built a database that tracked nearly 16,000 subsidy deals involving 12 of the state's largest economic development programs and local industrial development agencies. The investigation found that the state's substantial investment in the Upstate economy has not yet generated many jobs and that economic development programs suffer from a lack of transparency and objective analysis to determine their effectiveness. The study also concluded that the state does a poor job of screening subsidy recipients to determine their history of compliance with federal and state regulators. They also noted that some companies have used their influence to tap into a multitude of subsidy programs and place executives on decision-making bodies that help determine how tax breaks and other forms of assistance are awarded. Furthermore, his decision to empower former SUNY Polytechnic president Alain Kaloyeros to manage big-ticket projects built at taxpayer expense, has affected his administration's credibility, leaving many planned developments in limbo.

[Democrat & Chronicle](#)  
[Niagara Gazette](#)

### 3. A Shield or a Sword?

*Our Spin:*

The position espoused by the New York City Police Department and Mayor de Blasio that police disciplinary records are shielded from the public was affirmed by the courts. In recognizing the protection afforded the records, the Court acknowledged that the policy emanates from the real threats made to police officers. Amidst vows to seek a legislative change we ask; should the law be a shield or a sword?

*The Story:*

A Manhattan appeals court ruled on Thursday in two separate lawsuits that a long-established but contentious provision of the New York Civil Rights Code prevents the disciplinary records of city police officers from being publicly released. The rulings made by the First Judicial Department appeals court handed a victory to Mayor Bill de Blasio and the New York Police Department, both of which had argued, that the State Civil Rights Law, known as Section 50-a, forbids the public issuance or mention in court of an officer's personnel record without judicial approval. One of the decisions reversed a lower court ruling that ordered the City to release a summary of misconduct findings for officer Daniel Pantaleo. Pantaleo had placed Eric Garner, an unarmed black man, in a chokehold moments before he died in July 2014. Despite the fact that Officer Pantaleo's C.C.R.B. records were leaked to the media this month, the court ruled that Section 50-a did not permit their legal release and that only the state legislature could fix the law to allow the records to be made public. The reversal was applauded by the police union, the Patrolmen's Benevolent Association of the City of New York. "The release of police officers' personnel files poses a grave safety risk for police officers and their families. Now that these important protections have been reaffirmed, they need to be vigorously enforced," PBA President Patrick Lynch said in a statement. The other decision put to rest litigation filed by the New York Civil Liberties Union, which in 2010 had sent a Freedom of Information request to the Police Department seeking a decade's worth of judicial decisions as well as the outcome of the internal trials of police officers accused of misconduct. Under the department's disciplinary process, the in-house trials of police officers are open to the public, but their final dispositions are never released.

[WTVB](#)  
[The New York Times](#)