S T A T E O F N E W Y O R K

9758

I N A S S E M B L Y

April 2, 2012

Introduced by M. of A. HANNA -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to requiring a forty hour standard work week for state officers and employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 134 of the civil service law, as amended by chapter 382 of the laws of 1973, is amended to read as follows:

1. For all state officers and employees, other than officers and employees of the legislature and the judiciary and other than those who shall be excluded pursuant to the rules and regulations hereafter mentioned, the workweek for basic annual salary shall [not] be [more than] forty-hours; and, notwithstanding any inconsistent provisions of law, and subject to the rules and regulations promulgated by the director of the budget, any such state officer and employee who is authorized or required to work more than forty hours in any week in his regular position or title or in a position the title of which is allocated to the same salary grade as his regular position, shall receive overtime compensation for the hours worked in excess of forty in each week at one and one-half times the hourly rate of pay received by such employee in his regular position; provided, however, that an employee not subject to the overtime provisions of the federal "Fair Labor Standards Act of 1938" as amended by the federal "Fair Labor Standards Amendments of 1966", being public law six hundred one of the eighty-ninth congress, as approved September twenty-three, nineteen hundred sixty-six, and all acts amendatory thereof and supplementary thereto, may by written agreement with his proper authority exchange hours of work with other employees doing similar work in the same state institution or other state governmental unit without overtime compensation. Upon the approval of the director of the budget a member of the state police may be considered to have worked, for the purpose of determining overtime compensation pursuant to the provisions of this section, a minimum of four hours each time he is recalled to work overtime after completing his

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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scheduled work period and leaving his scheduled work station or may be considered to have worked a minimum of two hours each time he is scheduled to return and returns to duty to work overtime for the purpose of making an appearance in court after completing his regularly scheduled work period and leaving his regularly scheduled work station. Upon the approval of the director of the budget an employee may be considered to have worked, for the purpose of determining overtime compensation pursuant to the provisions of this section, a minimum of one-half day each time he is recalled to work overtime after completing his scheduled work period and leaving his scheduled work station; provided, however, that, subject to the terms of an agreement negotiated between the state and an employee organization pursuant to article fourteen of the civil service law, an employee recalled to work may be considered to have worked less than a minimum of one-half day and an employee recalled to work more than once during a period of one-half day commencing with the onset of the initial recall will not be entitled to more than one-half day of overtime credit unless more than one-half day is actually worked. When an employee shall work overtime in a position which has a title which is allocated to a lower salary grade than the salary grade to which the title of his regular position is allocated, he shall receive overtime compensation at one and one-half times the hourly rate of pay of the maximum salary of the grade of the position in which he shall work overtime, or such maximum salary plus the additional increment or increments, if he would be entitled to such additional increment or increments were he then appointed to such position; provided, however, that when such hourly rate exceeds the hourly rate of pay received by him in his regular position, he shall receive one and one-half times the hourly rate of his regular position. When an employee works overtime in a position allocated to a salary grade higher than the salary grade to which his regular position is allocated, he shall receive overtime compensation at one and one-half times the hourly rate of pay of the rate of compensation to which he would be entitled if he were permanently promoted to the position in which such overtime work is performed.

S 2. Section 204 of the civil service law is amended by adding a new subdivision 4 to read as follows:

4. NO PUBLIC EMPLOYER SHALL ACCEPT AN AGREEMENT FROM AN EMPLOYEE ORGANIZATION UNLESS THE AGREEMENT ESTABLISHES A STANDARD WORK WEEK FOR STATE OFFICERS AND EMPLOYEES TO BE FORTY HOURS AS REQUIRED BY SECTION ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER.

S 3. This act shall take effect immediately.