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

8032

2013-2014 Regular Sessions

I N A S S E M B L Y

June 16, 2013

Introduced by M. of A. ABBATE -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT implementing an agreement between the state and an employee organization; providing for the adjustment of salaries or hourly rates of certain incumbents in the professional services negotiating unit; and making an appropriation therefor

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

Section 1. Definitions. 1. For purposes of this act, "eligible unit members" means those members of the collective negotiating unit designated as the professional services negotiating unit established pursuant to article 14 of the civil service law that are in lifeguard titles and who are in positions designated as part of bargaining unit 68.

2. For purposes of this act, "the agreement" means a collectively negotiated agreement entered into in 2013 between the state and the employee organization representing eligible unit members of the professional services negotiating unit as designated in subdivision 1 of this section.

3. For purposes of this act, "the employee organization" means the employee organization representing members of the professional services negotiating unit.

S 2. Adjustment to salaries and hourly rates and other compensation of certain eligible unit members in the professional services negotiating unit.

1. The provisions of this section shall apply to certain eligible unit members in the professional services negotiating unit that are in lifeguard titles and who are in positions designated as part of bargaining unit 68.

2. Percentage increases applicable to certain eligible unit members prior to March 31, 2011.

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

LBD12038-01-3

(a) Effective April 1, 2004, the salary or hourly rate of certain eligible unit members shall increase by two and one-half percent.

(b) Effective April 1, 2005, the salary or hourly rate of certain eligible unit members shall increase by two and three-quarters percent.

(c) Effective April 1, 2006, the salary or hourly rate of certain eligible unit members shall increase by three percent.

(d) Effective April 1, 2007, the salary or hourly rate of certain eligible unit members shall increase by three percent.

(e) Effective April 1, 2008, the salary or hourly rate of certain eligible unit members shall increase by three percent.

(f) Effective April 1, 2009, the salary or hourly rate of certain eligible unit members shall increase by three percent.

(g) Effective April 1, 2010, the salary or hourly rate of certain eligible unit members shall increase by four percent.

(h) To be eligible for the retroactive increases set forth in paragraphs (a) through (g) of this subdivision, an eligible unit member (i) must have been in employment status on the effective date of the salary or hourly rate increase or employed during a season that commences during the fiscal year that includes such salary or hourly rate increase, and (ii) must have been in employment status on April 1, 2013 or during a season that commences in the fiscal year that includes April 1, 2013.

3. Percentage increases applicable to certain eligible unit members after March 31, 2011.

(a) Effective April 1, 2014, the salary or hourly rate of certain eligible unit members shall increase by two percent.

(b) Effective April 1, 2015, the salary or hourly rate of certain eligible unit members shall increase by two percent.

(c) The salary or hourly rate increases set forth in paragraph (a) of this subdivision shall not be payable until the director of employee relations notifies the director of the budget that the state and the employee organization representing eligible unit members have reached an agreement on issues of mutual concern included in the "Joint Meeting Minutes between Long Island State Park and Recreation Commission and the Jones Beach Lifeguard Corp" and any other labor-management agreements between the state and the parties concerning the Jones Beach Lifeguard Corp, in accordance with the terms of the agreement.

4. In accordance with the terms of the agreement, certain eligible unit members who work at least 160 hours during the season (at least 20 days) shall be entitled to additional compensation at their hourly rate, up to a maximum of eight hours, for time worked on each of the first three days during their employment in any seasonal period (April 1 to September 30 or October 1 to March 31) which are observed as holidays by the state. Such compensation shall be paid retroactively upon completion of five weeks of work.

5. Notwithstanding any of the foregoing provisions of this section, any increase in compensation may be withheld in whole or in part from any employee to whom the provisions of this section are applicable when, in the opinion of the director of employee relations and the director of the budget, such increase is not warranted or is not appropriate.

S 3. Notwithstanding any provision of law to the contrary, the appropriations contained in this act shall be available to the state for the payment of grievance and arbitration settlements and awards pursuant to article 7 of the agreement between the state and the employee organization that covers members of the professional services negotiating unit.

S 4. The salary or hourly increases and benefit modifications, and any other modifications to the terms and conditions of employment provided for by this act for eligible unit members in the professional services negotiating unit, shall not be implemented until the director of employee relations has delivered, to the director of the budget and the comptroller, a certificate that there is in effect with respect to such negotiating unit a collectively negotiated agreement which provides for such increases and modifications and which is fully executed in writing with the state pursuant to article 14 of the civil service law, and ratified pursuant to the ratification procedure, if any, applicable to eligible unit members.

S 5. Notwithstanding any inconsistent provision of law, where and to the extent that any agreement between the state and the employee organization entered into pursuant to article 14 of the civil service law so provides on behalf of certain employees in the professional services negotiating unit, effective January 1, 2014, the state shall contribute an amount designated in such agreement and for the period covered by such agreement to the accounts of such eligible employees enrolled for dependent care deductions pursuant to subdivision 7 of section 201-a of the state finance law. Such amounts shall not be counted as compensation for overtime or retirement purposes.

S 6. Date of entitlement to salary or hourly increase. Notwithstanding the provisions of this act or of any other law, the increase in compensation of any officer or employee provided by this act shall be added to the compensation of such officer or employee at the beginning of that payroll period the first day of which is nearest to the effective date of such increase as provided in this act, or at the beginning of the earlier of two payroll periods the first days of which are nearest but equally near to the effective date of such increase as provided in this act, provided, however, that for the purposes of determining the salary of such officer or employee upon reclassification, reallocation, appointment, promotion, transfer, demotion, reinstatement or other change of status, such salary or hourly rate increase shall be deemed to be effective on the date thereof as prescribed in this act, and the payment thereof pursuant to this section on a date prior thereto, instead of on such effective date, and shall not operate to confer any additional salary rights or benefits on such officer or employee. Payment of such salary or hourly increase may be deferred pursuant to section seven of this act.

S 7. Deferred payment of salary or hourly increase. Notwithstanding the provisions of any other section of this act or of any other law, pending payment pursuant to this act of the compensation due to eligible unit members subject to this act, such members shall receive, as partial compensation for services rendered, the rate of compensation otherwise payable in their respective positions. An eligible unit member holding a position subject to this act at any time during the period from the effective dates of the salary or hourly increases provided for in this act until the time when compensation due to eligible unit members is first paid pursuant to this act for such services in excess of the compensation actually received therefor, shall be entitled to a lump sum payment for the difference between the salary or hourly rate to which such eligible unit member is entitled for such services and the compensation actually received therefor. Such lump sum payments shall be made as soon as practicable. The amounts paid under this act shall count as compensation earned during the year or years for which it is calculated and not as compensation earned wholly in the year in which it is paid.

Notwithstanding any law, rule or regulation to the contrary, no member of the professional services negotiating unit to whom the provisions of this act apply shall be entitled to, or owed, any interest or other penalty for any reason on any monies due to such member pursuant to the terms of this act and the terms of the agreement covering certain employees in the professional services negotiating unit.

S 8. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal year commencing April 1, 2013, by the provisions of this act for any state department or agency from any appropriation or other funds available to such state department or agency for personal service or for other related employee benefits during such fiscal year. To the extent that such appropriations are insufficient in any fund to accomplish the purposes herein set forth, the director of the budget is authorized to allocate to the various departments and agencies, from any appropriations available in any fund, the amounts necessary to pay such amounts. The aforementioned appropriations shall be available for payment of any liabilities or obligations incurred prior to April 1, 2013 in addition to current liabilities.

S 9. Payment from special or administrative funds. If the compensation to which officers and employees of the state are otherwise entitled is payable from a special or administrative fund or funds of the state, other than the general fund or the capital projects fund of the state, the increase in compensation to which such officers or employees are entitled under this act shall be payable from such other fund or funds in the same manner as such other compensation. If the amounts appropriated or allocable from such other fund or funds are insufficient to accomplish the purposes of this act, the director of the budget is hereby authorized to allocate such additional sums from such other fund or funds as may be necessary therefor.

S 10. Effect of participation in special annuity program. No employee participating in a special annuity program pursuant to the provisions of article 8-C of the education law shall, by reason of an increase in compensation pursuant to this act, suffer any reduction of the salary or hourly adjustment to which such officer or employee would otherwise be entitled by reason of participation in such program, and such salary or hourly adjustment shall be based upon the salary or hourly rate of such officer or employee without regard to the reduction authorized by said article.

S 11. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, upon request of the director of the budget, the comptroller is hereby authorized and directed to transfer up to $282,000 from the general fund to the environmental conservation fund (301) to carry out the provisions of section thirteen of this act.

S 12. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, upon request of the director of the budget, the comptroller is hereby authorized and directed to transfer up to $2,769,000 from the general fund to the special revenue fund (339), subfund 22163, to carry out the provisions of section thirteen of this act.

S 13. Appropriations. Notwithstanding any provision of the state finance law or any other provision of law to the contrary, the several amounts as hereinafter set forth, or so much thereof as may be necessary, are hereby appropriated from the fund so designated for use by any state department or agency, for the fiscal year beginning April 1, 2013, to supplement appropriations available for fringe benefits, and to carry out the provisions of this act. The monies hereby appropriated are

available for payment of any liabilities or obligations incurred prior to April 1, 2013 in addition to liabilities or obligations associated with the fiscal year commencing April 1, 2013. No money shall be available for expenditure from this appropriation until a certificate of approval of availability has been issued by the director of the budget and a copy of such certificate or any amendment thereto has been filed with the state comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee.

ALL STATE DEPARTMENTS AND AGENCIES

General Fund / State Operations
State Purposes Account 003

PERSONAL SERVICE

Personal service - regular 4,714,000

NONPERSONAL SERVICES

Fringe Benefits 580,000

Special Revenue Funds - Other
Environmental Conservation Special Revenue Fund - 301

PERSONAL SERVICE

Personal service - regular 254,000

NONPERSONAL SERVICE

Fringe Benefits 28,000

Special Revenue Funds - Other
Miscellaneous State Special Revenue Fund - 339

PERSONAL SERVICE

Personal service - regular 2,612,000

NONPERSONAL SERVICE

Fringe Benefits 269,000

S 14. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2003.