

8032

2013-2014 Regular Sessions

I N   A S S E M B L Y

June 16, 2013

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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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Definitions. 1. For purposes of this act, "eligible unit  
2 members" means those members of the collective negotiating unit desig-  
3 nated as the professional services negotiating unit established pursuant  
4 to article 14 of the civil service law that are in lifeguard titles and  
5 who are in positions designated as part of bargaining unit 68.  
6     2. For purposes of this act, "the agreement" means a collectively  
7 negotiated agreement entered into in 2013 between the state and the  
8 employee organization representing eligible unit members of the profes-  
9 sional services negotiating unit as designated in subdivision 1 of this  
10 section.  
11     3. For purposes of this act, "the employee organization" means the  
12 employee organization representing members of the professional services  
13 negotiating unit.  
14     S 2. Adjustment to salaries and hourly rates and other compensation of  
15 certain eligible unit members in the professional services negotiating  
16 unit.  
17     1. The provisions of this section shall apply to certain eligible unit  
18 members in the professional services negotiating unit that are in life-  
19 guard titles and who are in positions designated as part of bargaining  
20 unit 68.  
21     2. Percentage increases applicable to certain eligible unit members  
22 prior to March 31, 2011.

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

LBD12038-01-3

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

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

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

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

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

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

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

15 (h) To be eligible for the retroactive increases set forth in para-  
16 graphs (a) through (g) of this subdivision, an eligible unit member (i)  
17 must have been in employment status on the effective date of the salary  
18 or hourly rate increase or employed during a season that commences  
19 during the fiscal year that includes such salary or hourly rate  
20 increase, and (ii) must have been in employment status on April 1, 2013  
21 or during a season that commences in the fiscal year that includes April  
22 1, 2013.

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

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

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

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

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

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

51 S 3. Notwithstanding any provision of law to the contrary, the appro-  
52 priations contained in this act shall be available to the state for the  
53 payment of grievance and arbitration settlements and awards pursuant to  
54 article 7 of the agreement between the state and the employee organiza-  
55 tion that covers members of the professional services negotiating unit.

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

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

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

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

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

7 S 8. Use of appropriations. The comptroller is authorized to pay any  
8 amounts required during the fiscal year commencing April 1, 2013, by the  
9 provisions of this act for any state department or agency from any  
10 appropriation or other funds available to such state department or agen-  
11 cy for personal service or for other related employee benefits during  
12 such fiscal year. To the extent that such appropriations are insuffi-  
13 cient in any fund to accomplish the purposes herein set forth, the  
14 director of the budget is authorized to allocate to the various depart-  
15 ments and agencies, from any appropriations available in any fund, the  
16 amounts necessary to pay such amounts. The aforementioned appropriations  
17 shall be available for payment of any liabilities or obligations  
18 incurred prior to April 1, 2013 in addition to current liabilities.

19 S 9. Payment from special or administrative funds. If the compensation  
20 to which officers and employees of the state are otherwise entitled is  
21 payable from a special or administrative fund or funds of the state,  
22 other than the general fund or the capital projects fund of the state,  
23 the increase in compensation to which such officers or employees are  
24 entitled under this act shall be payable from such other fund or funds  
25 in the same manner as such other compensation. If the amounts appropri-  
26 ated or allocable from such other fund or funds are insufficient to  
27 accomplish the purposes of this act, the director of the budget is here-  
28 by authorized to allocate such additional sums from such other fund or  
29 funds as may be necessary therefor.

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

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

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

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

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

9 ALL STATE DEPARTMENTS AND AGENCIES

10 General Fund / State Operations  
11 State Purposes Account 003

12 PERSONAL SERVICE

13 Personal service - regular ..... 4,714,000

14 NONPERSONAL SERVICES

15 Fringe Benefits ..... 580,000

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

18 PERSONAL SERVICE

19 Personal service - regular ..... 254,000

20 NONPERSONAL SERVICE

21 Fringe Benefits ..... 28,000

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

24 PERSONAL SERVICE

25 Personal service - regular ..... 2,612,000

26 NONPERSONAL SERVICE

27 Fringe Benefits ..... 269,000

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