

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 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.