STATE OF NEW YORK

8102--A

2017-2018 Regular Sessions

IN ASSEMBLY

May 26, 2017

Introduced by M. of A. WEINSTEIN, ABBATE, LENTOL -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to terms and conditions of employment of certain nonjudicial officers and employees of the unified court system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature finds that a collective bargaining agreement has been negotiated by the unified court system with an employee organization representing nonjudicial officers and employees in the state judiciary negotiating unit. The purpose of this act is to implement this agreement and to provide increases in compensation for nonjudicial officers and employees of the unified court system not in collective negotiating units. References in this act to the unified court system's classification structure shall mean the classification structure established by the chief administrator of the courts on May 28, 1979, as amended since that date. References to the April, 2016 salary schedule shall mean the salary schedule promulgated by the chief administrator of the courts pursuant to subdivision (c) of section 2 of chapter 400 of the laws of 2014. References to the April, 2017 salary schedule, the April, 2018 salary schedule and the April, 2019 salary schedule shall mean the salary schedules promulgated by the chief administrator pursuant to subdivisions (a), (b) and (c) of section two of this act, respectively.

§ 2. Salary schedules. The chief administrator of the courts shall promulgate salary schedules, as follows:

(a) Effective April 1, 2017, each of the rates of pay established by the April, 2016 salary schedule shall be increased as follows:

(1) the maximum rate for each grade shall be increased by an amount equal to 2 percent thereof (and then rounded up to the nearest dollar);

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

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(2) the amount of the increment for each grade shall equal one-seventh of the difference (rounded up to the nearest dollar) between the maximum rate for such grade, as increased by paragraph (1) of this subdivision, and 102 percent of the hiring rate for such grade on the April, 2016 salary schedule (rounded up to the nearest dollar); and

(3) the hiring, first, second, third, fourth, fifth and sixth year rates of compensation for each grade shall equal the maximum rate for such grade, as increased by paragraph (1) of this subdivision, minus 7, 6, 5, 4, 3, 2 and 1 times the amount of the increment for such grade, as increased by paragraph (2) of this subdivision, respectively.

(b) Effective April 1, 2018, each of the rates of pay established by the April, 2017 salary schedule shall be increased as follows:

(1) the maximum rate for each grade shall be increased by an amount equal to 2 percent thereof (and then rounded up to the nearest dollar);

(2) the amount of the increment for each grade shall equal one-seventh of the difference (rounded up to the nearest dollar) between the maximum rate for such grade, as increased by paragraph (1) of this subdivision, and 102 percent of the hiring rate for such grade on the April, 2017 salary schedule (rounded up to the nearest dollar); and

(3) the hiring, first, second, third, fourth, fifth and sixth year rates of compensation for each grade shall equal the maximum rate for such grade, as increased by paragraph (1) of this subdivision, minus 7, 6, 5, 4, 3, 2 and 1 times the amount of the increment for such grade, as increased by paragraph (2) of this subdivision, respectively.

(c) Effective April 1, 2019, each of the rates of pay established by the April, 2018 salary schedule shall be increased as follows:

(1) the maximum rate for each grade shall be increased by an amount equal to 2 percent thereof (and then rounded up to the nearest dollar);

(2) the amount of the increment for each grade shall equal one-seventh of the difference (rounded up to the nearest dollar) between the maximum rate for such grade, as increased by paragraph (1) of this subdivision, and 102 percent of the hiring rate for such grade on the April, 2018 salary schedule (rounded up to the nearest dollar); and

(3) the hiring, first, second, third, fourth, fifth and sixth year rates of compensation for each grade shall equal the maximum rate for such grade, as increased by paragraph (1) of this subdivision, minus 7, 6, 5, 4, 3, 2 and 1 times the amount of the increment for such grade, as increased by paragraph (2) of this subdivision, respectively.

§ 3. Increases in compensation for persons in allocated positions.

(a) Each nonjudicial officer and employee of the unified court system in a position allocated to a salary grade in the unified court system's classification structure that is in the state judiciary negotiating unit or that is not in any collective negotiating unit established pursuant to article 14 of the civil service law, shall receive increased compensation in accordance with this section. Longevity payments and increases to basic annual salary, as provided in this section, shall be prorated for any nonjudicial officer or employee whose position is part-time, or who otherwise works part-time, and who is eligible, under the rules of the chief judge of the state or an agreement between the state and an employee organization pursuant to the provisions of article 14 of the civil service law, to accrue annual and sick leave credits. Longevity payments as provided in this section shall be in addition to and shall not be a part of an employee's basic annual salary; provided, however, they shall be included as compensation for retirement purposes. For purposes of this section:

(i) no nonjudicial officer or employee shall receive a full or partial increment or longevity payment hereunder unless he or she shall have received other than an unsatisfactory performance rating for his or her services during the year immediately preceding pursuant to a performance evaluation system set forth by the chief administrator or in an agreement specified in section one of this act;

(ii) any full or partial increment received by a nonjudicial officer or employee effective April 1, 2017, pursuant to law other than a provision of this act, shall not be considered when determining:

(A) a nonjudicial officer or employee's basic annual salary on a specified date; and

(B) whether a nonjudicial officer or employee is eligible to receive a full or partial increment of the grade of his or her position on such date pursuant to a provision of this act.

(b) Effective April 1, 2017:

(1) Each such nonjudicial officer and employee who is eligible to receive a full or partial increment of the grade of his or her position in accordance with provisions of the judiciary law shall receive such full or partial increment, to be determined in accordance with the April, 2016 salary schedule.

(2) Each such nonjudicial officer and employee shall be placed in his or her grade on the April, 2017 salary schedule in the manner provided as follows:

(i) If his or her basic annual salary under the April, 2016 salary schedule, including any increase pursuant to paragraph (1) of this subdivision, is identical with the hiring, first year, second year, third year, fourth year, fifth year, sixth year or maximum rate of compensation of the grade of his or her position, that basic annual salary shall be increased to the corresponding rate of compensation in such grade as established by the April, 2017 salary schedule; or

(ii) If his or her basic annual salary under the April, 2016 salary schedule, including any increase pursuant to paragraph (1) of this subdivision, is not identical with the hiring, first year, second year, third year, fourth year, fifth year, sixth year or maximum rate of compensation of the grade of his or her position, that basic annual salary shall be increased by an amount equaling 2 percent thereof (and then rounded up to the nearest dollar).

(c) Effective April 1, 2018:

(1) Each such nonjudicial officer and employee who is eligible to receive a full or partial increment of the grade of his or her position in accordance with provisions of the judiciary law shall receive such full or partial increment, to be determined in accordance with the April, 2017 salary schedule.

(2) Each such nonjudicial officer and employee shall be placed in his or her grade on the April, 2018 salary schedule in the manner provided as follows:

(i) If his or her basic annual salary under the April, 2017 salary schedule, including any increase pursuant to paragraph (1) of this subdivision, is identical with the hiring, first year, second year, third year, fourth year, fifth year, sixth year or maximum rate of compensation of the grade of his or her position, that basic annual salary shall be increased to the corresponding rate of compensation in such grade as established by the April, 2018 salary schedule; or

(ii) If his or her basic annual salary under the April, 2017 salary schedule, including any increase pursuant to paragraph (1) of this subdivision, is not identical with the hiring, first year, second year,

third year, fourth year, fifth year, sixth year or maximum rate of compensation of the grade of his or her position, that basic annual salary shall be increased by an amount equaling 2 percent thereof (and then rounded up to the nearest dollar).

(d) Effective April 1, 2019:

(1) Each such nonjudicial officer and employee who is eligible to receive a full or partial increment of the grade of his or her position in accordance with provisions of the judiciary law shall receive such full or partial increment, to be determined in accordance with the April, 2018 salary schedule.

(2) Each such nonjudicial officer and employee shall be placed in his or her grade on the April, 2019 salary schedule in the manner provided as follows:

(i) If his or her basic annual salary under the April, 2018 salary schedule, including any increase pursuant to paragraph (1) of this subdivision, is identical with the hiring, first year, second year, third year, fourth year, fifth year, sixth year or maximum rate of compensation of the grade of his or her position, that basic annual salary shall be increased to the corresponding rate of compensation in such grade as established by the April, 2019 salary schedule; or

(ii) If his or her basic annual salary under the April, 2018 salary schedule, including any increase pursuant to paragraph (1) of this subdivision, is not identical with the hiring, first year, second year, third year, fourth year, fifth year, sixth year or maximum rate of compensation of the grade of his or her position, that basic annual salary shall be increased by an amount equaling 2 percent thereof (and then rounded up to the nearest dollar).

(e) Effective April 1, 2017 and each April 1 thereafter, each such nonjudicial officer and employee shall receive an annual longevity payment as provided in subdivision (i) of section 3 of chapter 400 of the laws of 2014 where he or she is entitled thereto in accordance with such subdivision.

§ 4. Increases in compensation for persons in unallocated positions.

(a) Each nonjudicial officer and employee of the unified court system to whom the provisions of section three of this act would apply but for the fact that he or she holds a position that is not allocated to a salary grade in the unified court system's classification structure shall receive increased compensation in accordance with this section. Increases to basic annual salary, as provided in this section, shall be prorated for any nonjudicial officer and employee whose position is part-time, or who otherwise works part-time, and who is eligible, under rules of the chief judge of the state or an agreement between the state and an employee organization pursuant to the provisions of article 14 of the civil service law to accrue annual and sick leave credits.

(b) Effective April 1, 2017, the basic annual salary of each such nonjudicial officer and employee shall be increased by an amount equal to 2 percent thereof (and then rounded up to the nearest dollar).

(c) Effective April 1, 2018, the basic annual salary of each such nonjudicial officer and employee shall be increased by an amount equal to 2 percent thereof (and then rounded up to the nearest dollar).

(d) Effective April 1, 2019, the basic annual salary of each such nonjudicial officer and employee shall be increased by an amount equal to 2 percent thereof (and then rounded up to the nearest dollar).

§ 5. Location pay. (a) Notwithstanding any other provision of law:

(1) Effective during the fiscal years commencing on the dates specified in this paragraph, any nonjudicial officer and employee to whom the

provisions of section three or four of this act apply and whose principal place of employment is in the city of New York or Nassau, Suffolk, Rockland or Westchester county shall receive location pay at the following rates:

(i) 3,697 dollars annually, during the fiscal year commencing April 1, 2017;

(ii) 4,000 dollars annually, during the fiscal year commencing April 1, 2018, except that the annual rate of location pay shall be changed to 4,100 dollars effective October 1, 2018;

(iii) 4,200 dollars annually, during the fiscal year commencing April 1, 2019 and during each fiscal year commencing each April 1 thereafter.

(2) Effective during the fiscal years commencing on the dates specified in this paragraph, any nonjudicial officer and employee to whom the provisions of section three or four of this act apply and whose principal place of employment is in Dutchess, Putnam or Orange county shall receive location pay at the following rates:

(i) 1,848 dollars annually, during the fiscal year commencing April 1, 2017;

(ii) 2,000 dollars annually, during the fiscal year commencing April 1, 2018, except that the annual rate of location pay shall be changed to 2,050 dollars effective October 1, 2018;

(iii) 2,100 dollars annually, during the fiscal year commencing April 1, 2019 and during each fiscal year commencing each April 1 thereafter.

(3) Effective during the fiscal year commencing April 1, 2017 and during each fiscal year commencing each April 1 thereafter, any nonjudicial officer and employee to whom the provisions of section three or four of this act apply and whose principal place of employment is in Monroe county and who was entitled to receive annual location pay pursuant to paragraph (3) of subdivision (a) of section 5 of chapter 400 of the laws of 2014, shall continue to receive such location pay in the amount specified in such paragraph.

(b) The location pay provided in this section shall be in lieu of any other location pay provided by law; except that, where a nonjudicial officer or employee eligible to receive location pay pursuant to the provisions of this section has received location pay during a fiscal year commencing on or after April 1, 2017, pursuant to law other than a provision of this act, the amount of location pay authorized by this section shall be reduced by the amount of the location pay that was received.

(c) Except as provided in subdivision (a) of this section, no nonjudicial officer and employee to whom the provisions of section three or four of this act apply shall receive location pay. Any location pay authorized hereunder shall be in addition to and shall not be a part of an employee's basic annual salary and shall not impair rights or benefits to which an employee may be entitled by law; provided, however, that location pay shall be included as compensation for purposes of computation of overtime pay and for retirement purposes. Location pay, as provided in this section, shall be prorated for any nonjudicial officer and employee to whom the provisions of section three or four of this act apply and whose position is part-time, but not compensated on a per diem or hourly basis.

§ 6. Collective bargaining agreement required. The provisions of sections three, four and five of this act shall not be implemented for nonjudicial officers and employees in a collective negotiating unit established pursuant to article 14 of the civil service law until the chief administrator of the courts shall have notified the comptroller

that the members of such negotiating unit have ratified a written collective bargaining agreement with the state pursuant to article 14 of the civil service law which provides therefor and delivered to the comptroller a copy of such agreement; and any increase in compensation, including increases in basic annual salary, increments or partial increments, lump sum payments, or longevity payments, provided by sections three, four and five of this act or otherwise authorized by law:

(a) may be withheld in whole or in part from any nonjudicial officer and employee not in a collective negotiating unit when in the opinion of the chief administrator, such increase is not warranted or is not appropriate; and

(b) shall not preclude any other increases in compensation for such a nonjudicial officer or employee as may be authorized by law.

§ 7. Date of entitlement. Notwithstanding the provisions of this act or any other law, each increase in salary or compensation for nonjudicial officers or employees provided by this act shall be added to the salary or compensation of such officer or employee at the beginning of the payroll period the first day of which is nearest to the effective date of such increase as provided in this act; provided, however, 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 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 the date prior thereto instead of on such effective date, shall not operate to confer any additional salary rights or benefits on such officer or employee.

§ 8. Deferred payment of salary increase. Notwithstanding the provisions of this act or any other law, commencing April 1, 2017, and pending payment pursuant to this act of the basic annual salaries of incumbents of positions subject to this act commencing April 1, 2017, such incumbents shall receive, as partial compensation for services rendered, the rate of compensation otherwise payable in their respective positions pursuant to law then in effect. An incumbent holding a position subject to this act at any time during the period from April 1, 2017 until the time when basic annual salaries are first paid pursuant to this act for such service in excess of the compensation actually received therefor shall be entitled to a lump sum payment for the difference between the salary to which such incumbent is entitled for such service and the compensation actually received therefor. Such lump sum payment shall be made as soon as practicable.

§ 9. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2017.