STATE OF NEW YORK

8101

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

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 collective bargaining agreements have been negotiated by the unified court system with employee organizations representing nonjudicial officers and employees in the following negotiating units: Suffolk county, New York city administrative, librarian, clerical and support, New York city administrative services, ninth judicial district, citywide law assistants, New York city senior court attorneys and New York city court reporters. The purpose of this act is to implement these agreements and any other collective bargaining agreement negotiated by the unified court system with an employee organization where, pursuant to section five of this act, the chief administrator of the courts has delivered a certificate to the comptroller that such collective bargaining agreement is in effect. References in this act to the unified court system's classification structure shall mean the classification structure established by the chief administrator on May 28, 1979, as amended since that date. Reference to the April, 2015 salary schedule shall mean the salary schedule promulgated by the chief administrator of the courts pursuant to subdivision (b) of section 2 of chapter 400 of the laws of 2014. References to the April, 2016 salary schedule, the April, 2017 salary schedule and the April, 2018 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:

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

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(a) Effective April 1, 2016, each of the rates of pay established by the April, 2015 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, 2016 salary schedule (rounded up to the nearest dollar);

(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;

(4) the longevity rate for each grade shall equal the maximum rate for such grade, as increased by paragraph (1) of this subdivision, plus the amount of the increment for such grade; and

(5) the extra-longevity rate for each grade shall equal the longevity rate for such grade, as increased by paragraph (4) of this subdivision, plus the amount of the increment for such grade.

(b) 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);

(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);

(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;

(4) the longevity rate for each grade shall equal the maximum rate for such grade, as increased by paragraph (1) of this subdivision, plus the amount of the increment for such grade; and

(5) the extra-longevity rate for each grade shall equal the longevity rate for such grade, as increased by paragraph (4) of this subdivision, plus the amount of the increment for such grade.

(c) 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);

(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;

(4) the longevity rate for each grade shall equal the maximum rate for such grade, as increased by paragraph (1) of this subdivision, plus the amount of the increment for such grade; and

(5) the extra-longevity rate for each grade shall equal the longevity rate for such grade, as increased by paragraph (4) of this subdivision, plus the amount of the increment for such grade.

§ 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 any collective negotiating unit of nonjudicial officers and employees of the unified court system where, pursuant to section five of this act, the chief administrator of the courts has delivered to the comptroller a certificate that an employee organization representing nonjudicial officers and employees in such unit has negotiated a collective bargaining agreement with the unified court system that is in effect, or that is in any of the following collective negotiating units, shall receive increased compensation in accordance with this section: (1) Suffolk county, (2) New York city administrative, librarian, clerical and support, (3) New York city administrative services, (4) ninth judicial district, (5) citywide law assistants, (6) New York city senior court attorneys, and (7) New York city court reporters. Bonuses 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 fourteen of the civil service law, to accrue annual and sick leave credits. Bonuses 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 bonus 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 in an agreement specified in section one of this act, nor shall any nonjudicial officer or employee receive a bonus provided in this section where he or she, as of the date on which this act becomes a law, already has received that bonus pursuant to law other than a provision of this act;

(ii) any full or partial increment received by a nonjudicial office or employee effective April 1, 2016 or 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 any of such dates pursuant to a provision of this act;

(iii) service in the employ of the unified court system shall mean service in one or more courts or agencies of the unified court system, whether as a judge or as a nonjudicial officer or employee. In order for a nonjudicial officer or employee's years of service in the employ of the unified court system to be "continuous," he or she must have served the equivalent of 120 workdays in each of those years; and the number of years required to qualify for a bonus hereunder must be served consecutively except that they may be interrupted by one or more breaks of not

more than one year each, attributable to a period of time between any separation from his or her position in the employ of the unified court system and resumption of service in such employ.

(b) Effective April 1, 2016:

(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, 2015 salary schedule.

(2) Each such nonjudicial officer and employee shall be placed in his or her grade on the April, 2016 salary schedule in the manner provided as follows:

(i) If his or her basic annual salary under the April, 2015 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, maximum, longevity or extra-longevity 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, 2016 salary schedule; or

(ii) If his or her basic annual salary under the April, 2015 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, maximum, longevity or extra-longevity 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);

Notwithstanding the foregoing, where operation of the provisions of this paragraph would result in a nonjudicial officer or employee receiving an increase in basic annual salary of less than 1,000 dollars, such nonjudicial officer or employee shall be placed in his or her grade on the April, 2016 salary schedule at his or her basic annual salary, including any increase pursuant to paragraph (1) of this subdivision, plus 1,000 dollars.

(3) Each such nonjudicial officer and employee in the employ of the unified court system having at least 20 years of continuous service in the employ of the unified court system as of the preceding March 31 shall receive a bonus equaling: (i) 1,900 dollars, if he or she has less than 25 years of such service as of such date; or (ii) 2,000 dollars, if he or she has at least 25 but less than 30 years of such service as of such date; or (iii) 2,100 dollars, if he or she has at least 30 years of such service as of such date.

(c) 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, maximum, longevity or extra-longevity rate of compensation of the grade of his or her posi-

tion, 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, maximum, longevity or extra-longevity 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);

Notwithstanding the foregoing, where operation of the provisions of this paragraph would result in a nonjudicial officer or employee receiving an increase in basic annual salary of less than 1,000 dollars, such nonjudicial officer or employee shall be placed in his or her grade on the April, 2017 salary schedule at his or her basic annual salary, including any increase pursuant to paragraph (1) of this subdivision, plus 1,000 dollars.

(3) Each such nonjudicial officer and employee in the employ of the unified court system having at least 20 years of continuous service in the employ of the unified court system as of the preceding March 31 shall receive a bonus equaling: (i) 1,950 dollars, if he or she has less than 25 years of such service as of such date; or (ii) 2,050 dollars, if he or she has at least 25 but less than 30 years of such service as of such date; or (iii) 2,150 dollars, if he or she has at least 30 years of such service as of such date.

(d) 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, maximum, longevity or extra-longevity 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, 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, maximum, longevity or extra-longevity 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).

Notwithstanding the foregoing, where operation of the provisions of this paragraph would result in a nonjudicial officer or employee receiving an increase in basic annual salary of less than 1,000 dollars, such nonjudicial officer or employee shall be placed in his or her grade on the April, 2018 salary schedule at his or her basic annual salary, including any increase pursuant to paragraph (1) of this subdivision, plus 1,000 dollars.

(3) Each such nonjudicial officer and employee in the employ of the unified court system having at least 20 years of continuous service in the employ of the unified court system as of the preceding March 31 shall receive a bonus equaling: (i) 2,000 dollars, if he or she has less than 25 years of such service as of such date; or (ii) 2,100 dollars, if he or she has at least 25 but less than 30 years of such service as of such date; or (iii) 2,200 dollars, if he or she has at least 30 years of such service as of such date.

§ 4. Location pay.

(a) Notwithstanding any other provision of law, any nonjudicial officer or employee to whom the provisions of section three of this act apply and whose principal place of employment is in the city of New York, Nassau county, Rockland county, Suffolk county or Westchester county shall receive location pay as follows:

(1) at the annual rate applicable to such officer or employee on April 1, 2015, commencing April 1, 2016;

(2) at a rate of 4,000 dollars annually, commencing April 1, 2018;

(3) at a rate of 4,100 dollars annually, commencing October 1, 2018; and

(4) at a rate of 4,200 dollars annually, commencing March 31, 2019.

(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, 2016, 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 or employee to whom the provisions of section three of this act applies 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 or employee to whom the provisions of section three of this act applies and whose position is part-time, but not compensated on a per diem or hourly basis.

§ 5. Application of this act to nonjudicial officers and employees of the unified court system in other negotiating units. In the event that, on or after the date on which this section shall become law, a collective bargaining agreement is negotiated by the unified court system pursuant to article fourteen of the civil service law with an employee organization representing nonjudicial officers and employees of the unified court system in a negotiating unit other than the state negotiating unit, the chief administrator of the courts, with the agreement of such employee organization, shall deliver to the comptroller a certificate that such collective bargaining agreement is in effect where the provisions of sections three and four of this act are provided for therein.

§ 6. Collective bargaining agreement required. The provisions of sections three and four of this act shall not be implemented for nonjudicial officers and employees in a collective negotiating unit established pursuant to article fourteen of the civil service law until the

chief administrator of the courts shall deliver to the comptroller a certificate that there is in effect with respect to such negotiating unit a written collective bargaining agreement with the state pursuant to article fourteen of the civil service law which provides therefor; and any increase in compensation, including increases in basic annual salary, increments or partial increments or bonuses, provided by sections three and four of this act or otherwise authorized by law 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 to salary increase. 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, 2016, and pending payment pursuant to this act of the basic annual salaries of incumbents of positions subject to this act commencing April 1, 2016, 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, 2016 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, 2016.