

STATE OF NEW YORK

7440--A

IN SENATE

January 18, 2018

Introduced by Sens. GOLDEN, BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee and committed to the Committee on Finance -- 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:

1 Section 1. Legislative findings. The legislature finds that collective
2 bargaining agreements have been negotiated by the unified court system
3 with employee organizations representing nonjudicial officers and
4 employees in the New York City senior court officers and New York City
5 court officers negotiating units. The purpose of this act is to imple-
6 ment these agreements and any other collective bargaining agreement
7 negotiated by the unified court system with an employee organization
8 where, pursuant to section five of this act, the chief administrator of
9 the courts has delivered a certificate to the comptroller that such
10 collective bargaining agreement is in effect. References in this act to
11 the unified court system's classification structure shall mean the clas-
12 sification structure established by the chief administrator on May 28,
13 1979, as amended since that date. Reference to the April, 2018 salary
14 schedule shall mean the salary schedule promulgated by the chief admin-
15 istrator of the courts pursuant to subdivision (c) of section 2 of chap-
16 ter 98 of the laws of 2017. References to the April, 2019 salary sched-
17 ule and the April, 2020 salary schedule shall mean the salary schedules
18 promulgated by the chief administrator pursuant to subdivisions (a) and
19 (b) of section two of this act, respectively.

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

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

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

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(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);

(3) the hiring, first, second, third, fourth, fifth and sixth year rates of compensations 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, 2020, each of the rates of pay established by the April, 2019 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, 2019 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.

(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) New York City senior court officers and (2) New York City court officers. 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

1 the civil service law, to accrue annual and sick leave credits. Bonuses
2 as provided in this section, and payments pursuant to paragraph 3 of
3 subdivision (b) and paragraph 3 of subdivision (c) of this section,
4 shall be in addition to and shall not be a part of an employee's basic
5 annual salary; provided, however, they shall be included as compen-
6 sation for retirement purposes. For purposes of this section:

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

12 (ii) service in the employ of the unified court system shall mean
13 service in one or more courts or agencies of the unified court system,
14 whether as a judge or as a nonjudicial officer or employee. In order for
15 a nonjudicial officer or employee's years of service in the employ of
16 the unified court system to be "continuous," he or she must have served
17 the equivalent of 120 workdays in each of those years; and the number of
18 years required to qualify for a bonus hereunder must be served consec-
19 utively except that they may be interrupted by one or more breaks of not
20 more than one year each, attributable to a period of time between any
21 separation from his or her position in the employ of the unified court
22 system and resumption of service in such employ.

23 (b) Effective April 1, 2019:

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

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

32 (i) If his or her basic annual salary under the April, 2018 salary
33 schedule, including any increase pursuant to paragraph 1 of this subdivi-
34 sion, is identical with the hiring, first year, second year, third
35 year, fourth year, fifth year, sixth year, maximum, longevity or extra-
36 longevity rate of compensation of the grade of his or her position, that
37 basic annual salary shall be increased to the corresponding rate of
38 compensation in such grade as established by the April, 2019 salary
39 schedule; or

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

47 Notwithstanding the foregoing, where operation of the provisions of
48 this paragraph would result in a nonjudicial officer or employee receiv-
49 ing an increase in basic annual salary of less than 1,000 dollars, such
50 nonjudicial officer or employee shall be placed in his or her grade on
51 the April, 2019 salary schedule at his or her basic annual salary,
52 including any increase pursuant to paragraph 1 of this subdivision, plus
53 1,000 dollars.

54 (3) Each such nonjudicial officer and employee in a title on such date
55 in the security series under the unified court system's classification
56 structure shall receive a payment equaling 500 dollars, if he or she:

(i) served the equivalent of 120 workdays in a title in such security series during the preceding state fiscal year; and (ii) was authorized to carry a firearm while on duty at any time during the preceding 15 months. Such payment shall be prorated for any such nonjudicial officer or employee otherwise entitled thereto whose position is part-time, but not compensated on a per diem or hourly basis.

(4) 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) 2,050 dollars, if he or she has less than 25 years of such service as of such date; or (ii) 2,150 dollars, if he or she has at least 25 but less than 30 years of such service as of such date; or (iii) 2,250 dollars, if he or she has at least 30 years of such service as of such date.

(c) Effective April 1, 2020:

(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, 2019 salary schedule.

(2) Each such nonjudicial officer and employee shall be placed in his or her grade on the April, 2020 salary schedule in the manner provided as follows:

(i) If his or her basic annual salary under the April, 2019 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, 2020 salary schedule; or

(ii) If his or her basic annual salary under the April, 2019 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, 2020 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 a title on such date in the security series under the unified court system's classification structure shall receive a payment equaling 750 dollars, if he or she:

(i) served the equivalent of 120 workdays in a title in such security series during the preceding state fiscal year; and (ii) was authorized to carry a firearm while on duty at any time during the preceding 15 months. Such payment shall be prorated for any such nonjudicial officer or employee otherwise entitled thereto whose position is part-time, but not compensated on a per diem or hourly basis.

(4) Each such nonjudicial officer and employee in the employ of the unified court system having at least 20 years of continuous service in

1 the employ of the unified court system as of the preceding March 31
2 shall receive a bonus equaling: (i) 2,100 dollars, if he or she has less
3 than 25 years of such service as of such date; or (ii) 2,200 dollars, if
4 he or she has at least 25 but less than 30 years of such service as of
5 such date; or (iii) 2,300 dollars, if he or she has at least 30 years of
6 such service as of such date.

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

8 (1) Commencing April 1, 2019, any nonjudicial officer or employee to
9 whom the provisions of section three of this act apply shall receive
10 location pay as follows:

11 (i) at a rate of 4,200 dollars, if his or her principal place of
12 employment is in the city of New York; or

13 (ii) at a rate of 2,100 dollars, if his or her principal place of
14 employment is in Dutchess County, Putnam County or Orange County.

15 (2) commencing April 1, 2020, any nonjudicial officer or employee to
16 whom the provisions of section three of this act apply shall receive
17 location pay as follows:

18 (i) at a rate of 4,300 dollars, if his or her principal place of
19 employment is in the city of New York; or

20 (ii) at a rate of 2,150 dollars, if his or her principal place of
21 employment is in Dutchess County, Putnam County or Orange County.

22 (b) Effective April 1, 2019, the location pay provided in this section
23 shall be in lieu of any other location pay provided by law. Prior to
24 such date, the location pay for any nonjudicial officer or employee to
25 whom the provisions of section three of this act apply shall be as else-
26 where provided by law.

27 (c) Except as provided in subdivisions (a) and (b) of this section, no
28 nonjudicial officer or employee to whom the provisions of section three
29 of this act apply shall receive location pay. Any location pay author-
30 ized hereunder shall be in addition to and shall not be a part of an
31 employee's basic annual salary and shall not impair rights or benefits
32 to which an employee may be entitled by law; provided, however, that
33 location pay shall be included as compensation for purposes of computa-
34 tion of overtime pay and for retirement purposes. Location pay, as
35 provided in this section, shall be prorated for any nonjudicial officer
36 or employee to whom the provisions of section three of this act apply
37 and whose position is part-time, but not compensated on a per diem or
38 hourly basis.

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

51 (b) In the event that subdivision (a) of this section applies to a
52 nonjudicial officer or employee in a collective negotiating unit on
53 account of a collective bargaining agreement negotiated by the unified
54 court system with an employee organization representing nonjudicial
55 officers and employees in such unit, the following provisions shall
56 apply, as appropriate, notwithstanding any other provision of law:

(1) No nonjudicial officer or employee in such unit may receive a bonus based upon years of continuous service pursuant to this section where he or she, as of the date on which the collective bargaining agreement specified herein takes effect, already has received such bonus pursuant to law other than a provision of this act unless the amount of the bonus that has been received is less than the amount of the bonus to which such nonjudicial officer or employee would otherwise be entitled pursuant to this section in which event such nonjudicial officer or employee shall receive a bonus equaling the difference between the two amounts.

(2) Any full or partial increment received by a nonjudicial officer or employee in such unit on a date prior to the date on which the collective bargaining agreement specified herein takes effect, pursuant to law other than a provision of this act, shall not be considered when determining, for purposes of this act:

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

(ii) whether such nonjudicial officer or employee is eligible to receive a full or partial increment of the grade of his or her position on that date.

(3) Any location pay to which a nonjudicial officer or employee in such unit shall be entitled during a fiscal year on account of 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 during a fiscal year pursuant to the provisions of this section has received location pay during such fiscal year, 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.

§ 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, bonuses or other payments, 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, 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, except that such lump sum payment shall not be made, nor shall any lump sum payment pursuant to any other provision of law be made to any employee or former employee serving in a position in a negotiating unit specified in section one of this act between April 1, 2014 and April 1, 2017 on account of service in such position, unless the legislature has appropriated thirty-seven million dollars to the administrative office of the courts for the express purpose of funding such lump sum payments, as provided in section nine of this act or some other provision of law.

§ 9. The sum of thirty-seven million dollars (\$37,000,000) is hereby appropriated out of any moneys in the state treasury in the general fund to the credit of the state purposes account, not otherwise appropriated, and made immediately available to the administrative office of the courts for payment pursuant to this act of costs and expenses thereunder necessary during the 2017-18 state fiscal year, including lump sum payments due employees pursuant to section eight of this act on account of service during a state fiscal year prior to the 2017-18 fiscal year; provided, however, where provisions of law require expenditures that must be paid from appropriations from funds of the state other than the general fund or that, by established administrative practice, are paid from such funds, the chief administrator of the courts shall so certify to the comptroller, and thereupon the appropriation provided in this section shall be available for such expenditures.

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