STATE OF NEW YORK

6493

2023-2024 Regular Sessions

IN ASSEMBLY

April 12, 2023

Introduced by M. of A. SIMON -- read once and referred to the Committee on Judiciary

AN ACT to amend part E of chapter 60 of the laws of 2015, establishing a commission on legislative, judicial and executive compensation, and providing for the powers and duties of the commission and for the dissolution of the commission, in relation to decreasing the members of the commission and removing judicial compensation from the purview of the commission; and relating to compensation and a cost of living adjustment for judges and justices of the unified court system

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

Section 1. Section 2 and subdivisions 1 and 7 of section 3 of part E of chapter 60 of the laws of 2015, establishing a commission on legislative, judicial, and executive compensation, and providing for the powers and duties of the commission and for the dissolution of the commission, section 2 and subdivision 7 of section 3 as amended by section 1 of part WW of chapter 55 of the laws of 2020, are amended to read as follows:

§ 2. 1. [~~(a)~~] On the first of June of every fourth year, commencing June 1, 2015, there shall be established a commission on legislative[~~, judicial~~] and executive compensation to examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits for members of the legislature, [~~judges and justices of the state-paid courts of the unified court system,~~] statewide elected officials, and those state officers referred to in section 169 of the executive law.

[~~(b) Notwithstanding any provision of this act to the contrary, the commission established in the year 2019 may examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits for judges and justices of the state-paid courts of~~

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

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~~the unified court system during its examination of and making recommendations for legislative and executive compensation in the year 2020.~~]

2. (a) In accordance with the provisions of this section, the commission shall examine[~~: (1)~~] the prevailing adequacy of pay levels and other non-salary benefits received by members of the legislature, statewide elected officials, and those state officers referred to in section 169 of the executive law[~~; and~~

~~(2) the prevailing adequacy of pay levels and non-salary benefits received by the judges and justices of the state-paid courts of the unified court system and housing judges of the civil court of the city of New York and determine whether any of such pay levels warrant adjustment~~]; and

(b) The commission shall determine whether[~~: (1) for any of the four years commencing on the first of April of such years, following the year in which the commission is established or authorized by this act to evaluate and make recommendations on such salaries, the annual salaries for the judges and justices of the state-paid courts of the unified court system and housing judges of the civil court of the city of New York warrant an increase; and~~

~~(2)~~], on the first of January after the November general election at which members of the state legislature are elected following the year in which the commission is established, and on the first of January following the next such election, the like annual salaries and allowances of members of the legislature, and salaries of statewide elected officials and state officers referred to in section 169 of the executive law warrant an increase.

3. In discharging its responsibilities under subdivision two of this section, the commission shall take into account all appropriate factors including, but not limited to: the overall economic climate; rates of inflation; changes in public-sector spending; the levels of compensation and non-salary benefits received by executive branch officials and legislators of other states and of the federal government; the levels of compensation and non-salary benefits received by professionals in government, academia and private and nonprofit enterprise; and the state's ability to fund increases in compensation and non-salary benefits.

1. The commission shall consist of [~~seven~~] five members to be appointed as follows: three shall be appointed by the governor; one shall be appointed by the temporary president of the senate; and one shall be appointed by the speaker of the assembly; [~~and two shall be appointed by the chief judge of the state, one of whom shall serve as~~] The chair of the commission shall be chosen by a majority of the appointed members. [~~With regard to any matters regarding legislative or executive compensation, the chair shall preside but not vote.~~] Vacancies in the commission shall be filled in the same manner as original appointments. To the extent practicable, members of the commission shall have experience in one or more of the following: determination of executive compensation, human resource administration or financial management. The terms of the members of the commission appointed by the chief judge of the state shall terminate on the effective date of the chapter of the laws of 2023 which amended this subdivision.

7. The commission shall make a report to the governor[~~,~~] and the legislature [~~and the chief judge of the state~~] of its findings, conclusions, determinations and recommendations, if any, not later than the [~~thirty-first of December of the year in which the commission is established for judicial compensation and the~~] fifteenth of November the

following year for legislative and executive compensation; provided, however, the report made by the commission in the year two thousand twenty regarding judicial, legislative and executive compensation shall be issued not later than November 15, 2020. Any findings, conclusions, determinations and recommendations in the report must be adopted by a majority vote of the commission and shall also be supported by at least one member appointed by each appointing authority. Each recommendation made to implement a determination pursuant to section two of this act shall have the force of law, and shall supersede, where appropriate, inconsistent provisions of article 7-B of the judiciary law, section 169 of the executive law, and sections 5 and 5-a of the legislative law, unless modified or abrogated by statute prior to April first of the year as to which such determination applies to judicial compensation and January first of the year as to which such determination applies to legislative and executive compensation.

§ 2. 1. Cost of living adjustment. (a) Notwithstanding any other provision of law, regulation, rule, or report, the salaries and additions to salary established by law of judges and justices of the unified court system shall be increased as of January 1, 2020, and annually each year thereafter by a cost of living adjustment (COLA). Any limitation established by law for allowable travel and transportation expenses for a judge or justice serving outside her or his home territory shall be adjusted by the same proportion on the same date as the annual salary adjustment.

(b) Calculation of adjustment. The COLA referred to in paragraph (a) of this subdivision shall be equal to the percentage increase, rounded to the nearest tenth of one percent, in the average Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) determined by the United States Bureau of Labor Statistics for the third quarter of the preceding calendar year compared to the average for the third quarter of the calendar year before the preceding calendar year. If the CPI-W declines or the increase is less than 0.05 percent during such period, the COLA shall be zero.

2. Catch-Up Payments. (a) The COLAs under paragraph (b) of subdivision one of this section for January 1, 2020, 2021, 2022, and 2023 are 1.6 percent, 1.3 percent, 5.9 percent, and 8.7 percent, respectively.

(b) Any amount of salary or addition to salary due under paragraph (a) of this subdivision for a year prior to the effective date of this act shall be paid in two equal installments on April 1, 2023 and April 1, 2024.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately; provided that section two of this act shall be deemed to have been in full force and effect on and after January 1, 2020.