

STATE OF NEW YORK

2011-12 Legislative Session

IN SENATE

Introduced by read twice and ordered printed, and when printed to be committed to the Committee on

AN ACT in relation to establishing a special commission on compensation for state employees designated managerial or confidential, and providing for their powers and duties;

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

Section 1. (a) On the first of April of every fourth year, commencing April 1, 2011, there shall be established for such year a commission on managerial or confidential state employee compensation to examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits for managerial or confidential state employees. In accordance with the provisions of this section, the commission shall:

(i) examine the prevailing adequacy of pay levels and non-salary benefits received by managerial or confidential employees of the state and determine whether any of such pay levels warrant adjustment; and

(ii) determine whether, for any of the four years commencing on the first of April of such years, following the year in which the commission is established, the annual salaries for the managerial or confidential employees of the state warrant adjustment.

In discharging its responsibilities under paragraphs (i) and (ii) of this subdivision, the commission shall take into account all appropriate factors including, but not limited to: the administrative withholding of management or confidential employee salary increases pursuant to chapter 10 of the laws of 2008; the overall economic climate; rates of inflation; changes in public-sector spending; the levels of compensation and non-salary benefits received by unionized state employees; the maintenance of or attainment of proper salary differential between supervisors and their subordinates the levels of compensation and non-salary benefits received by professionals in government, and academia and private and nonprofit enterprise.

(b) The commission shall consist of 7 members to be appointed as follows: 3 shall be appointed by the governor; 1 shall be appointed by the temporary president of the senate; 1 shall be appointed by the speaker of the assembly; 1 shall be appointed by the comptroller; and 1 shall be appointed by the Organization of NYS Management Confidential Employees. The governor shall designate the chair of the commission from

among the members so appointed. 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 and financial management.

(c) The commission may meet within, may hold public hearings and shall have all the powers of a legislative committee pursuant to the legislative law.

(d) The members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

(e) No member of the commission shall be disqualified from holding any other public office or employment, nor shall he or she forfeit any such office or employment by reason of his or her appointment pursuant to this section, notwithstanding the provisions of any general, special or local law, regulation, ordinance or city charter.

(f) To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, commission, agency or public authority of the state or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties pursuant to this section.

(g) The commission may request, and shall receive, reasonable assistance from state agency personnel as necessary for the performance of its functions.

(h) The commission shall make a report to the governor and the legislature of its findings, conclusions, determinations and recommendations, if any, not later than one hundred fifty days after its establishment. Each recommendation made to implement a determination pursuant to paragraph (ii) of subdivision (a) of this section shall have the force of law, and shall supersede inconsistent provisions of article 8 of the civil service law, unless modified or abrogated by statute prior to April first of the year as to which such determination applies.

(i) Upon the making of its report as provided in subdivision (h) of this section, each commission established pursuant to this section shall be deemed dissolved.

§ 2. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other law, each increase in salary or compensation of any officer or employee provided by this act shall be added to the salary or compensation of such officer or employee at the beginning of that payroll period the first day of which is nearest to the effective date of such increase as provided in this act, or at the beginning of the earlier of two payroll periods the first days of which are nearest but equally near to the effective date of such increase as provided in this act; provided, however, the payment of such salary increase pursuant to this section on a 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.

§ 3. The annual salaries as prescribed pursuant to this act for state employees designated managerial or confidential whenever adjusted pursuant to the provisions of this act, shall be rounded up to the nearest multiple of one hundred dollars.

§ 4. This act shall take effect immediately.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER:

SPONSOR:

TITLE OF BILL:

An act in relation to establishing a special commission on compensation, and providing for their powers and duties;

PURPOSE:

This bill would provide for a special commission on managerial or confidential employees of New York State to examine, evaluate and make recommendations with respect to compensation, adjustments and non-salary benefits of certain state employees.

SUMMARY OF PROVISIONS:

Section 1 of the bill would provide for the creation of the Commission on Managerial or Confidential employee compensation to consist of seven members appointed as follows: three by the Governor, one by the Speaker of the Assembly, one by the Temporary President of the Senate and two by the Organization of NYS Management Confidential Employees. The Commission would be required to report its findings, conclusions, determinations and recommendations within 150 days of its establishment.

Every four years the Commission would examine, evaluate and make recommendations with respect to managerial or confidential employee compensation. The Commission would determine what the salaries shall be and would make recommendations to effect the changes to salaries. Such recommendations would become effective the next fiscal year. The recommendations of the Commission would have the force of law.

Section 2 of the bill would establish the date the recommendations of the Commission become effective.

Section 3 of the bill would provide that any adjustment of salaries under this bill would be funded to the nearest hundred dollar.

Section 4 of the bill would provide for an immediate effective date.

EXISTING LAW:

Salaries increases for managerial or confidential employees of the state are contained in "pay bills" enacted by the Legislature. In 2009 and 2010 salary increases were administratively withheld.

Similar Legislation to the measure proposed here has been passed and/or enacted for the Judiciary and the State Legislature in 2008 and 2011.

STATEMENT IN SUPPORT:

Salary increases, pursuant to Chapter 10 of the Laws of 2008, for managerial or confidential employees of the state were administratively withheld in 2009 and 2010. As a result, managerial or confidential employee salaries have become an increasing subject of controversy in recent years. Moreover, the absence of a pay increase has produced legal challenges and threatens the pay structure established in Article 8 of the civil service law. In fact, some managerial or confidential employees make less than those they supervise. Unlike the state's unionized workforce, managerial or confidential employees are prohibited from collectively bargaining increases in compensation.

This bill would address the issue, by establishing a quadrennial commission on managerial or confidential employee compensation to ensure that the proper salary level is set on a regular basis. More importantly, these proper salary levels will ensure the State's ability to continue to recruit and hire qualified managers.

BUDGET IMPLICATIONS:

The cost to the State from the operation of the Commission would be minimal. To the extent the Commission recommends a salary increase for employees, such increase would have a fiscal impact on the State.

EFFECTIVE DATE:

This bill would take effect immediately upon enactment.