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## **2013-2014 Final State Budget Agreement**

### **Unemployment Reform**

Working with affiliates, the NYS AFL-CIO supported several adjustments to the Governor's original proposal that will help mitigate cuts and new eligibility requirements. The final bill allows for gradual benefit increases (outlined below) reaching 50% of the average weekly wage (AWW) in 2026. Thereafter, the bill indexes the benefit to 50% of the AWW on an annual basis. The indexation of the cap is a monumental achievement for New York's labor movement.

The bill also gradually increases and indexes the employer taxable wage base (outlined below) to ensure predictable, reliable revenue increases to pay for increased benefits and keep the fund solvent.

#### **Increase in Minimum Benefit**

The minimum benefit will increase from \$64 weekly to \$100 weekly.

#### **Increase and Indexation of the Maximum Benefit**

The cap on the maximum benefit will increase gradually to 50% of the AWW in 2026 (from the current \$405 weekly max) and then stay at 50% of the AWW.

October 1, 2014 - \$420  
October 1, 2015 - \$425  
October 1, 2016 - \$430  
October 1, 2017 - \$435  
October 1, 2018 - \$450  
October 1, 2019 - 36% of AWW  
October 1, 2020 - 38% of AWW  
October 1, 2021 - 40% of AWW  
October 1, 2022 - 42% of AWW  
October 1, 2023 - 44% of AWW  
October 1, 2024 - 46% of AWW  
October 1, 2025 - 48% of AWW  
October 1, 2026 - 50% of AWW

## **Increase and Indexation of the Taxable Wage Base**

The taxable wage base will increase gradually to \$13,000 in 2026 (from the current \$8,500). Thereafter, the taxable wage base will be indexed and increased every year to stay equal to 16% of the state's average annual wage.

January 2014 - \$10,300  
January 2015 - \$10,500  
January 2016 - \$10,700  
January 2017 - \$10,900  
January 2018 - \$11,100  
January 2019 - \$11,400  
January 2020 - \$11,600  
January 2021 - \$11,800  
January 2022 - \$12,000  
January 2023 - \$12,300  
January 2024 - \$12,500  
January 2025 - \$12,800  
January 2026 - \$13,000

## **Calculation of Benefit Changed to Two High Quarter Earnings for Some Claimants**

Change from using a claimant's high quarter earnings to the average of two high quarters for benefit calculation will apply for those who are not continuously employed. This will apply only to individuals who are totally unemployed for one full quarter or more and earn more than \$4,000 in their combined quarters. For those who have at least one day of earnings in each of the 4 quarters of their look back period (whether the basic or alternate period), there will be no change and the current high quarter method will be used.

## **Increase in Minimum Required Earnings to Qualify**

The current minimum earnings in a claimant's high quarter to qualify for benefits will increase proportionally to the minimum wage.

## **Suitable Work**

This provision will require claimants to accept "suitable work" if offered, after 10 weeks as opposed to the current requirement of 13 weeks, reducing flexibility to refuse work. The definition of suitable work remains unchanged (must be within 1 hour's transportation, within 80% of the claimant's previous earnings and the job must pay prevailing rate for that work). This provision will not apply to workers who are members of a union hiring hall, as is the current practice.

## **Increase in Required Contacts per Week**

Claimants will need to make contact with potential employers two times per week as opposed to the current one time per week and verify with the Department of Labor that they are "engaged in systematic and sustained efforts to find work." Members of a union hiring hall are deemed to have met these requirements as long as they remain a member of the hiring hall.

## **Pension Offset Changes**

All persons collecting a pension who are eligible for benefits will receive a dollar for dollar offset.

## **Severance Pay Offset**

The following change only applies if dismissal pay is made within 30 days of a layoff. Claimants that receive dismissal pay after 30 days can file and collect benefits as usual. If weekly severance exceeds the State's maximum weekly benefit, a claimant will be ineligible to claim benefits. Ineligibility due to severance pay will delay benefits, but once exhausted, claimants will be eligible and the number of weeks of benefits that can be ultimately collected will remain the same. If weekly severance is less than the State's maximum weekly benefit, a claimant will remain eligible to receive his/her full benefit.

## **Reemployment Qualification**

Employees who are ineligible to collect benefits due to termination or voluntary separation from employment will now have to work 10 weeks in subsequent employment to re-qualify for benefits, up from the current 5 weeks.

## **“Workers’ Compensation Business Relief Bill”**

The Legislature modified the Governor's proposed sweeps of \$1.75 billion from State Insurance Fund (SIF) assessment reserves as follows: \$250 million in 2013 for the general fund; \$1 billion in 2014 for the general fund; and \$250 million in both 2015 and 2016 for the general fund. The Governor's office says this will not affect reserves set aside for claims.

- The Legislature rejected the closure of the amalgamated trust fund (ATF).
- The Legislature rejected the Governor's repeal of the law that specifies the location of the Workers' Compensation Board and modified the law to stipulate that the principal office does not need to be in Albany.

The Legislature agreed to the following:

- Close the second injury fund (including the reopened case fund and the special disability fund) to new cases.
- Restructure and eliminate existing special assessments, including the Group Self Insured Trust Assessment, Special Disability Assessment, and authorizes Chair to socialize the cost of the assessments across all carriers and employers into one new assessment based on carrier premiums. The new assessment will fund existing safety and health programs and Workers' Compensation Board operations that were previously funded from assessments. The Governor indicated that no programs will experience cuts and there will be no reductions in services or staff as a result of this bill.
- Lower the Group Self Insured Trust (GSIT) special assessment and create a new bonding program through the Dormitory Authority to pay down an over \$1 billion deficit resulting from defaults in the GSIT industry, to ensure injured workers continue to receive benefits.
- The new GSIT bond authority would absolve of future liability, all defaulted trusts, or trusts that are close to default, which enter into the new bond financing program.
- Establish a new arbitration process for disputed medical bills for various treatments (including podiatrist, chiropractic and psychological) that are under certain thresholds. Simplifies the process from a tripartite process to a single arbitrator.
- Lower the minimum penalty that the Board may assess to employers for failure to have required Workers' Compensation coverage.

## Economic Development / Job Creation

**The Legislature rejected the Governor's proposal to Expand Design/Build/Finance** – All affiliates impacted by this proposal stood in unity to remove this proposal from the budget, as it lacked any labor protections for construction and public employees. The original proposal allowed for the complete bypass of existing competitive bidding requirements and the Wicks Law as well as allowed for public private partnerships.

### Racing, Wagering and Casino Development

- **Labor Peace** - language was included in the budget for hospitality and gaming employees of casinos, where the state has a proprietary interest in the facilities. The process for siting, establishment and revenue sharing of casinos was rejected by the legislature to be worked on outside of the budget process.
- **Health Insurance for NYC OTB Retirees** – The budget included a \$5 million appropriation to reestablish health insurance benefits for retirees of the New York City OTB, who had their benefits stripped when the NYC OTB closed in 2010.

### Reform of Industrial Development Agencies (IDAs)

- IDA' cannot approve a retail project unless they find that, pursuant to a public hearing, the project will create or preserve permanent, private sector jobs.
- Requires IDA's to keep records of the amount of state and local sales tax exemption benefits provided to each specific project and to make the records available to the Commissioner of the Department of Tax & Finance
- The Commissioner of Tax & Finance is authorized to audit the records of an IDA, its agents, and project operators to ensure that the IDA is complying with the law.
- IDA members, officers and employees will have to abide by current conflict of interest law.

**Empire State Film Tax Credit** – The budget extends the Empire State Film Tax Credit for five years at the existing funding level (\$420 million per year). Of the existing funds \$5 million annually is allocated to for upstate productions. Additionally, new categories of television programs were made eligible. There was also an increase in the amount eligible for post-production costs.

## Police and Fire Issues

**Binding Arbitration** – The Legislature rejected the Governor's proposal to cap binding arbitration awards and the issue was removed from the budget. The current binding arbitration law expires in June; so this will be an issue for the end of session.

**SAFE ACT** –The Governor and Legislature indefinitely delayed implementation of the specific provision of the SAFE Act that prohibits the use of magazines that hold more than 7 rounds. This will ensure that police and other law enforcement who must carry these weapons during the course of duty can still carry the weapons while not on duty and remain in compliance with the law.

## State Operations & State Employees

- The Legislature approved the closure Bayview and Beacon Correctional Facilities and eliminated required notification language.
- The Legislature rejected the “Close to Home” proposal in OCFS, which would have meant closure and downsizing of facilities and privatization of OCFS services.
- Language was agreed to that authorizes DOH, OCFS and DCJS to contract for services and expenses of pay for improving childhood development, child welfare and public safety through March 31, 2018 .
- The Legislature rejected the Governor’s proposal to eliminate state reimbursement for the “Income Related Adjustment” on Medicare premiums.
- The Legislature rejected language to allow OMH flexibility in closing and merging facilities.
- In the event federal funds are restored, the Legislature and Governor agreed to authorize the Commissioner of Health to annul implementation of cuts that were spread across the health care system, that were necessitated by the loss of federal aid for services for the developmentally disabled.
- The Legislature modified the Governor’s proposal to transition OPWDD services into managed care which will result in downsizing and restructuring into not-for profits. Language to clarify that state operated services will be available under managed care was included.

## Energy

**Moreland Commission** - The Legislature modified the Governor’s original proposal which the NYS AFL-CIO opposed, as it allowed for employees of utilities to face steep fines for corporate actions.

The Legislature included language supported by the NYS AFL-CIO and affected affiliates to clarify that employees could not be penalized for corporate actions and also included whistleblower protections for front line workers that report corporate violations or policies that could endanger the delivery of service or restoration of service.

## Health Care

- The Legislature rejected the Governor’s proposal to allow a pilot project of private, for-profit ownership and operation of hospitals.
- The Legislature rejected the Governor’s proposal for a Nursing Home Living Wage.

## Education

- The teacher annual professional performance review (APPR) law is amended to provide that upon expiration, if a new APPR is not negotiated prior to the start of the school year then the previously negotiated APPR will remain in effect until a new one is negotiated.
- The Legislature agreed to an increase in education aid of \$421.7 million over the last state fiscal year.
- The Legislature agreed to \$20 million in competitive grants funding for schools to implement expanded hours or days of instruction.

**SUNY Downstate Restructuring** The budget agreement authorizes a \$60 million subsidy for the 3 SUNY Medical Centers and allocates \$27.8 million in savings from labor agreements to the SUNY hospitals. The language also provides additional funding for the SUNY Downstate hospital through intergovernmental transfer and delivery system reform payments. The agreement calls for the Chancellor of SUNY to submit a sustainability plan for achieving fiscal viability by June 1, 2013. The plan is subject to approval by the Commissioner of Health and the Director of Division of Budget and is to include recommendations on the elimination of acute, ambulatory and support services to achieve fiscal stability. The plan is to be implemented by June 15, 2013.

The plan may also provide for the contracting of various services without competitive bid, including up to 20% of clinical services, however the language stipulates that such contacting cannot alter the character of SUNY Downstate as a public hospital. Contracting with not-for-profit or for profit entities is authorized for all three medical centers.

#### **Community College Next Generation Jobs Linkage**

The Legislature rejected the proposal to tie community college funding to a “pay for performance” model for various certificates or degrees. The incentive portion of the proposal was adopted and community colleges will be rewarded for training students for in-demand careers and on their ability to place vocational students in the workforce.

Graduation, Achievement and Placement Program (GAP) – The budget calls for development of a new remedial program for community colleges by no later than July 1, 2014 and must be implemented no later than July 1, 2018. This is to reduce degree completion times, speed transfer to four year colleges and reduce state and local costs.

### **Transportation**

- The Legislature and Governor agreed to require New York City to provide transportation to children in public and private schools after 4 pm or later.
- The Legislature agreed to a two-year, \$3.7 billion capital program for DOT.

### **Minimum Wage**

Step increases in the state minimum wage (currently the federal minimum of \$7.25) were agreed to as follows:

December 31, 2013 - \$8.00

December 31, 2014 - \$8.75

December 31, 2015 - \$9.00

The language stipulates that statutory minimum tipping wage for food service workers and other positions subject to tipping wages established through wage orders would be addressed through a subsequent wage board study.

**New Minimum Wage Tax Credit** – The Governor and Legislature agreed to new tax credits for employers that pay minimum wage to students aged 16-19. There is language to prohibit employers from discharging an employee for the sole purpose of hiring someone else that qualifies for the credit. The credit, which is in effect for 6 years, will not apply to wages above the minimum wage. It amounts to 75 cents per hour in 2014, \$1.31 per hour in 2015 and then \$1.35 per

hour from 2016-2019. Language supported by the NYS AFL-CIO to cap the overall amount of the credit and to narrow applicability of the credit to seasonal positions and full time positions was rejected.

## **Labor Issues**

- Murphy Institute - \$750,000 increase (for \$1.25 million total) in funds to transition into a labor college.
- Funding approved at \$4 million for the Workforce Development Institute (WDI) operations and training programs statewide.
- Union Child Care Coalition:
  - Funding language allowing for WDI to take over Monroe county Child Care Facilitated Enrollment (CFE) program (\$1.147 million).
  - Capital Region/Oneida CFE at \$2.676 million.
  - CWE funding of \$4.59 million for Brooklyn, Queens and Liberty Zone CFE program.
- Cornell Leadership Institute and Domestic Violence Programs both funded at \$150,000.

## **Revenue**

- The 2011 increase in the income tax of high earners which was set to expire in 2015 was extended for three years (through taxable year 2018).
- Family tax rebate for families earning between \$40,000 and \$300,000 with a dependent child (up to age 17) will get a \$350 rebate (one per family).

## **Pension Smoothing**

### **NYS ERS and PFRS Systems - Alternate Contribution Stabilization Program**

This applies to NYS Employees Retirement System and NYS Police and Fire System, and is available to cities, counties, towns, villages, school districts, BOCES and PBC hospitals in Erie, Nassau and Westchester Counties.

This is an optional program that establishes a graded contribution rate to enable employers to pay a portion of their annual contribution over time. Participating employers will be allowed to make a onetime election in the 2013-2014 fiscal year for the alternate method to amortize future payments.

The original Contribution Stabilization Program remains available. However, if an employer opts for the new alternate program they may not return to the original program. Once an employer opts to amortize under the alternate option, it cannot withdraw from the program; however, it does not have to amortize each year and it can choose to amortize less than the maximum amount allowed.

Amortization amounts are subject to interest. An employer can prepay amortized amounts without penalty.

- The Comptroller will determine the employer's normal annual contribution using the rates established according to usual procedures. (Example: For fiscal year 2013-2014, the average ERS rate is 20.5% and the average PFRS rate is 28.9%).

- The Comptroller will also establish graded rates using the methods established by the Contribution Stabilization Program (example: For fiscal years 2013-2014 and 2014-2015, the ERS graded rate is 12% and the PFRS graded rate is 20 percent). These graded rates will be capped at an annual increase or decrease of 0.5 percent of total salaries.
- They will then determine an employer's contribution based on the graded rate.
- The maximum amount an employer can amortize is the difference between the normal and graded contribution. Employers may choose to amortize less than the maximum amount.
- The interest rate on an amount amortized in a given year will be the interest rate for that year and will be fixed for the duration of that twelve-year payment period. Amounts amortized in other years will be at the interest rate set for the year of the amortization.

### **NYSTRS - Stable Rate Contribution Option Plan**

This plan applies to the New York State Teachers' Retirement System (NYSTRS) at the option of Board of Trustees. If opted into, employers in turn have an option of joining the plan from July 1, 2013 through June 30, 2014.

The stable rates for employers opting into the plan range from 14% to 18%, with an amortization allowed for the difference between the stable contribution rate and the normal required contribution for a given year. Amortization will commence in plan year 6 (2018-19) and end in plan year 12 (2024-25) with interest charges on the deferred amounts.

The plan will automatically terminate should NYSTRS reach a funded ratio of 80% or less at the end of any system fiscal year, requiring participating employers to resume payment of their normal required rate and pay any outstanding deficiencies over a period of five years.

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