

Anatomy of a pay raise

NY legislators would be highest paid in the nation

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ALBANY — A state panel last week recommended that New York State legislators get their first pay raise since 1999, but for the first time, limits would be placed on their outside income. The plan that will make legislators the highest paid state lawmakers in the nation begins to phase in Jan. 1 unless the legislature rejects the package. Some state officials also will see raises. A lawsuit seeking to stop the raises was filed on Friday.

Here's how it works:

The raises

Legislators are paid \$79,500 in base salary for the part-time jobs, a figure unchanged since 1999. The state Committee on Legislative and Executive Compensation in its 30-page report released last week, however, called for legislators to be paid \$110,000 on Jan. 1 and \$130,000 by Jan. 1, 2021. Gov. Andrew M. Cuomo's raise also would be phased in over three years. It will go from \$179,000 to \$200,000 on Jan. 1 and to \$250,000 on Jan. 1, 2021. New York's governor and legislators were already the third-highest-paid state officials in the nation.

Under the pay raise plan, Assembly Speaker Carl Heastie (D-Bronx) and Senate Majority Leader Andrea Stewart-Cousins (D-Yonkers) will make \$151,000 in salary and stipend on Jan. 1 and \$171,000 by 2021, along with another conservatively estimated \$10,500 in per diem expenses annually for working in Albany.

Salaries for state comptroller, attorney general and lieutenant governor will rise from about \$155,000 now to \$220,000 on Jan. 1, 2021. Top commissioners in the Cuomo administration will see similar increases, up to \$220,000 for the top administrators on Jan. 1, 2021.

Perks

New York legislators now make much more in leadership stipends, per diem payments and other perks and benefits.



The state Assembly on June 20. Proposed raises would make state legislators the nation's highest paid.

These weren't all part of the comparison to other states made by the compensation committee. The Empire Center, a conservative think tank, notes that although California now has a higher base salary, \$95,291, legislators there don't get a pension as legislators in New York do. Forty-one recently retired legislators each receive more than \$40,000 a year in pension, state records show.

Also not mentioned by the New York compensation committee was the fact that California legislators took cuts in salary and staff during the recession so that their current compensation is nearly 18 percent less than before it, according to the National Conference of State Legislatures.

New York's constitution prohibits pay cuts, so no legislator is expected to be paid less in 2019 than in 2018.

Outside income

The committee's report includes a widely sought limit on outside income, which has been a key element of many of the more than 30 corruption cases in Albany over the last two decades. The state committee duplicated the congressional standard of allowing outside income to reach 15 percent of the legislative salary, but it also includes an

even more potentially important provision, again borrowed from the congressional model. The plan prohibits lawmakers from having a legally binding "fiduciary duty" to a client or company that could supersede the lawmaker's duty to the state. That provision eliminates work for a law firm or consulting group where the a legislators' name and influence could be most lucrative.

The biggest loser in this would be Republicans senators, who lost their majority control in November and whose members most benefited by part-time roles with law firms and as consultants.

The committee also specifically prohibited "royalties" such as with writing books, but only for legislators.

Leadership stipends

The committee recommended elimination of most leadership stipends, which have been used in the past by conference leaders to reward or punish legislators. Currently, the stipends for leadership posts, including committee chairmanships and conference whips, range from \$9,000 to \$41,000. The plan will reduce 160 leadership stipends to the 15 highest-paid stipends (nine in the larger Assembly and six

in the smaller Senate) for the most powerful offices. The amount of the stipends will range from \$11,000 to \$41,000.

By comparison, New York would still have 15 stipends among its 213 legislators while California has four stipends among 120 legislators and Congress, with 535 members, has six leadership stipends.

Performance

The committee recommendation requires the legislature to pass the state budget every year by the April 1 deadline, or risk losing the following year's bump in pay. But the measure provides some leeway to the governor and the legislature. Under the pay raise plan, a budget will be considered passed and on time even if only the appropriations bills containing spending are passed by April 1.

The budget was a few hours late this year and a week late in 2017. Some other budgets during Cuomo's eight years in office were adopted hours or a day after the deadline. That led Cuomo and legislative leaders to no longer call the budgets "on-time," but "timely."

The linkage between budget adoption and the new raises also brings a bigger hammer to pass budgets on time. That provides even more leverage to the

governor. Already under state law, a governor can impose his or her budget on the legislature if legislators fail to approve a state budget by April 1.

Per diems

The issue of the \$174 per day expenses provided to most legislators when they work in Albany or outside their district was raised in public hearings and included in the charge to the committee, but it wasn't changed. California's per diem is \$192 and Pennsylvania's is \$183, according to the National Conference of State Legislatures. Some states provide no per diem, others reimburse for specific expenses, while others provide a flat \$10,800 per year for expenses.

Challenges

On Friday the Government Justice Center, a government watchdog group, filed legal action to stop the raises and reforms, saying the committee violated the state Constitution by establishing law, which can only be passed by the legislature. Senate Republicans have long said limiting outside income of legislators violates the right of people to earn money to support their families. Several legal experts told Newsday and good-government experts testified at committee hearings that the entire compensation committee process is unconstitutional. They cite provisions of the state Constitution that state only the legislature can set salaries and that any raises must be in a traditional bill voted upon by the legislature in public session, not delegated to a committee to avoid tough political votes.

Heastie also questioned the legality of the report and said action is needed to fix serious flaws in the committee's attempt to tie raises to ethical reforms for the legislature, but not for Cuomo. "They were only supposed to look at salaries," Heastie said. "They've now decided to put questionable things in that now jeopardize the raises."

"We think it was legal," said pay commission chairman H. Carl McCall, a former state comptroller and chairman of the State University of New York board who was appointed by Cuomo. "If someone wants to challenge that, they should, but we did not make the decision."