

5771--A

Cal. No. 1004

2011-2012 Regular Sessions

I N S E N A T E

June 15, 2011

Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the civil service law and the public authorities law, in relation to suspension or demotion upon the abolition or reduction of positions for labor class and noncompetitive titles; and to repeal section 80-a of the civil service law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 1, 1-a, 1-b, 1-c, 2, 6, 7 and 9 of section 80
2 of the civil service law, subdivision 1 as amended and subdivisions 6
3 and 7 as added by chapter 283 of the laws of 1972, subdivision 1-a as
4 added by chapter 312 of the laws of 1976, subdivision 1-b as added by
5 chapter 653 of the laws of 1978, subdivision 1-c as added by chapter 334
6 of the laws of 1994, subdivision 2 as amended by chapter 376 of the laws
7 of 1977, subdivisions 6 and 7 as renumbered by chapter 360 of the laws
8 of 1985, and subdivision 9 as added by chapter 470 of the laws of 1988,
9 are amended to read as follows:
10 1. Suspension or demotion. Where, because of economy, consolidation or
11 abolition of functions, curtailment of activities or otherwise, posi-
12 tions in the competitive, NONCOMPETITIVE, OR LABOR class are abolished
13 or reduced in rank or salary grade, suspension or demotion, as the case
14 may be, among incumbents holding the same or similar positions shall be
15 made in the inverse order of original appointment on a permanent basis
16 in the classified service in the service of the governmental jurisdic-
17 tion in which such abolition or reduction of positions occurs, subject
18 to the provisions of subdivision seven of section eighty-five of this
19 chapter; provided, however, that the date of original appointment of any

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

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1 such incumbent who was transferred to such governmental jurisdiction
2 from another governmental jurisdiction upon the transfer of functions
3 shall be the date of original appointment on a permanent basis in the
4 classified service in the service of the governmental jurisdiction from
5 which such transfer was made. Notwithstanding the provisions of this
6 subdivision, however, upon the abolition or reduction of positions in
7 the competitive, NONCOMPETITIVE OR LABOR class, incumbents holding the
8 same or similar positions who have not completed their probationary
9 service shall be suspended or demoted, as the case may be, before any
10 permanent incumbents, and among such probationary employees the order of
11 suspension or demotion shall be determined as if such employees were
12 permanent incumbents.

13 1-a. Notwithstanding the provisions of subdivision one of this
14 section, the members of a police or paid fire department in the city of
15 Buffalo shall be subject to the following procedure. Where, because of
16 economy, consolidation or abolition of functions, curtailment of activ-
17 ities or otherwise, positions in the competitive, NONCOMPETITIVE OR
18 LABOR class are abolished or reduced in rank or salary grade, suspension
19 or demotion, as the case may be, among incumbents holding the same or
20 similar positions shall be made in the inverse order of original
21 appointment on a permanent basis in the grade or title in the service of
22 the governmental jurisdiction in which such abolition or reduction of
23 positions occurs, subject to the provisions of subdivision seven of
24 section eighty-five of this chapter. Notwithstanding the provisions of
25 this subdivision, however, upon the abolition or reduction of positions
26 in the competitive class, incumbents holding the same or similar posi-
27 tions who have not completed their probationary service shall be
28 suspended or demoted, as the case may be, before any permanent incum-
29 bents, and among such probationary employees the order of suspension or
30 demotion shall be determined as if such employees were permanent incum-
31 bents.

32 1-b. Notwithstanding the provisions of subdivision one of this
33 section, employees of secure detention facilities in the city of New
34 York and of the alternatives to secure detention facilities program in
35 such city who are performing functions which were assumed by the depart-
36 ment of social services of the city of New York on the tenth day of
37 November, nineteen hundred seventy-one and who, upon such assumption
38 were transferred to said department, shall be subject to the following
39 procedure. Where, because of economy, consolidation or abolition of
40 function, curtailment of activities or otherwise, positions in the
41 competitive, NONCOMPETITIVE OR LABOR class are abolished, or reduced in
42 rank or salary grade, suspension or demotion, as the case may be, among
43 incumbents holding the same or similar positions shall be made in the
44 inverse order of original appointment on a permanent basis in the clas-
45 sified service in the service of the governmental jurisdiction in which
46 such abolition or reduction of positions occurs, subject to the
47 provisions of subdivision seven of section eighty-five of this chapter;
48 provided, however, that if any person so employed and so transferred was
49 employed on a permanent basis in such a facility or such program prior
50 to the thirtieth day of December, nineteen hundred sixty-seven, for
51 purposes of this subdivision regarding priority of retention and for no
52 other purpose, the date of original appointment of any such person shall
53 be deemed to be the date such permanent employment commenced prior to
54 the said thirtieth day of December, nineteen hundred sixty-seven.

55 1-c. Notwithstanding the provisions of subdivision one of this
56 section, sworn employees of the Monroe county sheriff's department shall

1 be subject to the following procedure. Where, because of economy,
2 consolidation or abolition of function, curtailment of activities or
3 otherwise, positions in the competitive, NONCOMPETITIVE OR LABOR class
4 are abolished, or reduced in rank or salary grade, suspension or
5 demotion, as the case may be, among incumbents holding the same or simi-
6 lar positions shall be made in the inverse order of original appointment
7 on a permanent basis in the grade or title in the service of the govern-
8 mental jurisdiction in which such abolition or reduction of positions
9 occurs, subject to the provisions of subdivision seven of section eight-
10 y-five of this chapter; provided, however, that if any person so
11 employed was employed in such person's current title prior to the first
12 day of April, nineteen hundred ninety-three, for purposes of this subdi-
13 vision regarding priority of retention and for no other purpose, the
14 date of original appointment of any such person shall be deemed to be
15 the date such employment commenced prior to the said first day of April,
16 nineteen hundred ninety-three.

17 2. Continuous service. Except as otherwise provided herein, for the
18 purposes of this section the original appointment of an incumbent shall
19 mean the date of his first appointment on a permanent basis in the clas-
20 sified service followed by continuous service in the classified service
21 on a permanent basis up to the time of the abolition or reduction of the
22 competitive, NONCOMPETITIVE OR LABOR class positions. An employee who
23 has resigned and who has been reinstated or reappointed in the service
24 within one year thereafter shall, for the purposes of this section, be
25 deemed to have continuous service. An employee who has been terminated
26 because of a disability resulting from occupational injury or disease as
27 defined in the workmen's compensation law and who has been reinstated or
28 reappointed in the service thereafter shall be deemed to have continuous
29 service. A period of employment on a temporary or provisional basis, or
30 in the unclassified service, immediately preceded and followed by perma-
31 nent service in the classified service, shall not constitute an inter-
32 ruption of continuous service for the purposes of this section; nor
33 shall a period of leave of absence without pay pursuant to law or the
34 rules of the civil service commission having jurisdiction, or any period
35 during which an employee is suspended from his position pursuant to this
36 section, constitute an interruption of continuous service for the
37 purposes of this section.

38 6. Displacement in civil divisions. A permanent incumbent of a posi-
39 tion in a civil division in a specific title to which there is a direct
40 line of promotion who is suspended or displaced pursuant to this
41 section, together with all other such incumbents suspended or displaced
42 at the same time, shall displace, in the inverse order of the order of
43 suspension or demotion prescribed in subdivisions one and two of this
44 section, incumbents serving in positions in the same lay-off unit in the
45 next lower occupied title in direct line of promotion who shall be
46 displaced in the order of suspension or demotion prescribed in subdivi-
47 sions one and two of this section; provided, however, that no incumbent
48 shall displace any other incumbent having greater retention standing. If
49 a permanent incumbent of a position in a civil division is suspended or
50 displaced from a position in a title for which there are no lower level
51 occupied positions in direct line of promotion, he shall displace the
52 incumbent with the least retention right pursuant to subdivisions one
53 and two of this section who is serving in a position in the title in
54 which the displacing incumbent last served on a permanent basis prior to
55 service in one or more positions in the title from which he is suspended
56 or displaced, if: (1) the service of the displacing incumbent while in

1 such former title was satisfactory and (2) the position of the junior
2 incumbent is in (a) the competitive, NONCOMPETITIVE OR LABOR class, (b)
3 the layoff unit from which the displacing incumbent was suspended or
4 displaced, and (c) a lower salary grade than the position from which the
5 displacing incumbent is suspended or displaced; provided, however, that
6 no incumbent shall displace any other incumbent having greater retention
7 standing. Refusal of appointment to a position afforded by this subdivi-
8 sion constitutes waiver of rights under this subdivision with respect to
9 the suspension or displacement on account of which the refused appoint-
10 ment is afforded. The municipal civil service commission shall promul-
11 gate rules to implement this subdivision including rules which may
12 provide adjunctive opportunities for displacement either to positions in
13 direct line of promotion or to formerly held positions; provided, howev-
14 er, that no such rule shall permit an incumbent to displace any other
15 incumbent having greater retention standing. For the purpose of acquir-
16 ing preferred list rights, displacement pursuant to this subdivision is
17 the equivalent of suspension or demotion pursuant to subdivision one of
18 this section.

19 7. Displacement in the state service. A permanent incumbent of a posi-
20 tion in the state service in a specific title to which there is a direct
21 line of promotion who is suspended or displaced pursuant to this
22 section, together with all other such incumbents suspended or displaced
23 at the same time, shall displace, in the inverse order of the order of
24 suspension or demotion prescribed in subdivisions one and two of this
25 section, incumbents serving in positions in the same layoff unit in the
26 next lower occupied title in direct line of promotion who shall be
27 displaced in the order of suspension or demotion prescribed in subdivi-
28 sions one and two of this section; provided, however, that no incumbent
29 shall displace any other incumbent having greater retention standing. If
30 a permanent incumbent of a position in the state service is suspended or
31 displaced from a position in a title for which there are no lower level
32 occupied positions in direct line of promotion, he shall displace the
33 incumbent with the least retention right pursuant to subdivisions one
34 and two of this section who is serving in a position in the title in
35 which the displacing incumbent last served on a permanent basis prior to
36 service in one or more positions in the title from which he is suspended
37 or displaced, if: (1) the service of the displacing incumbent while in
38 such former title was satisfactory and (2) the position of the junior
39 incumbent is in (a) the competitive, NONCOMPETITIVE OR LABOR class, (b)
40 the layoff unit from which the displacing incumbent was suspended or
41 displaced, and (c) a lower salary grade than the position from which the
42 displacing incumbent is suspended or displaced; provided, however, that
43 no incumbent shall displace any other incumbent having greater retention
44 standing. Refusal of appointment to a position afforded by this subdivi-
45 sion constitutes waiver of rights under this subdivision with respect to
46 the suspension or displacement on account of which the refused appoint-
47 ment is afforded. The state civil service commission shall promulgate
48 rules to implement this subdivision including rules which may provide
49 adjunctive opportunities for displacement either to positions in direct
50 line of promotion or to formerly held positions; provided, however, that
51 no such rule shall permit an incumbent to displace any other incumbent
52 having greater retention standing. For the purpose of acquiring
53 preferred list rights, displacement pursuant to this subdivision is the
54 equivalent of suspension or demotion pursuant to subdivision one of this
55 section.

1 9. Certain suspensions or demotions in the city of Niagara Falls.
2 Notwithstanding the provisions of subdivision one of this section, the
3 members of a paid fire department in the city of Niagara Falls shall be
4 subject to the following procedure. Where, because of economy, consol-
5 idation or abolition of functions, curtailment of activities or other-
6 wise, positions in the competitive class are abolished or reduced in
7 rank or salary grade, suspension or demotion, as the case may be, among
8 incumbents holding the same or similar positions shall be made in the
9 inverse order of original appointment on a permanent basis in the grade
10 or title in the service of the governmental jurisdiction in which such
11 abolition or reduction of positions occurs, subject to the provisions of
12 subdivision seven of section eighty-five of this chapter. Notwithstand-
13 ing the provisions of this subdivision, however, upon the abolition or
14 reduction of positions in the competitive, NONCOMPETITIVE OR LABOR
15 class, incumbents holding the same or similar positions who have not
16 completed their probationary service shall be suspended or demoted, as
17 the case may be, before any permanent incumbents, and among such proba-
18 tionary employees the order of suspension or demotion shall be deter-
19 mined as if such employees were permanent incumbents.

20 S 2. Section 80-a of the civil service law is REPEALED.

21 S 3. Subdivisions 2 and 4 of section 78 of the civil service law, as
22 added by chapter 29 of the laws of 1996, are amended to read as follows:

23 2. Order of certification of names from transfer list. a. The names of
24 persons on a transfer list established to fill vacancies in the same
25 position or a position in a lower grade in line of promotion shall be
26 certified therefrom in the order of their original appointments, in
27 accordance with the provisions of subdivision three of section eighty[,
28 subdivision three of section eighty-a] and subdivision seven of section
29 eighty-five of this chapter.

30 b. The names of persons on a transfer list established to fill vacan-
31 cies in a comparable position shall be certified therefrom with equal
32 ranking for appointment.

33 4. Relative seniority. Where a preferred list exists containing the
34 names of persons who have been suspended or demoted from a position in
35 the same title to which an appointment is to be made, the relative
36 seniority, determined in accordance with the provisions of subdivision
37 three of section eighty[, subdivision three of section eighty-a] and
38 subdivision seven of section eighty-five of this chapter, of the person
39 certified first on such preferred list willing to accept appointment and
40 the person certified first on the transfer list willing to accept
41 appointment shall be compared and the person with the greater seniority
42 shall be certified first.

43 S 4. Paragraphs a, b and e of subdivision 1 of section 79 of the civil
44 service law, as added by chapter 315 of the laws of 1995, are amended to
45 read as follows:

46 a. Where, and to the extent that, an agreement between the state and
47 an employee organization entered into pursuant to article fourteen of
48 this chapter so provides, upon notification to the department that an
49 employee in the state service is to be suspended or demoted in accord-
50 ance with the provisions of section eighty [or eighty-a] of this article
51 by reason of the state's exercise of its right to contract out for goods
52 and services, and receipt of the information required pursuant to
53 section eighty-one-a of this article for purposes of establishing reem-
54 ployment rosters, at least ninety days prior to the suspension or
55 demotion of an affected employee, the department shall place the name of
56 the employee upon a redeployment list. Such redeployment list shall be

1 certified for filling positions in the same title or in any comparable
2 title, as determined by the department, before certification is made
3 from any other eligible list, placement roster, reemployment roster or
4 preferred list. The director of state operations is authorized to rede-
5 ploy such employees to positions in appointing authorities of the execu-
6 tive branch. The department may extend the right to be placed on a rede-
7 ployment list, in accordance with the provisions of this section, to
8 employees not subject to the provisions of such agreement.

9 b. Orders of certification of names from a redeployment list. The
10 names of persons on a redeployment list shall be certified therefrom for
11 appointment in the order of their original appointments, in accordance
12 with the provisions of subdivision three of section eighty [and subdivi-
13 sion three of section eighty-a] of this article.

14 e. Termination of eligibility for appointment. Eligibility for
15 appointment of an employee whose name appears on a redeployment list
16 shall terminate at such time as the employee is redeployed pursuant to
17 the provisions of this section to a position in the same salary grade as
18 the position from which he or she has been suspended or demoted, or has
19 exercised his or her reemployment rights pursuant to the provisions of
20 section eighty-one or eighty-one-a of this article, provided, however,
21 that eligibility for appointment shall terminate no later than six
22 months following the suspension or demotion of such employee in accord-
23 ance with the provisions of section eighty [or eighty-a] of this arti-
24 cle. Upon such employee's suspension or demotion, the department shall
25 place the name of such employee upon a preferred list, and a reemploy-
26 ment roster, as appropriate, in accordance with the provisions of
27 sections eighty-one and [eight-one-a] EIGHTY-ONE-A of this article.

28 S 5. Subdivision 1 of section 81 of the civil service law, as amended
29 by chapter 152 of the laws of 2011, is amended to read as follows:

30 1. Establishment of preferred lists; general provisions. The head of
31 any department, office or institution in which an employee is suspended
32 or demoted in accordance with the provisions of [sections] SECTION
33 eighty [and eighty-a] of this title shall, upon such suspension or
34 demotion, furnish the state civil service department or appropriate
35 municipal commission, as the case may be, a statement showing his name,
36 title or position, date of appointment, and the date of and reason for
37 suspension or demotion. It shall be the duty of such civil service
38 department or commission, as the case may be, forthwith to place the
39 name of such employee upon a preferred list, together with others who
40 may have been suspended or demoted from the same or similar positions in
41 the same jurisdictional class, and to certify such list, as hereinafter
42 provided, for filling vacancies in the same jurisdictional class; first,
43 in the same or similar position; second, in any position in a lower
44 grade in line of promotion; and third, in any comparable position. Such
45 preferred list shall be certified for filling a vacancy in any such
46 position before certification is made from any other list, including a
47 promotion eligible list, notwithstanding the fact that none of the
48 persons on such preferred list was suspended from or demoted in the
49 department or suspension and demotion unit in which such vacancy exists.
50 No other name shall be certified from any other list for any such posi-
51 tion until such preferred list is exhausted. The eligibility for rein-
52 statement of a person whose name appears on any such preferred list
53 shall not continue for a period longer than four years from the date of
54 separation or demotion. An employee whose name was placed on the
55 preferred list and at the time of such placement was on active duty with
56 the armed forces of the United States, as pursuant to title ten, four-

teen or thirty-two of the United States code, shall not be eligible for employment reinstatement for a period longer than four years after the date of termination of military duty.

S 6. Subdivisions 1 and 5 of section 81-a of the civil service law, subdivision 1 as amended by chapter 140 of the laws of 1993 and subdivision 5 as added by chapter 239 of the laws of 1992, are amended to read as follows:

1. Establishment of reemployment rosters in the state service; general provisions. The head of any department, office or institution from which an employee in the state service is to be suspended or demoted in accordance with the provisions of section eighty [or eighty-a] of this article, shall, at least twenty days prior to such suspension or demotion, furnish the state civil service department with a statement showing such employee's name, title or position, date of appointment, and the date of and reason for suspension or demotion. Upon such employee's suspension or demotion, it shall be the duty of the department to place the name of such employee upon a reemployment roster for filling vacancies in any comparable position as determined by the department, except that employees suspended or demoted from positions in the non-competitive and labor classes may not be certified to fill vacancies in the competitive class. Such reemployment roster shall be certified for filling a vacancy in any such position before certification is made from any other list, including a promotion eligible list, but not prior to a preferred list. Eligibility for reinstatement of a person whose name appears on any such reemployment roster shall not continue for a period longer than four years from the date of suspension or demotion provided, however, in no event shall eligibility for reinstatement from a reemployment roster continue once the person is no longer eligible for reinstatement from a preferred list.

5. Notwithstanding any other provision of this chapter, the department may disqualify for reinstatement and remove from a reemployment roster the name of any otherwise eligible person who, by reason of physical or mental incapacity, is found to be unable to satisfactorily perform the duties of the position for which such roster has been established, or who has engaged in such misconduct as would warrant his or her dismissal from public employment, except that a person who is not completely physically incapacitated and who is suspended or demoted pursuant to section eighty [or eighty-a] of this article because his or her position has been abolished or reduced, but who is certified for reinstatement to any position having the same physical requirements as the position from which such person was suspended or demoted, shall not be disqualified because of his or her incapacity, unless upon medical examination his or her incapacity has worsened to a degree that he or she would not be able to satisfactorily perform in such position. No person shall be disqualified pursuant to this subdivision unless he or she is first given a written statement of the reasons therefor and an opportunity to be heard at a hearing at which satisfactory proof of such reasons must be established by appropriate evidence, and at which such person may present independent evidence and be entitled to representation by counsel. The department shall designate a person to hold such hearing and report thereon.

S 7. Subdivision 1 of section 81-b of the civil service law, as amended by chapter 140 of the laws of 1993, is amended to read as follows:

1. Establishment of placement rosters in the state service; general provisions. The head of any department, office or institution from

1 which an employee in the state service is to be suspended or demoted in
2 accordance with the provisions of section eighty [or eighty-a] of this
3 article, shall, no later than the date on which he or she furnishes the
4 state civil service department with the employee information required
5 pursuant to section eighty-one-a of this article for purposes of estab-
6 lishing reemployment rosters, furnish the state civil service department
7 with a statement showing such employee's name, title or position, date
8 of appointment, and the anticipated date of and reason for suspension or
9 demotion. Upon receiving such information, it shall be the duty of the
10 department forthwith to place the name of such employee upon a placement
11 roster for filling vacancies in the same title or in any comparable
12 position as determined by the department, except that employees
13 suspended or demoted from positions in the non-competitive and labor
14 classes may not be certified to fill vacancies in the competitive class.
15 Such placement roster shall be certified for filling a vacancy in any
16 such position before certification is made from any other list, includ-
17 ing a promotion eligible list, but not prior to a preferred list or a
18 reemployment roster. Eligibility for appointment of an employee whose
19 name appears on any such placement roster shall terminate at such time
20 as the employee is suspended or demoted in accordance with the
21 provisions of section eighty [or eighty-a] of this article. Upon such
22 employee's suspension or demotion, the department shall place the name
23 of such employee upon a preferred list, and a reemployment roster as
24 appropriate, in accordance with the provisions of sections eighty-one
25 and eighty-one-a of this article.

26 S 8. Subdivision 7 of section 85 of the civil service law, as amended
27 by chapter 532 of the laws of 1976, is amended to read as follows:

28 7. Preference in retention upon the abolition of positions. In the
29 event of the abolition or elimination of any position in the civil
30 service [for which eligible lists are established or any position the
31 incumbent of which is encompassed by section eighty-a of this chapter],
32 any suspension, demotion or displacement shall be made in the inverse
33 order of the date of original appointment in the service subject to the
34 following conditions: (1) blind employees shall be granted absolute
35 preference in retention; (2) the date of such original appointment for
36 disabled veterans shall be deemed to be sixty months earlier than the
37 actual date, determined in accordance with section thirty of the general
38 construction law; (3) the date of such original appointment for non-dis-
39 abled veterans shall be deemed to be thirty months earlier than the
40 actual date, determined in accordance with section thirty of the general
41 construction law; (4) no permanent competitive class employee subject to
42 the jurisdiction of the civil service commission of the city of New York
43 who receives an injury in the line of duty, as defined in this para-
44 graph, which requires immediate hospitalization, and which is not
45 compensable through workmen's compensation may be suspended, demoted or
46 displaced pursuant to section eighty of this chapter within three months
47 of the date of his confinement, provided that medical authorities
48 approved by such commission shall certify that the employee is not able
49 to perform the duties of his position; provided further, that such
50 three-month period may be extended by such commission for additional
51 periods not to exceed one year each upon the certification of medical
52 authorities selected by such commission that the employee is, as a
53 result of his injury, still not able to perform the duties of his posi-
54 tion. An injury in the line of duty, as used herein, shall be construed
55 to mean an injury which is incurred as a direct result of the lawful
56 performance of the duties of the position. In determining whether an

1 injury was received in the line of duty, such commission shall require
2 the head of the agency by which the employee is employed to certify that
3 the injury was received as a direct result of the lawful performance of
4 the employee's duties; and (5) the spouse of a veteran with one hundred
5 percent service connected disability shall be deemed to be sixty months
6 earlier than the actual date, determined in accordance with section
7 thirty of the general construction law, provided, the spouse is domi-
8 ciled with the veteran-spouse and is the head of the household. This
9 section shall not be construed as conferring any additional benefit upon
10 such employee other than a preference in retention. Such employee shall
11 be subject to transfer upon the abolition of his function within his
12 agency or department.

13 S 9. Section 86 of the civil service law, as amended by chapter 283 of
14 the laws of 1972, is amended to read as follows:

15 S 86. Transfer of veterans or exempt volunteer firemen upon abolition
16 of positions. If the position in the non-competitive or in the labor
17 class held by any honorably discharged veteran of the armed forces of
18 the United States who served therein in time of war as defined in
19 section eighty-five of this [chapter] ARTICLE, or by an exempt volunteer
20 fireman as defined in the general municipal law, shall become unneces-
21 sary or be abolished for reasons of economy or otherwise, the honorably
22 discharged veteran or exempt volunteer fireman holding such position
23 shall not be discharged from the public service but shall be transferred
24 to a similar position wherein a vacancy exists, and shall receive the
25 same compensation therein. It is hereby made the duty of all persons
26 clothed with the power of appointment to make such transfer effective.
27 The right to transfer herein conferred shall continue for a period of
28 one year following the date of abolition of the position, and may be
29 exercised only where a vacancy exists in an appropriate position to
30 which transfer may be made at the time of demand for transfer. Where
31 the positions of more than one such veteran or exempt volunteer fireman
32 are abolished and a lesser number of vacancies in similar positions
33 exist to which transfer may be made, the veterans or exempt volunteer
34 firemen whose positions are abolished shall be entitled to transfer to
35 such vacancies in the order of their original appointment in the
36 service. Nothing in this section shall be construed to apply to the
37 position of private secretary, cashier or deputy of any official or
38 department. [This section shall have no application to persons encom-
39 passed by section eighty-a of this chapter.]

40 S 10. Paragraph (a) of subdivision 3 of section 131 of the civil
41 service law, as amended by chapter 733 of the laws of 1979, is amended
42 to read as follows:

43 (a) If such an employee is demoted, or displaced to a position in a
44 lower grade pursuant to [sections] SECTION eighty [or eighty-a] of this
45 chapter, or is appointed, transferred or reinstated to a position in a
46 lower grade, he shall, upon such demotion, displacement, appointment,
47 transfer, or reinstatement, receive the rate of compensation which
48 corresponds with the number of annual increments and the percentage
49 value of performance advances actually received in the salary grades
50 from which and to which he is demoted, displaced, appointed, transferred
51 or reinstated, as the case may be.

52 S 11. Paragraph (e) of subdivision 11 and paragraph (f) of subdivision
53 13 of section 3556 of the public authorities law, as added by chapter 5
54 of the laws of 1997, are amended to read as follows:

55 (e) Notwithstanding any other provision of this title, the corporation
56 may disqualify for reinstatement and remove from a reemployment roster

1 the name of any otherwise eligible person who, by reason of physical or
2 mental incapacity, is found to be unable to satisfactorily perform the
3 duties of the position for which such roster has been established, or
4 who has engaged in such misconduct as would warrant his or her dismissal
5 from public employment, except that a person who is not completely phys-
6 ically incapacitated and who is suspended or demoted pursuant to section
7 eighty [or eighty-a] of the civil service law because his or her posi-
8 tion has been abolished or reduced, but who is certified for rein-
9 statement to any position having the same physical requirements as the
10 position from which such person was suspended or demoted, shall not be
11 disqualified because of his or her incapacity, unless upon medical exam-
12 ination his or her incapacity has worsened to a degree that he or she
13 would not be able to satisfactorily perform in such position. No person
14 shall be disqualified pursuant to this subdivision unless he or she is
15 first given a written statement of the reasons therefor and an opportu-
16 nity to be heard at a hearing at which satisfactory proof of such
17 reasons must be established by appropriate evidence, and at which such
18 person may present independent evidence and be entitled to represen-
19 tation by counsel. The corporation shall designate a person to hold such
20 hearing and report thereon.

21 (f) Eligibility for appointment of an employee whose name appears on a
22 redeployment list shall terminate at such time as the employee is rede-
23 ployed pursuant to the provisions of this section to a position in the
24 same salary grade as the position from which he or she has been
25 suspended or demoted, or has exercised his or her reemployment rights
26 pursuant to the provisions of section eighty-one or eighty-one-a of the
27 civil service law, provided, however, that eligibility for appointment
28 shall terminate no later than six months following the suspension or
29 demotion of such employee in accordance with the provisions of section
30 eighty [or eighty-a] of the civil service law. Upon such employee's
31 suspension or demotion, the corporation shall place the name of such
32 employee upon a preferred list, and a reemployment roster, as appropri-
33 ate, in accordance with the provisions of subdivision eight of this
34 section.

35 S 12. This act shall take effect immediately.