

STATE OF NEW YORK

5267

2017-2018 Regular Sessions

IN SENATE

March 17, 2017

Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, the retirement and social security law and the criminal procedure law, in relation to transferring the regional state park police to the division of state police; and to repeal certain provisions of the parks, recreation and historic preservation law, relating thereto

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

1 Section 1. Transfer of functions. Notwithstanding the provisions of
2 any law to the contrary, all of the duties, functions and powers of the
3 office of parks, recreation and historic preservation, in relation to
4 the duties, functions and powers of the regional state park police, are
5 hereby transferred, assigned to, and assumed by the division of state
6 police and the superintendent thereof as may be applicable.
7 § 2. Transfer of employees. Upon the effective date of this act, the
8 commissioner of the office of parks, recreation and historic preserva-
9 tion shall certify to the superintendent of state police a list of the
10 names and titles of all individuals in the several permanent positions
11 within the regional state park, and shall cause copies of such certified
12 list, and copies of the text of this act, to be publicly and conspicu-
13 ously posted in the headquarters office of the regional state park
14 police. Eligible employees who successfully complete a background inves-
15 tigation shall be appointed to the division of state police by the
16 superintendent within ninety days after the superintendent's receipt of
17 the certified list. Those employees who fail to complete successfully a
18 background investigation will be excluded from employment with the divi-
19 sion of state police and placed on a preferred re-employment list with
20 the state. The superintendent of state police shall be charged generally
21 with the duty and shall have the power to classify and reclassify all
22 member positions in the division of state police, subject to the

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

LBD10607-01-7

1 approval of the director of the budget. Individuals who have successful-
2 ly completed probation in the positions of regional state park police
3 sergeant, lieutenant, captain and major shall be appointed to the posi-
4 tion of technical sergeant in the division of state police. No individ-
5 ual transferred to the division of state police pursuant to this act
6 shall suffer a reduction in salary.

7 The superintendent of state police, shall be charged generally with
8 the duty and shall have the power to allocate and reallocate to an
9 appropriate salary grade specified in section 215 of the executive law,
10 all member positions in the division of state police, subject to the
11 approval of the director of the budget. The superintendent of state
12 police shall allow employees transferred pursuant to this act credit for
13 all of the annual leave, sick leave, or personal leave standing to their
14 credit at the time of the transfer, but not in excess of the maximum
15 accumulation of such leave permitted by the division. Seniority for the
16 employees transferred pursuant to this act, for the purpose of determin-
17 ing vacation usage and certain work assignments among all members of the
18 division of state police, shall be from the effective date of the trans-
19 fer of functions effected by this act, and within such transfer group
20 seniority shall be as among themselves from the original date of perma-
21 nent appointment as regional state park police officers. For the purpose
22 of qualifying as eligible for competitive examinations in the division,
23 employees who transfer pursuant to this section shall meet the eligibil-
24 ity requirements as specified in the rules and regulations of the divi-
25 sion of state police except that those employees who transfer pursuant
26 to this section who, on the effective date of the transfer of functions
27 affected by this act, completed a minimum of four years of permanent
28 service in one or more of said titles, shall be eligible to compete in
29 the next scheduled promotional examination for the title of sergeant,
30 and shall not be required to meet the three-year member service require-
31 ment or the one-year probationary training term as required by such
32 rules and regulations.

33 § 3. Transfer of facilities, records, vehicles and equipment. The
34 commissioner of the office of parks, recreation and historic preserva-
35 tion shall transfer and deliver to the superintendent of state police
36 all facilities, vehicles, books, papers, records and equipment of the
37 regional state park police, to the division of state police so as to
38 enable the division of state police to carry out the transferred func-
39 tions set out in section one of this act.

40 § 4. Completion of unfinished business. Any business or other matter
41 undertaken or commenced by the office of parks, recreation and historic
42 preservation pertaining to or connected with the functions, powers,
43 obligations and duties transferred and assigned pursuant to this act to
44 the division and superintendent of state police, and pending on the
45 effective date of this act, may be conducted and completed by the divi-
46 sion and superintendent of state police in the same manner and under the
47 same terms and conditions and with the same effect as if conducted and
48 completed by the office of parks, recreation and historic preservation.

49 § 5. Continuation of rules and regulations. All rules, regulations,
50 acts, orders, determinations, and decisions of the office of parks,
51 recreation and historic preservation pertaining to the functions and
52 powers transferred and assigned pursuant to this act, in force at the
53 time of such transfer and assumption, shall continue in force and effect
54 as rules, regulations, acts, orders, determinations and decisions of the
55 division of state police until duly modified or abrogated by the super-
56 intendent of state police.

§ 6. Terms occurring in laws, contracts and other documents. Whenever the office of parks, recreation and historic preservation is referred to or designated in any law contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this act, such reference or designation shall be deemed to refer to the regional state park police as continued in the division of state police.

§ 7. Pending actions or proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the office of parks, recreation and historic preservation pertaining to the regional state park police shall be affected by this act, but the same may be prosecuted or defended in the name of the superintendent or division of state police. In all such actions and proceedings, the division of state police or the superintendent upon application to the court, shall be substituted as a party.

§ 8. Transfer of appropriations. All appropriations made to the office of parks, recreation and historic preservation relating to the regional state park police, to the extent of remaining unexpended balances, shall be transferred by the comptroller to and made available for use by the division of state police, subject to the approval of the director of the budget, for the payment of liabilities previously incurred by the functions transferred pursuant to this act. Payments for liabilities for expenses of personal service, maintenance and operation previously incurred by the transfer of functions and for liabilities incurred and to be incurred shall be made on vouchers or certificates approved by the superintendent of state police on audit and warrant of the comptroller.

§ 9. Transfer of assets and liabilities. All assets and liabilities of the regional state park police shall be transferred to and assumed by the division of state police.

§ 10. Subdivision 3 of section 58 of the civil service law, as amended by chapter 561 of the laws of 2015, is amended to read as follows:

3. As used in this section, the term "police officer" means a police officer in the department of environmental conservation, the state university police, ~~[a member of the regional state park police]~~ or a police force, police department, or other organization of a county, city, town, village, housing authority, transit authority or police district, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but shall not include any person serving as such solely by virtue of his or her occupying any other office or position, nor shall such term include a sheriff, under-sheriff, commissioner of police, deputy or assistant commissioner of police, chief of police, deputy or assistant chief of police or any person having an equivalent title who is appointed or employed to exercise equivalent supervisory authority.

§ 11. Paragraphs (a) and (b) of subdivision 4 of section 58 of the civil service law, as amended by chapter 561 of the laws of 2015, are amended to read as follows:

(a) Any person who has received provisional or permanent appointment in the competitive class of the civil service as a police officer of ~~[the regional state park police]~~, the state university of New York police, the department of environmental conservation or any police force or police department of any county, city, town, village, housing authority, transit authority or police district shall be eligible to resign from any police force or police department, and to be appointed as a police officer in the same or any other police force or police department without satisfying the age requirements set forth in paragraph (a)

1 of subdivision one of this section at the time of such second or subse-
2 quent appointment, provided such second or subsequent appointment occurs
3 within thirty days of the date of resignation.

4 (b) Any person who has received permanent appointment in the compet-
5 itive class of the civil service as a police officer of [~~the regional~~
6 ~~state park police,~~] the state university of New York police, the depart-
7 ment of environmental conservation or any police force or police depart-
8 ment of any county, city, town, village, housing authority, transit
9 authority or police district shall be eligible to resign from any police
10 force or police department and, subject to such civil service rules as
11 may be applicable, shall be eligible for reinstatement in the same
12 police force or police department or in any other police force or police
13 department to which he or she was eligible for transfer, without satis-
14 fying the age requirements set forth in paragraph (a) of subdivision one
15 of this section at the time of such reinstatement, provided such rein-
16 statement occurs within one year of the date of resignation.

17 § 12. Subdivision c of section 381-b of the retirement and social
18 security law, as amended by chapter 581 of the laws of 2001, is amended
19 to read as follows:

20 c. Credit for previous police service. (1) Police service. In comput-
21 ing the years of total creditable service in such division, full credit
22 shall be given and full allowance shall be made for service rendered as
23 a police officer or member of a police force or department of a state
24 park authority or commission or an organized police force or department
25 of a county, city, town, village, police district, authority or other
26 participating employer or member of the capital police force in the
27 office of general services while a member of the New York state and
28 local police and fire retirement system, of the New York state and local
29 employees' retirement system or of the New York city police pension fund
30 and for all service for which full credit has been given and full allow-
31 ance made pursuant to the provisions of section three hundred seventy-
32 five-h of this [~~chapter~~] article provided, however, that full credit
33 pursuant to the provisions of such section shall mean only such service
34 as would be creditable service pursuant to the provisions of section
35 three hundred eighty-three or section three hundred eighty-three-a or
36 three hundred eighty-three-b enacted by chapter six hundred seventy-sev-
37 en of the laws of nineteen hundred eighty-six of this [~~chapter~~] title or
38 pursuant to the provisions of title thirteen of the administrative code
39 of the city of New York for any member contributing pursuant to this
40 section who transferred to the division of state police or who trans-
41 ferred to the division of state police pursuant to the chapter of the
42 laws of two thousand seventeen that amended this subdivision and who
43 retired on or after the effective date of such chapter.

44 (2) State university police officer service. Upon completion of more
45 than twenty years of service, and upon retirement, each such member who
46 was previously credited with service credit in the New York state and
47 local employees' retirement system as an officer appointed by the state
48 university pursuant to paragraph 1 of subdivision two of section three
49 hundred fifty-five of the education law and who has successfully
50 completed a course of law enforcement training as provided in such
51 section of the education law shall receive for each such year of previ-
52 ous service, up to a total of no greater than five years of previous
53 service, additional service credit equal to one-sixtieth of his or her
54 final average salary.

§ 13. Paragraph 5 of subdivision b of section 381-b of the retirement and social security law, as added by chapter 435 of the laws of 1997, is amended to read as follows:

(5) Notwithstanding the provisions of this subdivision, members transferred to the division of state police pursuant to [a] chapter four hundred thirty-five of the laws of nineteen hundred ninety-seven or the chapter of the laws of two thousand seventeen that amended this paragraph, upon retirement shall receive either the allowances provided by this subdivision or those provided under the retirement system to which they participated prior to such transfer whichever allowance shall be the higher.

§ 14. Paragraph 3 of subdivision e of section 363-b of the retirement and social security law, as added by chapter 435 of the laws of 1997, is amended to read as follows:

3. Notwithstanding the provisions of this subdivision, a member transferred to the division of state police pursuant to [a] chapter four hundred thirty-five of the laws of nineteen hundred ninety-seven or the chapter of the laws of two thousand seventeen that amended this paragraph who files for a disability retirement under this section for a physical or mental incapacity attributable to an injury or incident which occurred prior to such transfer, shall be eligible to file for the disability retirement benefits attributable to the plan applicable to such member before the transfer. In the case of a member transferred to the division pursuant to said chapter who files for a disability retirement under this section for a physical or mental incapacity attributable to an injury or incident which occurs after such transfer, for the purposes of calculating service credit required by subparagraph (b) of paragraph two of subdivision b of this section, service in the ~~[capital]~~ regional state park police force in the office of general services shall be considered service in the division.

§ 15. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by reason of this act.

§ 16. Construction with other laws. The provisions of this act shall supersede any inconsistent provisions of any other law.

§ 17. Subdivision 4 of section 9.05 of the parks, recreation and historic preservation law is REPEALED.

§ 18. Section 13.17 of the parks, recreation and historic preservation law is REPEALED.

§ 19. Paragraph (e) of subdivision 34 of section 1.20 of the criminal procedure law, as amended by chapter 662 of the laws of 1972, is amended to read as follows:

(e) A sworn officer of an authorized police department of an authority ~~[or a sworn officer of the state regional park police in the office of parks and recreation]~~;

§ 20. Severability. If any part, section, subdivision, paragraph, subparagraph, clause, item, sentence or other part of this act, or the application thereof, to any individual person or set of circumstances, shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act, or the application of such section or part of a section held invalid, to any other person or circumstances, but shall be confined in its operation to the section, subdivision, paragraph, subparagraph, clause, item, sentence or other part of this act directly involved in such holding, or to the specific person and/or set of circumstances involved therein.

§ 21. This act shall take effect immediately.