

STATE OF NEW YORK

2736

2019-2020 Regular Sessions

IN ASSEMBLY

January 25, 2019

Introduced by M. of A. SOLAGES, THIELE, McDONOUGH, AUBRY, WOERNER, WEPRIN, PHEFFER AMATO, B. MILLER, RAMOS -- Multi-Sponsored by -- M. of A. LUPARDO, WALSH -- read once and referred to the Committee on Governmental Employees

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

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

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

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

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

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

51 § 5. Continuation of rules and regulations. All rules, regulations,
52 acts, orders, determinations, and decisions of the office of parks,
53 recreation and historic preservation pertaining to the functions and
54 powers transferred and assigned pursuant to this act, in force at the
55 time of such transfer and assumption, shall continue in force and effect
56 as rules, regulations, acts, orders, determinations and decisions of the

1 division of state police until duly modified or abrogated by the super-
2 intendent of state police.

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

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

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

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

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

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

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

50 (a) Any person who has received provisional or permanent appointment
51 in the competitive class of the civil service as a police officer of
52 ~~[the regional state park police,~~ the state university of New York
53 police, the department of environmental conservation or any police force
54 or police department of any county, city, town, village, housing author-
55 ity, transit authority or police district shall be eligible to resign
56 from any police force or police department, and to be appointed as a

1 police officer in the same or any other police force or police depart-
2 ment without satisfying the age requirements set forth in paragraph (a)
3 of subdivision one of this section at the time of such second or subse-
4 quent appointment, provided such second or subsequent appointment occurs
5 within thirty days of the date of resignation.

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

19 § 12. Paragraph 1 of subdivision c of section 381-b of the retirement
20 and social security law, as amended by chapter 581 of the laws of 2001,
21 is amended to read as follows:

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

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

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

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

4 3. Notwithstanding the provisions of this subdivision, a member trans-
5 ferred to the division of state police pursuant to [a] chapter four
6 hundred thirty-five of the laws of nineteen hundred ninety-seven or the
7 chapter of the laws of two thousand nineteen that amended this paragraph
8 who files for a disability retirement under this section for a physical
9 or mental incapacity attributable to an injury or incident which
10 occurred prior to such transfer, shall be eligible to file for the disa-
11 bility retirement benefits attributable to the plan applicable to such
12 member before the transfer. In the case of a member transferred to the
13 division pursuant to said chapter who files for a disability retirement
14 under this section for a physical or mental incapacity attributable to
15 an injury or incident which occurs after such transfer, for the purposes
16 of calculating service credit required by subparagraph (b) of paragraph
17 two of subdivision b of this section, service in the capital police
18 force or the regional state park police in the office of general
19 services shall be considered service in the division.

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

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

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

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

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

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

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

45 § 21. This act shall take effect immediately.