

# STATE OF NEW YORK

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5487

2023-2024 Regular Sessions

## IN SENATE

March 6, 2023

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Introduced by Sen. JACKSON -- 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 public authorities law and the military law, in relation to the suspension or demotion upon the abolition or reduction of noncompetitive or labor class positions in the state service; and to repeal certain provisions 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, 1-d, 2, 4, 5, 6, 7, subpara-  
2 graph 1 of paragraph (b) of subdivision 7-a and subdivision 9 of section  
3 80 of the civil service law, subdivision 1 as amended by chapter 283 of  
4 the laws of 1972, subdivision 1-a as added by chapter 312 of the laws of  
5 1976, subdivision 1-b as added by chapter 653 of the laws of 1978,  
6 subdivision 1-c as added by chapter 334 of the laws of 1994, subdivision  
7 1-d as added by chapter 731 of the laws of 2004, subdivision 2 as  
8 amended by chapter 376 of the laws of 1977, subdivision 4 as added by  
9 chapter 790 of the laws of 1958, subdivision 5 as amended and subdivi-  
10 sions 6 and 7 as added by chapter 283 of the laws of 1972 and such  
11 subdivisions as renumbered by chapter 360 of the laws of 1985, subpara-  
12 graph 1 of paragraph (b) of subdivision 7-a as added by chapter 528 of  
13 the laws of 2001 and subdivision 9 as added by chapter 470 of the laws  
14 of 1988, are amended to read as follows:

15 1. Suspension or demotion. Where, because of economy, consolidation or  
16 abolition of functions, curtailment of activities or otherwise, posi-  
17 tions in the competitive, noncompetitive or labor class are abolished or  
18 reduced in rank or salary grade, suspension or demotion, as the case may  
19 be, among incumbents holding the same or similar positions in the same  
20 jurisdictional class shall be made in the inverse order of original  
21 appointment on a permanent basis in the classified service in the  
22 service of the governmental jurisdiction in which such abolition or

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

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1 reduction of positions occurs, subject to the provisions of subdivision  
2 seven of section eighty-five of this chapter; provided, however, that  
3 the date of original appointment of any such incumbent who was trans-  
4 ferred to such governmental jurisdiction from another governmental  
5 jurisdiction upon the transfer of functions shall be the date of  
6 original appointment on a permanent basis in the classified service in  
7 the service of the governmental jurisdiction from which such transfer  
8 was made. Notwithstanding the provisions of this subdivision, however,  
9 upon the abolition or reduction of positions in the competitive, noncom-  
10 petitive or labor class, incumbents holding the same or similar posi-  
11 tions in the same jurisdictional class who have not completed their  
12 probationary service shall be suspended or demoted, as the case may be,  
13 before any permanent incumbents, and among such probationary employees  
14 the order of suspension or demotion shall be determined as if such  
15 employees were permanent incumbents.

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

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

1 appointment of any such person shall be deemed to be the date such  
2 permanent employment commenced prior to the said thirtieth day of Decem-  
3 ber, nineteen hundred sixty-seven.

4 1-c. Notwithstanding the provisions of subdivision one of this  
5 section, sworn employees of the Monroe county sheriff's department shall  
6 be subject to the following procedure. Where, because of economy,  
7 consolidation or abolition of function, curtailment of activities or  
8 otherwise, positions in the competitive, noncompetitive or labor class  
9 are abolished, or reduced in rank or salary grade, suspension or  
10 demotion, as the case may be, among incumbents holding the same or simi-  
11 lar positions in the same jurisdictional class shall be made in the  
12 inverse order of original appointment on a permanent basis in the grade  
13 or title in the service of the governmental jurisdiction in which such  
14 abolition or reduction of positions occurs, subject to the provisions of  
15 subdivision seven of section eighty-five of this chapter; provided,  
16 however, that if any person so employed was employed in such person's  
17 current title prior to the first day of April, nineteen hundred ninety-  
18 three, for purposes of this subdivision regarding priority of retention  
19 and for no other purpose, the date of original appointment of any such  
20 person shall be deemed to be the date such employment commenced prior to  
21 the said first day of April, nineteen hundred ninety-three.

22 1-d. Notwithstanding the provisions of subdivision one of this  
23 section, the sworn members of the police force of the county of Nassau  
24 shall be subject to the following procedure. Where, because of economy,  
25 consolidation or abolition of functions, curtailment of activities or  
26 otherwise, positions in the competitive, noncompetitive or labor class  
27 are abolished or reduced in rank or salary grade, suspension or  
28 demotion, as the case may be, among incumbents holding the same or simi-  
29 lar positions in the same jurisdictional class shall be made in the  
30 inverse order of original appointment on a permanent basis in the grade  
31 or title in the service of the governmental jurisdiction in which such  
32 abolition or reduction of positions occurs, subject to the provisions of  
33 subdivision seven of section eighty-five of this chapter. Notwithstand-  
34 ing the provisions of this subdivision, however, upon the abolition or  
35 reduction of positions, those employees who have not completed their  
36 probationary service shall be suspended or demoted, as the case may be,  
37 before any permanent incumbents, and among such probationary employees  
38 the order of suspension or demotion shall be determined as if such  
39 employees were permanent incumbents.

40 2. Continuous service. Except as otherwise provided herein, for the  
41 purposes of this section the original appointment of an incumbent shall  
42 mean the date of [~~his~~] their first appointment on a permanent basis in  
43 the classified service followed by continuous service in the classified  
44 service on a permanent basis up to the time of the abolition or  
45 reduction of the competitive, noncompetitive or labor class positions.  
46 An employee who has resigned and who has been reinstated or reappointed  
47 in the service within one year thereafter shall, for the purposes of  
48 this section, be deemed to have continuous service. An employee who has  
49 been terminated because of a disability resulting from occupational  
50 injury or disease as defined in the [~~workmen's~~] workers' compensation  
51 law and who has been reinstated or reappointed in the service thereafter  
52 shall be deemed to have continuous service. A period of employment on a  
53 temporary or provisional basis, or in the unclassified service, imme-  
54 diately preceded and followed by permanent service in the classified  
55 service, shall not constitute an interruption of continuous service for  
56 the purposes of this section; nor shall a period of leave of absence

1 without pay pursuant to law or the rules of the civil service commission  
2 having jurisdiction, or any period during which an employee is suspended  
3 from ~~[his]~~ their position pursuant to this section, constitute an inter-  
4 ruption of continuous service for the purposes of this section.

5 4. Units for suspension or demotion in civil divisions. Upon the abol-  
6 ition or reduction of positions in the service of a civil division,  
7 suspension or demotion shall be made from among employees holding the  
8 same or similar positions in the same jurisdictional class in the entire  
9 department or agency within which such abolition or reduction of posi-  
10 tions occurs. In a city having a population of one million or more, the  
11 municipal civil service commission may, by rule, designate as separate  
12 units for suspension and demotion under the provisions of this section  
13 any hospital or institution or any division of any department or agency  
14 under its jurisdiction. Upon the abolition or reduction of positions in  
15 such service, suspension or demotion, as the case may be, shall be made  
16 from among employees holding the same or similar positions in the same  
17 jurisdictional class in the department wherein such abolition or  
18 reduction occurs, except that where such abolition or reduction occurs  
19 in such hospital or institution or division of a department designated  
20 as a separate unit for suspension or demotion, suspension or demotion  
21 shall be made from among incumbents holding the same or similar posi-  
22 tions in the same jurisdictional class in such separate unit.

23 5. Units for suspension or demotion in the state service. The presi-  
24 dent may, by regulation, designate as separate units for suspension or  
25 demotion under the provisions of this section any state hospital, insti-  
26 tution or facility or any division of any state department or agency or  
27 specified hospitals, institutions and facilities of a single state  
28 department or agency within a particular geographic area as determined  
29 by the president. Upon the abolition or reduction of positions in the  
30 same jurisdictional class in the state service, suspension or demotion,  
31 as the case may be, shall be made from among employees holding the same  
32 or similar positions in the department wherein such abolition or  
33 reduction occurs, except that where such abolition or reduction occurs  
34 in a separate unit for suspension or demotion designated by regulation  
35 of the president, suspension or demotion shall be made from among incum-  
36 bents holding the same or similar positions in such separate unit.

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

former title was satisfactory and (2) the position of the junior incumbent is in (a) the competitive, noncompetitive or labor class, (b) the layoff unit from which the displacing incumbent was suspended or displaced, and (c) a lower salary grade than the position from which the displacing incumbent is suspended or displaced; provided, however, that no incumbent shall displace any other incumbent having greater retention standing in the same jurisdictional class. Refusal of appointment to a position afforded by this subdivision constitutes waiver of rights under this subdivision with respect to the suspension or displacement on account of which the refused appointment is afforded. The municipal civil service commission shall promulgate rules to implement this subdivision including rules which may provide adjunctive opportunities for displacement either to positions in direct line of promotion or to formerly held positions; provided, however, that no such rule shall permit an incumbent to displace any other incumbent having greater retention standing in the same jurisdictional class. For the purpose of acquiring preferred list rights, displacement pursuant to this subdivision is the equivalent of suspension or demotion pursuant to subdivision one of this section.

7. Displacement in the state service. A permanent incumbent of a position in the state service in a specific title to which there is a direct line of promotion who is suspended or displaced pursuant to this section, together with all other such incumbents suspended or displaced at the same time, shall displace, in the inverse order of the order of suspension or demotion prescribed in subdivisions one and two of this section, incumbents serving in positions in the same layoff unit in the next lower occupied title in direct line of promotion who shall be displaced in the order of suspension or demotion prescribed in subdivisions one and two of this section; provided, however, that no incumbent shall displace any other incumbent having greater retention standing in the same jurisdictional class. If a permanent incumbent of a position in the state service is suspended or displaced from a position in a title for which there are no lower level occupied positions in direct line of promotion, ~~he~~ they shall displace the incumbent with the least retention right pursuant to subdivisions one and two of this section who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in one or more positions in the title from which ~~he is~~ they are suspended or displaced, if: (1) the service of the displacing incumbent while in such former title was satisfactory and (2) the position of the junior incumbent is in (a) the competitive, noncompetitive or labor class, (b) the layoff unit from which the displacing incumbent was suspended or displaced, and (c) a lower salary grade than the position from which the displacing incumbent is suspended or displaced; provided, however, that no incumbent shall displace any other incumbent having greater retention standing in the same jurisdictional class. Refusal of appointment to a position afforded by this subdivision constitutes waiver of rights under this subdivision with respect to the suspension or displacement on account of which the refused appointment is afforded. The state civil service commission shall promulgate rules to implement this subdivision including rules which may provide adjunctive opportunities for displacement either to positions in direct line of promotion or to formerly held positions; provided, however, that no such rule shall permit an incumbent to displace any other incumbent having greater retention standing in the same jurisdictional class. For the purpose of acquiring preferred list rights, displacement pursuant to this subdivision is the

1 equivalent of suspension or demotion pursuant to subdivision one of this  
2 section.

3 (1) Pursuant to such method of payment, such member shall pay, as  
4 additional member contributions payable besides the ordinary member  
5 contributions due for ~~[his]~~ their current service:

6 (A) the ordinary member contributions which would have been done for  
7 such period of suspension if ~~[he or she]~~ they had actually been in  
8 service during such period; and

9 (B) (if such member has elected the twenty-year retirement program  
10 provided for by section six hundred four-a of the retirement and social  
11 security law), the additional member contributions which ~~[he]~~ they would  
12 have been required to make under the provisions of that section for the  
13 period from the starting date of such program to the date next preceding  
14 the date on which such member became a participant in such retirement  
15 program, if ~~[he]~~ they had become such a participant on such starting  
16 date; and

17 (C) additional member contributions of two per centum of ~~[his or her]~~  
18 their compensation for the period beginning with the first full payroll  
19 period which includes the date of enactment of this subdivision and  
20 ending on the earlier of his or her date of retirement or ~~[his or her]~~  
21 their completion of thirty years of service.

22 9. Certain suspensions or demotions in the city of Niagara Falls.  
23 Notwithstanding the provisions of subdivision one of this section, the  
24 members of a paid fire department in the city of Niagara Falls shall be  
25 subject to the following procedure. Where, because of economy, consol-  
26 idation or abolition of functions, curtailment of activities or other-  
27 wise, positions in the competitive class are, noncompetitive or labor  
28 abolished or reduced in rank or salary grade, suspension or demotion, as  
29 the case may be, among incumbents holding the same or similar positions  
30 in the same jurisdictional class shall be made in the inverse order of  
31 original appointment on a permanent basis in the grade or title in the  
32 service of the governmental jurisdiction in which such abolition or  
33 reduction of positions occurs, subject to the provisions of subdivision  
34 seven of section eighty-five of this chapter. Notwithstanding the  
35 provisions of this subdivision, however, upon the abolition or reduction  
36 of positions in the competitive, noncompetitive or labor class, incum-  
37 bents holding the same or similar positions in the same jurisdictional  
38 class who have not completed their probationary service shall be  
39 suspended or demoted, as the case may be, before any permanent incum-  
40 bents, and among such probationary employees the order of suspension or  
41 demotion shall be determined as if such employees were permanent incum-  
42 bents.

43 § 2. Section 80-a of the civil service law is REPEALED.

44 § 3. Subdivision 1 of section 81 of the civil service law, as amended  
45 by chapter 152 of the laws of 2011, is amended to read as follows:

46 1. Establishment of preferred lists; general provisions. The head of  
47 any department, office or institution in which an employee is suspended  
48 or demoted in accordance with the provisions of ~~[sections]~~ section  
49 eighty ~~[and eighty-a]~~ of this title shall, upon such suspension or  
50 demotion, furnish the state civil service department or appropriate  
51 municipal commission, as the case may be, a statement showing his name,  
52 title or position, date of appointment, and the date of and reason for  
53 suspension or demotion. It shall be the duty of such civil service  
54 department or commission, as the case may be, forthwith to place the  
55 name of such employee upon a preferred list, together with others who  
56 may have been suspended or demoted from the same or similar positions in

1 the same jurisdictional class, and to certify such list, as hereinafter  
2 provided, for filling vacancies in the same jurisdictional class; first,  
3 in the same or similar position; second, in any position in a lower  
4 grade in line of promotion; and third, in any comparable position. Such  
5 preferred list shall be certified for filling a vacancy in any such  
6 position before certification is made from any other list, including a  
7 promotion eligible list, notwithstanding the fact that none of the  
8 persons on such preferred list was suspended from or demoted in the  
9 department or suspension and demotion unit in which such vacancy exists.  
10 No other name shall be certified from any other list for any such posi-  
11 tion until such preferred list is exhausted. The eligibility for rein-  
12 statement of a person whose name appears on any such preferred list  
13 shall not continue for a period longer than four years from the date of  
14 separation or demotion. An employee whose name was placed on the  
15 preferred list and at the time of such placement was on active duty with  
16 the armed forces of the United States, as pursuant to title ten, four-  
17 teen or thirty-two of the United States code, shall not be eligible for  
18 employment reinstatement for a period longer than four years after the  
19 date of termination of military duty.

20 § 4. Subdivisions 1 and 5 of section 81-a of the civil service law,  
21 subdivision 1 as amended by chapter 140 of the laws of 1993 and subdivi-  
22 sion 5 as added by chapter 239 of the laws of 1992, are amended to read  
23 as follows:

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

46 5. Notwithstanding any other provision of this chapter, the department  
47 may disqualify for reinstatement and remove from a reemployment roster  
48 the name of any otherwise eligible person who, by reason of physical or  
49 mental incapacity, is found to be unable to satisfactorily perform the  
50 duties of the position for which such roster has been established, or  
51 who has engaged in such misconduct as would warrant ~~[his or her]~~ **their**  
52 dismissal from public employment, except that a person who is not  
53 completely physically incapacitated and who is suspended or demoted  
54 pursuant to section eighty ~~[or eighty-a]~~ of this article because ~~[his or~~  
55 ~~her]~~ **their** position has been abolished or reduced, but who is certified  
56 for reinstatement to any position having the same physical requirements

1 as the position from which such person was suspended or demoted, shall  
2 not be disqualified because of ~~[his or her]~~ their incapacity, unless  
3 upon medical examination ~~[his or her]~~ their incapacity has worsened to a  
4 degree that ~~[he or she]~~ they would not be able to satisfactorily perform  
5 in such position. No person shall be disqualified pursuant to this  
6 subdivision unless ~~[he or she is]~~ they are first given a written state-  
7 ment of the reasons therefor and an opportunity to be heard at a hearing  
8 at which satisfactory proof of such reasons must be established by  
9 appropriate evidence, and at which such person may present independent  
10 evidence and be entitled to representation by counsel. The department  
11 shall designate a person to hold such hearing and report thereon.

12 § 5. Subdivision 1 of section 81-b of the civil service law, as  
13 amended by chapter 140 of the laws of 1993, is amended to read as  
14 follows:

15 1. Establishment of placement rosters in the state service; general  
16 provisions. The head of any department, office or institution from  
17 which an employee in the state service is to be suspended or demoted in  
18 accordance with the provisions of section eighty ~~[or eighty-a]~~ of this  
19 article, shall, no later than the date on which ~~[he or she furnishes]~~  
20 they furnish the state civil service department with the employee infor-  
21 mation required pursuant to section eighty-one-a of this article for  
22 purposes of establishing reemployment rosters, furnish the state civil  
23 service department with a statement showing such employee's name, title  
24 or position, date of appointment, and the anticipated date of and reason  
25 for suspension or demotion. Upon receiving such information, it shall be  
26 the duty of the department forthwith to place the name of such employee  
27 upon a placement roster for filling vacancies in the same title or in  
28 any comparable position as determined by the department, except that  
29 employees suspended or demoted from positions in the ~~[non-competitive]~~  
30 noncompetitive and labor classes may not be certified to fill vacancies  
31 in the competitive class. Such placement roster shall be certified for  
32 filling a vacancy in any such position before certification is made from  
33 any other list, including a promotion eligible list, but not prior to a  
34 preferred list or a reemployment roster. Eligibility for appointment of  
35 an employee whose name appears on any such placement roster shall termi-  
36 nate at such time as the employee is suspended or demoted in accordance  
37 with the provisions of section eighty ~~[or eighty-a]~~ of this article.  
38 Upon such employee's suspension or demotion, the department shall place  
39 the name of such employee upon a preferred list, and a reemployment  
40 roster as appropriate, in accordance with the provisions of sections  
41 eighty-one and eighty-one-a of this article.

42 § 6. Subdivision 7 of section 85 of the civil service law, as amended  
43 by chapter 532 of the laws of 1976, is amended to read as follows:

44 7. Preference in retention upon the abolition of positions. In the  
45 event of the abolition or elimination of any position in the civil  
46 service ~~[for which eligible lists are established or any position the~~  
47 ~~incumbent of which is encompassed by section eighty-a of this chapter]~~,  
48 any suspension, demotion or displacement shall be made in the inverse  
49 order of the date of original appointment in the service subject to the  
50 following conditions: (1) blind employees shall be granted absolute  
51 preference in retention; (2) the date of such original appointment for  
52 disabled veterans shall be deemed to be sixty months earlier than the  
53 actual date, determined in accordance with section thirty of the general  
54 construction law; (3) the date of such original appointment for non-dis-  
55 abled veterans shall be deemed to be thirty months earlier than the  
56 actual date, determined in accordance with section thirty of the general

1 construction law; (4) no permanent competitive class employee subject to  
2 the jurisdiction of the civil service commission of the city of New York  
3 who receives an injury in the line of duty, as defined in this para-  
4 graph, which requires immediate hospitalization, and which is not  
5 compensable through ~~[workmen's]~~ workers' compensation may be suspended,  
6 demoted or displaced pursuant to section eighty of this chapter within  
7 three months of the date of ~~[his]~~ their confinement, provided that  
8 medical authorities approved by such commission shall certify that the  
9 employee is not able to perform the duties of ~~[his]~~ their position;  
10 provided further, that such three-month period may be extended by such  
11 commission for additional periods not to exceed one year each upon the  
12 certification of medical authorities selected by such commission that  
13 the employee is, as a result of ~~[his]~~ their injury, still not able to  
14 perform the duties of ~~[his]~~ their position. An injury in the line of  
15 duty, as used herein, shall be construed to mean an injury which is  
16 incurred as a direct result of the lawful performance of the duties of  
17 the position. In determining whether an injury was received in the line  
18 of duty, such commission shall require the head of the agency by which  
19 the employee is employed to certify that the injury was received as a  
20 direct result of the lawful performance of the employee's duties; and  
21 (5) the spouse of a veteran with one hundred percent service connected  
22 disability shall be deemed to be sixty months earlier than the actual  
23 date, determined in accordance with section thirty of the general  
24 construction law, provided, the spouse is domiciled with the veteran-  
25 spouse and is the head of the household. This section shall not be  
26 construed as conferring any additional benefit upon such employee other  
27 than a preference in retention. Such employee shall be subject to trans-  
28 fer upon the abolition of ~~[his]~~ their function within ~~[his]~~ their agency  
29 or department.

30 § 7. Paragraph (a) of subdivision 3 of section 131 of the civil  
31 service law, as amended by chapter 733 of the laws of 1979, is amended  
32 to read as follows:

33 (a) If such an employee is demoted, or displaced to a position in a  
34 lower grade pursuant to ~~[sections]~~ section eighty ~~[or eighty-a]~~ of this  
35 chapter, or is appointed, transferred or reinstated to a position in a  
36 lower grade, ~~[he]~~ they shall, upon such demotion, displacement, appoint-  
37 ment, transfer, or reinstatement, receive the rate of compensation which  
38 corresponds with the number of annual increments and the percentage  
39 value of performance advances actually received in the salary grades  
40 from which and to which ~~[he is]~~ they are demoted, displaced, appointed,  
41 transferred or reinstated, as the case may be.

42 § 8. Paragraph (e) of subdivision 11 and paragraph (f) of subdivision  
43 13 of section 3556 of the public authorities law, as added by chapter 5  
44 of the laws of 1997, are amended to read as follows:

45 (e) Notwithstanding any other provision of this title, the corporation  
46 may disqualify for reinstatement and remove from a reemployment roster  
47 the name of any otherwise eligible person who, by reason of physical or  
48 mental incapacity, is found to be unable to satisfactorily perform the  
49 duties of the position for which such roster has been established, or  
50 who has engaged in such misconduct as would warrant ~~[his or her]~~ their  
51 dismissal from public employment, except that a person who is not  
52 completely physically incapacitated and who is suspended or demoted  
53 pursuant to section eighty ~~[or eighty-a]~~ of the civil service law  
54 because ~~[his or her]~~ their position has been abolished or reduced, but  
55 who is certified for reinstatement to any position having the same phys-  
56 ical requirements as the position from which such person was suspended

1 or demoted, shall not be disqualified because of [~~his or her~~] their  
2 incapacity, unless upon medical examination [~~his or her~~] their incapac-  
3 ity has worsened to a degree that [~~he or she~~] they would not be able to  
4 satisfactorily perform in such position. No person shall be disqualified  
5 pursuant to this subdivision unless [~~he or she is~~] they are first given  
6 a written statement of the reasons therefor and an opportunity to be  
7 heard at a hearing at which satisfactory proof of such reasons must be  
8 established by appropriate evidence, and at which such person may pres-  
9 ent independent evidence and be entitled to representation by counsel.  
10 The corporation shall designate a person to hold such hearing and report  
11 thereon.

12 (f) Eligibility for appointment of an employee whose name appears on a  
13 redeployment list shall terminate at such time as the employee is rede-  
14 ployed pursuant to the provisions of this section to a position in the  
15 same salary grade as the position from which [~~he or she has~~] they have  
16 been suspended or demoted, or has exercised [~~his or her~~] their reemploy-  
17 ment rights pursuant to the provisions of section eighty-one or eighty-  
18 one-a of the civil service law, provided, however, that eligibility for  
19 appointment shall terminate no later than six months following the  
20 suspension or demotion of such employee in accordance with the  
21 provisions of section eighty [~~or eighty-a~~] of the civil service law.  
22 Upon such employee's suspension or demotion, the corporation shall place  
23 the name of such employee upon a preferred list, and a reemployment  
24 roster, as appropriate, in accordance with the provisions of subdivision  
25 eight of this section.

26 § 9. Subdivision 10-b of section 243 of the military law, as added by  
27 chapter 152 of the laws of 2011, is amended to read as follows:

28 10-b. If a public employer consolidates, abolishes, displaces, or  
29 demotes a position, in accordance with section eighty[~~, eighty-a~~] or  
30 eighty-five of the civil service law, which is occupied by a public  
31 employee currently on active duty with the armed forces of the United  
32 States, as pursuant to title ten, fourteen or thirty-two of the United  
33 States code, such employer shall comply with subdivisions eleven and  
34 twelve of this section and, upon the termination of the public employ-  
35 ee's active duty, as defined in title ten, fourteen or thirty-two of the  
36 United States code, such public employer shall provide full re-employ-  
37 ment rights warranted to such employee under the Federal Uniformed  
38 Services Employment and Reemployment Rights Act of 1994, provided,  
39 however, the right of re-employment under this subdivision does not  
40 entitle such employee to displacement rights over any person with great-  
41 er seniority. Such public employer shall not abolish any position or  
42 positions solely based upon the fact that the position or positions are  
43 currently filled by an individual or individuals engaged in military  
44 duty.

45 § 10. Nothing in this act shall be construed to impede, infringe, or  
46 diminish any rights or benefits relating to the suspension or demotion  
47 upon the abolition or reduction of positions for employees in the  
48 noncompetitive class or the labor class which employees are afforded  
49 through a bona fide collective bargaining agreement, or otherwise dimin-  
50 ish the integrity of existing or future collective bargaining agreements  
51 and other past practices.

52 § 11. This act shall take effect on the ninetieth day after it shall  
53 have become a law.