S T A T E O F N E W Y O R K

10029

I N A S S E M B L Y

May 2, 2012

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to providing for independent personnel review boards for the New York city transit authority and the triborough bridge and tunnel authority

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

Section 1. Short title. This act shall be known and may be cited as the "New York city transit authority and triborough bridge and tunnel authority civil service reorganization act".

S 2. Legislative findings and intent. The legislature hereby finds and declares as follows:

(a) The New York city transit authority, created by section 1201 of the public authorities law, was formed in 1953 to acquire and operate the transit facilities formerly operated by the board of transportation of the city of New York, and those employees were transferred to the authority from the city with the same status they held when in service to the city. Since 1953, appointment, promotion and continuance of employment of all employees of the authority have been governed by the provisions of the civil service law and the rules of the municipal civil service commission of the city.

(b) The triborough bridge and tunnel authority, created by section 552 of the public authorities law, was formed in 1939 to acquire, construct, maintain and improve the bridges and tunnels under the jurisdiction of such authority. Since 1939, appointment, promotion and continuance of employment of all employees of the authority have been governed by the provisions of the civil service law and the rules of the municipal civil service commission of the city.

(c) The provision of governmental services, including the provision of transit services and services relating to bridges and tunnels, has become increasingly complex since the creation of the New York city transit authority and the triborough bridge and tunnel authority, and the continued exercise of jurisdiction by the municipal civil service

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

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commission no longer serves the best interests of the city or these authorities.

(d) The specialized needs of transit operations as well as the operations of the triborough bridge and tunnel authority require that the New York city transit authority and the triborough bridge and tunnel authority be served by independent civil service commissions with the power to promulgate rules and regulations relating to the hiring, promoting and termination of employees.

(e) Authorizing the New York city transit authority and the triborough bridge and tunnel authority to exercise such functions will facilitate the operations of the authorities and will enable the city to devote its attention to managing the personnel related functions of core city services.

(f) There exists in the New York city transit authority and the triborough bridge and tunnel authority a significant number of positions involving the performance of managerial functions at a level in these organizations which makes appropriate their inclusion in the non-competitive class as positions for which it is not practicable to ascertain the merit and fitness of the applicant by competitive examination. Such positions should be classified as non-competitive without further delay or the need for hearings.

(g) It is further declared to be in the public interest to ensure that the civil service rights of employees of the New York city transit authority and the triborough bridge and tunnel authority be protected and that in the future employees will be subject to the rules and regulations promulgated under the powers granted in this act, which shall be consistent with the civil service laws of the state.

S 3. Subdivision 2 of section 1210 of the public authorities law, as added by chapter 200 of the laws of 1953 and such section as renumbered by chapter 914 of the laws of 1957, is amended to read as follows:

2. [The] EXCEPT AS PROVIDED IN SECTION TWELVE HUNDRED TEN-B OF THIS TITLE, THE appointment, promotion and continuance of employment of all employees of the authority shall be governed by the provisions of the civil service law and the rules of the municipal civil service commission of the city. Employees of any board, commission or department of the city may be transferred to positions of employment under the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to such positions of employment. Employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to positions of employment under the authority as they had under their original appointments. Employees of the authority shall be subject to the provisions of the civil service law.

S 4. The public authorities law is amended by adding a new section 1210-b to read as follows:

S 1210-B. PERSONNEL SYSTEM; PERSONNEL REVIEW BOARD. 1. THE FOLLOWING WORDS AND PHRASES, AS USED IN THIS SECTION, SHALL HAVE THE FOLLOWING MEANINGS:

(A) "PERSONNEL REVIEW BOARD" OR "REVIEW BOARD" MEANS THE BODY APPOINTED PURSUANT TO THIS SECTION BY THE BOARD AND SHALL ACT IN THE CAPACITY AND FULFILL THE ROLES WHICH WOULD BE PERFORMED BY THE COMMISSION, CIVIL SERVICE COMMISSION AND MUNICIPAL CIVIL SERVICE COMMISSION FOR THE PURPOSES OF APPLYING THE CIVIL SERVICE LAW TO POSITIONS FORMERLY COVERED BY SUBDIVISION TWO OF SECTION TWELVE HUNDRED TEN OF THIS TITLE.

(B) "CLASSIFIED SERVICE" MEANS ALL POSITIONS IN THE AUTHORITY WHICH ARE NOT IN THE UNCLASSIFIED SERVICE.

(C) "JURISDICTIONAL CLASSIFICATION" MEANS THE ASSIGNMENT OF POSITIONS IN THE CLASSIFIED SERVICE TO THE COMPETITIVE, NON-COMPETITIVE, EXEMPT OR LABOR CLASSES.

(D) "POSITION CLASSIFICATION", "CLASSIFICATION", "RECLASSIFICATION" AND "CLASSIFY" MEAN GROUPING TOGETHER UNDER COMMON AND DESCRIPTIVE TITLES THOSE POSITIONS THAT ARE SUBSTANTIALLY SIMILAR IN THE ESSENTIAL CHARACTER AND SCOPE OF THEIR DUTIES AND RESPONSIBILITIES AND REQUIRED QUALIFICATIONS.

2. THE APPOINTMENT, PROMOTION AND CONTINUATION OF EMPLOYMENT OF ALL EMPLOYEES OF THE AUTHORITY SHALL BE GOVERNED BY THE CIVIL SERVICE LAW AND THE RULES AND REGULATIONS PRESCRIBED BY THE PERSONNEL REVIEW BOARD WHICH SHALL ASSUME THE POWERS PREVIOUSLY EXERCISED BY THE COMMISSION, CIVIL SERVICE COMMISSION AND BY THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY. UNTIL SUCH TIME AS RULES ARE PROMULGATED BY THE PERSONNEL REVIEW BOARD, THE AUTHORITY SHALL ADMINISTER ITS PERSONNEL ACTIONS PURSUANT TO RULES AND REGULATIONS, CLASS SPECIFICATIONS AND PERSONNEL ORDERS OF THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY IN EFFECT ON THE EFFECTIVE DATE OF THIS SUBDIVISION. SUCH RULES AND REGULATIONS, SPECIFICATIONS AND ORDERS SHALL COLLECTIVELY BE DEEMED TO CONSTITUTE THE RULES AND REGULATIONS OF THE REVIEW BOARD UNTIL SUCH TIME AS THE REVIEW BOARD PROMULGATES ITS OWN RULES AND REGULATIONS. DURING SUCH PERIOD, ANY REFERENCE TO THE MUNICIPAL CIVIL SERVICE COMMISSION, THE COMMISSIONER OF CITYWIDE ADMINISTRATIVE SERVICES, THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES OR ANY OTHER GOVERNMENTAL OFFICER, EMPLOYEE, AGENCY OR OFFICE CONTAINED IN SUCH RULES AND REGULATIONS, SPECIFICATIONS AND ORDERS SHALL BE DEEMED TO REFER TO THE PERSONNEL REVIEW BOARD, THE AUTHORITY OR SUCH OTHER POSITION OR PERSON AS MAY BE DESIGNATED BY THE PERSONNEL REVIEW BOARD.

(A) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL OR LOCAL LAW, AND EXCEPT AS PROVIDED IN THIS SUBDIVISION, PERMANENT EMPLOYEES OF THE AUTHORITY SHALL CONTINUE TO HOLD THEIR POSITIONS WITHOUT FURTHER EXAMINATION AND SHALL HAVE ALL THE RIGHTS AND PRIVILEGES OF THE JURISDICTIONAL CLASS TO WHICH SUCH POSITIONS MAY BE ALLOCATED, EXCEPT THAT EFFECTIVE WITH THE ENACTMENT OF THIS SECTION, ALL MANAGERIAL POSITIONS THAT REPORT TO THE PRESIDENT OF THE AUTHORITY, THEIR DIRECT REPORTS, AND THE DIVISION HEADS THAT REPORT TO THESE DIRECT REPORTS SHALL BE DESIGNATED AS NON-COMPETITIVE IN RECOGNITION THAT IT IS NOT PRACTICABLE TO ASCERTAIN THE MERIT AND FITNESS FOR THESE POSITIONS THROUGH COMPETITIVE EXAMINATION. THIS PROVISION SHALL NOT ACT TO CHANGE THE NON-COMPETITIVE CLASSIFICATION OF ANY OTHER POSITION OR TITLE CLASSIFIED AS NON-COMPETITIVE AS OF THE EFFECTIVE DATE OF THIS SECTION. FURTHER, NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL OR LOCAL LAW, OR ANY OTHER PROVISION CONTAINED IN THIS SECTION, WITHIN ONE YEAR FROM THE APPOINTMENT OF THE REVIEW BOARD, THE AUTHORITY MAY REQUEST THAT THE REVIEW BOARD APPROVE THE RECLASSIFICATION OR CREATION OF OTHER POSITIONS AND TITLES WITHIN THE AUTHORITY'S MANAGERIAL WORK FORCE AS NON-COMPETITIVE WITHOUT THE NECESSITY OF ANY FURTHER REVIEW IN RECOGNITION THAT IT IS NOT PRACTICABLE TO ASCERTAIN THE MERIT AND FITNESS FOR THESE POSITIONS THROUGH COMPETITIVE EXAMINATIONS, SO LONG AS THE POSITIONS REQUESTED TO BE CLASSIFIED AS NON-COMPETITIVE ARE NOT MORE THAN FIVE REPORTING LEVELS FROM THE PRESIDENT OF THE AUTHORITY. SUCH REQUEST SHALL INCLUDE A DESCRIPTION OF THE DUTIES OF SUCH POSITIONS AND AN EXPLANATION OF THE JUSTIFICATION FOR THE CLASSIFICATION AS NON-COMPETITIVE. THE REVIEW BOARD SHALL HAVE THE POWER TO DESIGNATE SUCH

POSITIONS AS NON-COMPETITIVE UPON RECEIPT OF SUCH REQUEST OR WITHIN SUCH TIME AS IT FINDS APPROPRIATE. THIS SECTION SHALL NOT PRECLUDE ANY OTHER APPLICATION FOR CLASSIFICATION OF POSITIONS OR TITLES AS NON-COMPETITIVE IN ACCORDANCE WITH THE PROCEDURES OTHERWISE APPLICABLE TO CLASSIFICATIONS.

(B) THE OFFICERS AND EMPLOYEES OF THE AUTHORITY SHALL CONTINUE TO BE SUBJECT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND FOR ALL SUCH PURPOSES SHALL BE DEEMED "PUBLIC EMPLOYEES". NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW OR ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, ANY MATTER CONSIDERED TO BE A TERM AND CONDITION OF EMPLOYMENT THAT HAD BEEN WITHIN THE EXCLUSIVE AUTHORITY OF THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY ON OR PRIOR TO THE EFFECTIVE DATE OF THIS SECTION THAT WAS NOT A MANDATORY SUBJECT OF BARGAINING UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AS A RESULT OF SUCH EXCLUSIVE AUTHORITY SHALL REMAIN A NON-MANDATORY SUBJECT OF BARGAINING FOR THE AUTHORITY AFTER, AND REGARDLESS OF, THE CHANGES SET FORTH IN THIS SECTION.

(C) NOTHING CONTAINED IN THIS SUBDIVISION SHALL SUPERSEDE, EXPAND, IMPAIR OR DIMINISH THE RIGHTS OF ANY OFFICER OR EMPLOYEE OF THE AUTHORITY UNDER OR PURSUANT TO SECTION TWO HUNDRED TWENTY OF THE LABOR LAW, OR LIMIT EMPLOYEE RIGHTS TO INSTITUTE PROCEEDINGS AGAINST THE AUTHORITY IN ACCORDANCE WITH ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

3. (A) THE BOARD SHALL APPOINT A PERSONNEL REVIEW BOARD CONSISTING OF THREE PERSONS. THE BOARD AND THE BOARD OF THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY SHALL JOINTLY APPOINT BY SEPARATE RESOLUTIONS THE MEMBERS OF THE PERSONNEL REVIEW BOARD, AND SUCH MEMBERS SHALL ALSO SERVE AS THE PERSONNEL REVIEW BOARD THAT IS ESTABLISHED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED FIFTY-FOUR-A OF THIS CHAPTER. PERSONS APPOINTED TO THE PERSONNEL REVIEW BOARD MAY NOT BE CURRENT MEMBERS, OFFICERS OR EMPLOYEES OF THE AUTHORITY, THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY OR THE METROPOLITAN TRANSPORTATION AUTHORITY, INCLUDING AFFILIATES AND/OR SUBSIDIARIES OF SUCH AUTHORITIES, OR CURRENT OFFICERS OR AGENTS OF ANY LABOR ORGANIZATION REPRESENTING EMPLOYEES OF SUCH AUTHORITIES, AFFILIATES AND/OR SUBSIDIARIES.

(I) THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL BE APPOINTED FOR THREE-YEAR TERMS, EXCEPT THAT THE TERMS OF THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL BE STAGGERED SO THAT THE TERM OF ONE MEMBER EXPIRES EACH YEAR, WITH THE INITIAL TERM OF THE FIRST MEMBER EXPIRING AT THE CONCLUSION OF THE THIRD YEAR FOLLOWING APPOINTMENT, THE INITIAL TERM OF THE SECOND MEMBER EXPIRING AT THE CONCLUSION OF THE FOURTH YEAR AND THE INITIAL TERM OF THE THIRD MEMBER EXPIRING AT THE CONCLUSION OF THE FIFTH YEAR.

(II) ANY MEMBER OF THE PERSONNEL REVIEW BOARD MAY BE REMOVED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF SECTION TWENTY-FOUR OF THE CIVIL SERVICE LAW. IN THE EVENT OF SUCH A REMOVAL, OR OF A RESIGNATION BY A MEMBER OF THE PERSONNEL REVIEW BOARD, THE BOARD OF THE NEW YORK CITY TRANSIT AUTHORITY, IN CONJUNCTION WITH THE BOARD OF THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY, SHALL APPOINT A SUCCESSOR FOR THE UNEXPIRED TERM OF THE MEMBER IN ACCORDANCE WITH THE REQUIREMENTS AND PROCEDURES SET FORTH IN THIS PARAGRAPH.

(III) THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL ANNUALLY ELECT ONE OF THE MEMBERS TO SERVE AS CHAIRPERSON.

(B) (I) THE PERSONNEL REVIEW BOARD SHALL PRESCRIBE AND AMEND RULES AND REGULATIONS CONSISTENT WITH THE APPLICABLE PROVISIONS OF THE CIVIL

SERVICE LAW FOR EFFECTING THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO RULES FOR:

(A) THE JURISDICTIONAL CLASSIFICATION OF OFFICES AND POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY;

(B) EXAMINATIONS, APPOINTMENTS, PROMOTIONS, TRANSFERS, AND REINSTATEMENTS;

(C) THE HEARING AND DETERMINATION OF APPEALS;

(D) THE DESIGNATION OF POSITIONS IN THE NON-COMPETITIVE CLASS WHICH ARE CONFIDENTIAL OR REQUIRE THE PERFORMANCE OF FUNCTIONS INFLUENCING POLICY; AND

(E) THE DESIGNATION AS SEPARATE UNITS FOR SUSPENSION OR DEMOTION UPON THE ABOLITION OR REDUCTION OF POSITIONS IN ANY DEPARTMENT, DIVISION OR SUBDIVISION OF THE AUTHORITY.

(II) THE PERSONNEL REVIEW BOARD SHALL HEAR AND DETERMINE APPEALS INSTITUTED BY ANY PERSON BELIEVING HIMSELF OR HERSELF AGGRIEVED BY ANY ACTION OR DETERMINATION OF THE AUTHORITY ALLEGED TO BE IN VIOLATION OF THE APPLICABLE REVIEW BOARD RULES OR APPLICABLE PERSONNEL RULES AND REGULATIONS, CLASS SPECIFICATIONS AND PERSONNEL ORDERS OF THE CITY OF NEW YORK AND ALL OTHER APPLICABLE PROVISIONS OF LOCAL OR GENERAL LAWS RELATING TO CIVIL SERVICE PERSONNEL UNTIL SUCH REVIEW BOARD RULES ARE ADOPTED; PROVIDED, HOWEVER, THAT NO SUCH APPEAL SHALL BE ALLOWED IF THE ACTION OR DETERMINATION INVOLVED WAS CONSIDERED AND APPROVED IN ADVANCE BY THE PERSONNEL REVIEW BOARD.

(III) UPON SUBMISSION OF A NOTICE OF APPEAL FROM ANY INDIVIDUAL OR HIS OR HER REPRESENTATIVE, THE PERSONNEL REVIEW BOARD SHALL REVIEW THE CLAIM AND DETERMINE IF THE ACTION VIOLATED THE REVIEW BOARD RULES, PROMULGATED UNDER THE POWERS GRANTED HEREIN, INCLUDING, BUT NOT LIMITED TO RULES FOR:

(A) THE JURISDICTIONAL CLASSIFICATION OF OFFICES AND POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY;

(B) EXAMINATIONS, APPOINTMENTS, PROMOTIONS, TRANSFERS, AND REINSTATEMENTS; AND

(C) THE DESIGNATION OF POSITIONS IN THE NON-COMPETITIVE CLASS WHICH ARE CONFIDENTIAL OR REQUIRE THE PERFORMANCE OF FUNCTIONS INFLUENCING POLICY.

(IV) THE PERSONNEL REVIEW BOARD SHALL HAVE THE POWER TO ADMINISTER OATHS AND TO ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE IN THIS STATE OF WITNESSES AND THE PRODUCTION OF BOOKS AND PAPERS PERTINENT TO THE APPEAL. FOR THIS PURPOSE THE PERSONNEL REVIEW BOARD SHALL POSSESS ALL THE POWERS CONFERRED BY THE CIVIL PRACTICE LAW AND RULES UPON A BOARD, COMMISSION OR COMMITTEE. THE PERSONNEL REVIEW BOARD AND ANY OFFICER OR EMPLOYEE DESIGNATED IN WRITING BY THE AUTHORITY TO ACT ON BEHALF OF THE PERSONNEL REVIEW BOARD MAY INVOKE THE POWER OF ANY COURT OF RECORD IN THE STATE TO COMPEL WITNESSES TO ATTEND, TESTIFY AND PRODUCE BOOKS AND PAPERS.

(C) THE SECRETARY OF THE AUTHORITY, OR SUCH OTHER PERSON EMPLOYED BY THE AUTHORITY OR THE METROPOLITAN TRANSPORTATION AUTHORITY, ITS OTHER AFFILIATES OR SUBSIDIARIES AS MAY BE DESIGNATED BY THE EXECUTIVE DIRECTOR, SHALL SERVE AS SECRETARY OF THE PERSONNEL REVIEW BOARD.

(D) THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL RECEIVE THE NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE PERFORMANCE OF THE DUTIES OF SUCH OFFICE, AND SHALL RECEIVE IN ADDITION A PER DIEM FEE FOR SERVICES RENDERED AS SHALL BE DETERMINED BY THE BOARD.

(E) (I) ANY APPEAL AUTHORIZED BY THIS SUBDIVISION SHALL BE INSTITUTED BY FILING WITH THE PERSONNEL REVIEW BOARD A WRITTEN NOTICE OF APPEAL STATING THE RULE AND REGULATION, ACTION OR DETERMINATION WHICH IS THE

SUBJECT OF THE APPEAL, THE GROUNDS FOR THE APPEAL AND THE RULE OR REGULATION CLAIMED TO BE VIOLATED AND SIGNED BY THE PERSON OR PERSONS APPEALING OR THEIR REPRESENTATIVE.

(II) ANY SUCH APPEAL SHALL BE FILED WITHIN THIRTY DAYS FOLLOWING NOTICE BY THE AUTHORITY OF THE ACTION OR DETERMINATION TO BE REVIEWED; EXCEPT THAT THE PERSONNEL REVIEW BOARD FOR GOOD CAUSE SHOWN MAY WAIVE SUCH THIRTY-DAY LIMITATION.

(III) THE PERSONNEL REVIEW BOARD MAY INVESTIGATE OR INQUIRE INTO THE FACTS RELATIVE TO THE ACTION OR DETERMINATION APPEALED FROM AS MAY BE DEEMED ADVISABLE AND SHALL AFFORD THE APPELLANT AND/OR HIS OR HER REPRESENTATIVE AN OPPORTUNITY TO BE HEARD IN PERSON OR IN WRITING TO PRESENT EVIDENCE AND ARGUMENT. THE PERSONNEL REVIEW BOARD MAY AFFIRM, MODIFY OR REVERSE SUCH ACTION OR DETERMINATION.

(IV) THE PERSONNEL REVIEW BOARD SHALL DECIDE EACH APPEAL FILED WITHIN SIXTY DAYS FOLLOWING THE DATE ON WHICH THE SUBMISSION OF FACTS, INFORMATION AND EVIDENCE IS DEEMED COMPLETE BY THE PERSONNEL REVIEW BOARD.

(V) THE PERSON SEEKING REVIEW AND HIS OR HER REPRESENTATIVE SHALL BE FURNISHED A COPY OF THE PERSONNEL REVIEW BOARD'S WRITTEN DECISION CONCURRENTLY WITH ITS FILING WITH THE SECRETARY OF THE PERSONNEL REVIEW BOARD. A DECISION OF THE PERSONNEL REVIEW BOARD SHALL BECOME FINAL AND BINDING WHEN FILED WITH THE SECRETARY OF THE PERSONNEL REVIEW BOARD. REVIEW OF ANY SUCH FINAL DECISION SHALL BE BY A PROCEEDING AUTHORIZED BY ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

(F) BEFORE ADOPTING ANY RULE OR REGULATION AFFECTING THE RIGHTS OF EMPLOYEES, THE PERSONNEL REVIEW BOARD SHALL PUBLISH NOTICE OF THE PROPOSED RULE CHANGES NO LATER THAN THIRTY DAYS PRIOR TO THE PROPOSED EFFECTIVE DATE.

(I) PUBLICATION OF THE NOTICE OF PROPOSED RULE-MAKING SHALL BE ACCOMPLISHED BY POSTING A COPY AT APPROPRIATE FACILITIES THROUGHOUT THE AUTHORITY AS DETERMINED BY THE AUTHORITY, AND BY SERVING A COPY OF THE NOTICE BY CERTIFIED MAIL RETURN RECEIPT REQUESTED UPON THE UNIONS CERTIFIED OR RECOGNIZED TO REPRESENT EMPLOYEES OF THE AUTHORITY. PUBLICATION SHALL BE COMPLETE UPON THE POSTING AND MAILING AS DESCRIBED ABOVE.

(II) A NOTICE OF THE PROPOSED RULE-MAKING SHALL CONTAIN THE COMPLETE TEXT OF THE PROPOSED RULE OR RULES, AND THE LAST DATE UPON WHICH THE PERSONNEL REVIEW BOARD WILL RECEIVE COMMENT UPON THE PROPOSED RULE OR RULES; PROVIDED, HOWEVER, THAT IF THE TEXT OF THE PROPOSED RULE EXCEEDS TWO THOUSAND WORDS, THE NOTICE SHALL CONTAIN ONLY A DESCRIPTION OF THE SUBJECT, PURPOSE AND SUBSTANCE OF SUCH RULE, AND SHALL STATE FROM WHAT PERSON THE COMPLETE TEXT MAY BE OBTAINED.

(III) THE PERSONNEL REVIEW BOARD MAY RECEIVE COMMENTS ON A PROPOSED RULE OR RULES IN WRITING OR, IN AN APPROPRIATE CASE, MAY CONDUCT A HEARING UPON THE PROPOSED RULE.

(IV) ANY RULE ADOPTED BY THE PERSONNEL REVIEW BOARD SHALL TAKE EFFECT WHEN SIGNED BY THE CHAIR OF THE PERSONNEL REVIEW BOARD. NOTICE OF ADOPTION OF A RULE SHALL BE PUBLISHED WITHIN TEN BUSINESS DAYS OF ITS ADOPTION IN THE SAME MANNER AS THE NOTICE OF PROPOSED RULE-MAKING.

(V) IN PROMULGATING ITS RULES, THE PERSONNEL REVIEW BOARD SHALL NOT BE SUBJECT TO THE PROVISIONS OF THE STATE ADMINISTRATIVE PROCEDURE ACT, THE EXECUTIVE LAW OR THE PROCEDURE FOR ADOPTING RULES CONTAINED IN THE CIVIL SERVICE LAW.

(VI) THE SECRETARY TO THE PERSONNEL REVIEW BOARD SHALL MAINTAIN MINUTES OF THE MEETINGS OF THE PERSONNEL REVIEW BOARD AND SHALL MAINTAIN COMPLETE COPIES OF THE RULES AND REGULATIONS ADOPTED BY THE PERSONNEL REVIEW BOARD. SUCH MINUTES AND RULES SHALL BE OPEN TO PUBLIC INSPECTION AND COPYING DURING ALL ORDINARY BUSINESS HOURS OF THE AUTHORITY IN

ACCORDANCE WITH THE APPLICABLE PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

4. (A) THE AUTHORITY SHALL HAVE THE POWER TO PREPARE AND PROPOSE PERSONNEL RULES AND REGULATIONS FOR CONSIDERATION AND ADOPTION OR MODIFICATION BY THE PERSONNEL REVIEW BOARD. SUCH ADOPTED RULES SHALL GUIDE THE AUTHORITY IN THE ADMINISTRATION OF PERSONNEL SERVICE.

(B) THE AUTHORITY SHALL DETERMINE THE MERIT AND FITNESS OF CANDIDATES FOR COMPETITIVE CLASS POSITIONS THROUGH THE PREPARATION AND ADMINISTRATION OF CONTENT BASED EXAMINATIONS FOR ENTRY LEVEL AND PROMOTIONAL POSITIONS. THE AUTHORITY'S RESPONSIBILITIES INCLUDE, BUT ARE NOT LIMITED TO:

(I) CONDUCTING JOB ANALYSES TO IDENTIFY ESSENTIAL JOB DUTIES FOR THE PREPARATION OF CONTENT BASED EXAMINATIONS AND ADMINISTERING SUCH EXAMINATIONS;

(II) ISSUING NOTICES OF EXAMINATION SETTING FORTH MINIMUM QUALIFICATIONS REQUIRED, THE SUBJECTS OF THE EXAMINATION AND SUCH OTHER INFORMATION AS IS APPROPRIATE;

(III) DETERMINING CANDIDATES' ELIGIBILITY FOR EXAMINATION;

(IV) ESTABLISHING ELIGIBLE LISTS BASED UPON THE RATINGS RECEIVED BY CANDIDATES FOR HIRE AND PROMOTION; AND

(V) CERTIFICATION AND APPOINTMENT IN ACCORDANCE WITH THE REVIEW BOARD RULES.

(C) THE AUTHORITY SHALL ESTABLISH REVIEW PROCEDURES FOR EXAMINATIONS AND WHERE, FOLLOWING THE DULY ESTABLISHED PROCEDURES, A FINAL DETERMINATION IS MADE AS TO THE ANSWERS THAT ARE ACCEPTABLE ON A PARTICULAR EXAMINATION, COURT REVIEW SHALL BE LIMITED TO A DETERMINATION OF WHETHER SUCH DULY ESTABLISHED REVIEW PROCEDURES WERE FOLLOWED, AND NO COURT SHALL HAVE AUTHORITY TO DETERMINE WHETHER THE AUTHORITY'S DETERMINATION WAS CORRECT.

(D) THE AUTHORITY SHALL HAVE THE POWER, SUBJECT TO APPEAL TO THE PERSONNEL REVIEW BOARD OF ANY CLAIMED VIOLATION OF THE REVIEW BOARD RULES:

(I) TO CLASSIFY AND/OR RECLASSIFY ANY POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY; AND

(II) TO ALLOCATE AND REALLOCATE TO AN APPROPRIATE SALARY GRADE ALL POSITIONS IN THE EXEMPT, COMPETITIVE, NONCOMPETITIVE AND LABOR CLASSES OF THE CLASSIFIED SERVICE OF THE AUTHORITY, INCLUDING TEMPORARY AND SEASONAL POSITIONS.

(E) THE AUTHORITY SHALL ALSO HAVE THE FOLLOWING POWERS AND DUTIES:

(I) TO ASCERTAIN AND RECORD THE DUTIES AND RESPONSIBILITIES OF ALL POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY, TO ESTABLISH ADEQUATE SPECIFICATIONS SHOWING THE QUALIFICATIONS FOR, AND THE NATURE AND EXTENT AND SCOPE OF THE DUTIES AND RESPONSIBILITIES OF SUCH POSITIONS, AND TO ASSIGN UNIFORM TITLES TO POSITIONS THAT ARE SO SUBSTANTIALLY SIMILAR IN THEIR ESSENTIAL CHARACTER AND SCOPE OF THEIR DUTIES, RESPONSIBILITIES AND QUALIFICATION REQUIREMENTS THAT THE SAME DESCRIPTIVE TITLE MAY BE USED TO DESIGNATE THEM, AND TO ASSURE THAT THE SAME QUALIFICATIONS FOR APPOINTMENT THERETO MAY BE REASONABLY REQUIRED, THAT THE SAME TESTS OF FITNESS MAY BE ESTABLISHED, AND THAT THE SAME RATE OF COMPENSATION MAY BE REASONABLY APPLIED;

(II) TO INVESTIGATE ALL MATTERS AFFECTING THE CLASSIFICATION AND COMPENSATION OF POSITIONS, TO HEAR AND DETERMINE ALL COMPLAINTS WITH RESPECT TO THE CLASSIFICATION AND COMPENSATION OF POSITIONS AND FROM TIME TO TIME TO REVIEW THE DUTIES, RESPONSIBILITIES, QUALIFICATION REQUIREMENTS AND COMPENSATION OF POSITIONS AND TO MAKE SUCH REVISIONS IN

THE CLASSIFICATION OR COMPENSATION OF POSITIONS AS CHANGES IN THE SERVICE OF THE AUTHORITY MAY REQUIRE;

(III) TO PROVIDE TO ANY PERSON AGGRIEVED BY THE CLASSIFICATION OR ALLOCATION OF A POSITION A REASONABLE OPPORTUNITY TO PRESENT FACTS IN SUPPORT OF OR IN RELATION TO SUCH CLASSIFICATION OR ALLOCATION, AT A TIME AND IN SUCH MANNER AS IT MAY SPECIFY, AND TO RENDER AND FURNISH TO THE PERSON AGGRIEVED A WRITTEN DECISION THEREON; AND

(IV) FOR THE PURPOSES OF SECTIONS FORTY-TWO AND SEVENTY-FIVE OF THE CIVIL SERVICE LAW, AND NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SUCH SECTIONS, AND SUBJECT TO THE REVIEW BOARD RULES, TO DESIGNATE POSITIONS IN THE NON-COMPETITIVE CLASS AS CONFIDENTIAL AND REQUIRING THE PERFORMANCE OF FUNCTIONS INFLUENCING POLICY. THIS PROVISION SHALL NOT AFFECT THE CLASSIFICATION OF ANY POSITION IN THE NON-COMPETITIVE CLASS AS CONFIDENTIAL OR REQUIRING THE PERFORMANCE OF FUNCTIONS INFLUENCING POLICY MADE BY THE APPROPRIATE CIVIL SERVICE COMMISSION PRIOR TO THE ADOPTION OF THE REVIEW BOARD RULES.

(F) ANY CLASSIFICATION OR RECLASSIFICATION OF A POSITION MADE PURSUANT TO THE REVIEW BOARD RULES AND ANY ALLOCATION OR REALLOCATION OF A POSITION TO A SALARY GRADE MADE BY THE AUTHORITY PURSUANT TO THIS SECTION SHALL BECOME EFFECTIVE ON THE DATE APPROVED BY THE PRESIDENT OF THE AUTHORITY OR HIS OR HER DESIGNEE.

(G) THE CLASSIFIED SERVICE OF THE AUTHORITY SHALL COMPRISE ALL POSITIONS NOT INCLUDED IN THE UNCLASSIFIED SERVICE. THE POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY SHALL BE DIVIDED INTO FOUR CLASSES DESIGNATED AS THE EXEMPT CLASS, THE NON-COMPETITIVE CLASS, THE COMPETITIVE CLASS AND THE LABOR CLASS.

(I) THE EXEMPT CLASS SHALL CONSIST OF SUCH POSITIONS AND OFFICES WHICH THE AUTHORITY SHALL DETERMINE TO BE IMPRACTICABLE TO FILL BY COMPETITIVE OR NON-COMPETITIVE EXAMINATION.

(II) THE NON-COMPETITIVE CLASS SHALL INCLUDE ALL POSITIONS THAT ARE NOT IN THE EXEMPT CLASS OR LABOR CLASS AND FOR WHICH THE AUTHORITY CANNOT PRACTICALLY ASCERTAIN THE MERIT AND FITNESS OF APPLICANTS BY COMPETITIVE EXAMINATION.

(III) THE LABOR CLASS SHALL COMPRISE ALL UNSKILLED LABORERS IN THE SERVICE OF THE AUTHORITY. THE AUTHORITY MAY DETERMINE THAT A TITLE IN THE LABOR CLASS IS APPROPRIATE TO PARTICIPATE IN A PROMOTIONAL EXAMINATION FOR A HIGHER TITLE IN THE COMPETITIVE CLASS.

(IV) THE COMPETITIVE CLASS SHALL INCLUDE ALL POSITIONS WHERE THE AUTHORITY HAS DETERMINED THAT THE MERIT AND FITNESS OF APPLICANTS MAY BE DETERMINED BY COMPETITIVE EXAMINATION, AND SHALL INCLUDE ALL POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY EXCEPT SUCH POSITIONS AS ARE IN THE EXEMPT CLASS, THE NON-COMPETITIVE CLASS OR THE LABOR CLASS.

(H) (I) ALL APPLICANTS SHALL BE SUBJECT TO BACKGROUND INVESTIGATIONS, INCLUDING BUT NOT LIMITED TO THE CRIMINAL HISTORY OF ALL APPLICANTS FOR EMPLOYMENT TO DETERMINE THE SUITABILITY OF SUCH APPLICANTS FOR EMPLOYMENT. SUCH INVESTIGATION SHALL INCLUDE BUT NOT BE LIMITED TO THE TAKING OF FINGERPRINTS OF SUCH OFFICERS AND EMPLOYEES AS A PREREQUISITE FOR EMPLOYMENT; PROVIDED, HOWEVER, THAT EVERY SET OF FINGERPRINTS TAKEN PURSUANT TO THIS PARAGRAPH EITHER SHALL BE PROMPTLY SUBMITTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES, OR ITS SUCCESSOR, WHERE IT SHALL BE APPROPRIATELY PROCESSED AND FORWARDED TO THE FEDERAL BUREAU OF INVESTIGATION, OR ITS SUCCESSOR, AT A RATE REQUIRED BY SUCH AGENCIES FOR STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS OR THE AUTHORITY MAY USE SUCH ALTERNATIVE MEANS TO PROCESS FINGERPRINTS FOR THE PURPOSE OF A CRIMINAL HISTORY RECORD CHECK AS IT MAY DEEM APPROPRIATE.

(II) THE AUTHORITY MAY ALSO AUTHORIZE THE METROPOLITAN TRANSPORTATION AUTHORITY OR ANY SUBSIDIARY OR AFFILIATE OF THE AUTHORITY OR OF THE METROPOLITAN TRANSPORTATION AUTHORITY, ON BEHALF OF WHICH THE AUTHORITY PROCESSES APPLICANTS, TO OBTAIN THE FINGERPRINTS OF SUCH APPLICANTS AND THAT AUTHORITY SHALL CONDUCT THE BACKGROUND INVESTIGATION AS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(I) (I) THE AUTHORITY IS AUTHORIZED TO ESTABLISH AND COLLECT FEES FROM EVERY APPLICANT FOR EXAMINATION FOR A POSITION IN THE COMPETITIVE CLASS OR FOR APPOINTMENT IN THE LABOR CLASS AND FROM EVERY APPOINTEE UPON ANY PROVISIONAL APPOINTMENT OR UPON APPOINTMENT IN THE NON-COMPETITIVE CLASS, AS SET FORTH IN THE REVIEW BOARD RULES.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PRESIDENT OF THE AUTHORITY, SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR, MAY ELECT TO WAIVE APPLICATION FEES, OR TO ABOLISH FEES FOR SPECIFIC CLASSES OF POSITIONS OR TYPES OF EXAMINATIONS OR CANDIDATES.

(III) ALL FEES COLLECTED HEREUNDER BY THE AUTHORITY SHALL CONSTITUTE REVENUE FOR THE AUTHORITY.

(J) (I) WHERE, BECAUSE OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNCTIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE, POSITIONS IN THE COMPETITIVE CLASS OF SERVICE OF THE AUTHORITY ARE ABOLISHED OR REDUCED IN RANK OR SALARY GRADE, INCUMBENTS HOLDING THE SAME OR SIMILAR POSITIONS WITHIN THE SAME JURISDICTIONAL CLASSIFICATION WITHIN THE AUTHORITY SHALL BE SUSPENDED OR DEMOTED IN THE INVERSE ORDER OF ORIGINAL APPOINTMENT ON A PERMANENT BASIS IN THE CLASSIFIED SERVICE AS SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH; PROVIDED, HOWEVER, THAT INCUMBENTS HOLDING THE SAME OR SIMILAR POSITIONS WITHIN THE SAME JURISDICTIONAL CLASSIFICATION WITHIN THE AUTHORITY WHO HAVE NOT COMPLETED THEIR PROBATIONARY SERVICE SHALL BE SUSPENDED OR DEMOTED AS THE CASE MAY BE BEFORE ANY PERMANENT INCUMBENTS, AND AMONG SUCH PROBATIONARY EMPLOYEES THE ORDER OF SUSPENSION OR DEMOTION SHALL BE DETERMINED AS IF SUCH EMPLOYEES WERE PERMANENT INCUMBENTS. THE PERSONNEL REVIEW BOARD MAY, BY RULE, DESIGNATE AS SEPARATE UNITS FOR SUSPENSION AND/OR DEMOTION UNDER THE PROVISIONS OF THIS SUBPARAGRAPH ANY DEPARTMENT, DIVISION OR SUBDIVISION OF THE AUTHORITY AND UPON THE ABOLITION OR REDUCTION OF POSITIONS IN SUCH SERVICE, SUSPENSION AND/OR DEMOTION SHALL BE MADE FROM AMONG INCUMBENTS HOLDING THE SAME OR SIMILAR POSITIONS IN SUCH SEPARATE UNIT.

(II) THE DATE OF ORIGINAL APPOINTMENT OF EMPLOYEES OF THE AUTHORITY SHALL BE THE DATE OF ORIGINAL APPOINTMENT ON A PERMANENT BASIS IN THE CLASSIFIED SERVICE OF THE AUTHORITY FOLLOWED BY CONTINUOUS SERVICE IN THE AUTHORITY UP TO THE TIME OF SUSPENSION OR DEMOTION; EXCEPT THAT FOR THOSE EMPLOYEES WHO WERE IN THE COMPETITIVE AND LABOR CLASSES OF THE AUTHORITY ON THE EFFECTIVE DATE OF THIS SECTION, THE DATE OF ORIGINAL APPOINTMENT SHALL BE THE DATE OF ORIGINAL APPOINTMENT ON A PERMANENT BASIS IN THE CIVIL SERVICE OF THE CITY OF NEW YORK FOLLOWED BY CONTINUOUS SERVICE IN THE CIVIL SERVICE OF THE CITY OF NEW YORK OR THE AUTHORITY UP TO THE TIME OF SUSPENSION OR DEMOTION. FOR THE PURPOSES OF THIS SUBPARAGRAPH, AN EMPLOYEE WHO RESIGNED AND WAS REINSTATED OR REAPPOINTED IN THE CLASSIFIED SERVICE WITHIN ONE YEAR OF THE RESIGNATION, OR WHO WAS TERMINATED BECAUSE OF AN OCCUPATIONAL DISABILITY AND WAS AFTERWARDS REINSTATED, SHALL BE DEEMED TO HAVE CONTINUOUS SERVICE.

(III) THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY SHALL SUPPLY SUCH INFORMATION AS IS NECESSARY FOR THE DETERMINATION OF RIGHTS FOR RETENTION, ABOLITION OF POSITIONS, REDUCTIONS IN RANK OR REINSTATEMENT OF EMPLOYEES OF THE AUTHORITY WHOSE ORIGINAL APPOINTMENT WAS PRIOR TO THE ENACTMENT OF THIS SECTION, OR ANY OTHER SUCH INFORMATION OR ASSIST-

ANCE NEEDED BY THE AUTHORITY OR BY THE PERSONNEL REVIEW BOARD IN ORDER TO TAKE OVER THE FUNCTIONS PREVIOUSLY PERFORMED BY THE MUNICIPAL CIVIL SERVICE COMMISSION.

(IV) IN ANY CASE WHERE AN EMPLOYEE OF THE AUTHORITY IS SUSPENDED OR DEMOTED BECAUSE OF ABOLITION OR REDUCTION OF POSITIONS, THE AUTHORITY SHALL NOTIFY THE EMPLOYEE OR HIS OR HER REPRESENTATIVE OF THE PENDING ACTION.

(K) (I) PREFERRED LISTS SHALL BE ESTABLISHED AS FOLLOWS: WHERE, BECAUSE OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNCTIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE AN EMPLOYEE IN THE COMPETITIVE CLASS OF SERVICE OF THE AUTHORITY IS SUSPENDED OR DEMOTED, THE AUTHORITY SHALL PLACE THE NAME OF SUCH EMPLOYEE UPON A PREFERRED LIST, TOGETHER WITH OTHERS WHO MAY HAVE BEEN SUSPENDED OR DEMOTED FROM THE SAME OR SIMILAR POSITIONS IN THE SAME JURISDICTIONAL CLASS, AND CERTIFY SUCH LIST, AS HEREINAFTER PROVIDED, FOR FILLING VACANCIES WITHIN THE AUTHORITY IN THE SAME JURISDICTIONAL CLASS IN THE FOLLOWING ORDER: FIRST, IN THE SAME OR SIMILAR POSITION; SECOND, IN ANY POSITION IN A LOWER GRADE IN LINE OF PROMOTION; AND THIRD, IN ANY COMPARABLE POSITION AS DETERMINED BY THE AUTHORITY. SUCH PREFERRED LIST SHALL BE CERTIFIED FOR FILLING A VACANCY IN ANY SUCH POSITION BEFORE CERTIFICATION IS MADE FROM ANY OTHER LIST, INCLUDING A PROMOTION ELIGIBLE LIST, NOTWITHSTANDING THE FACT THAT NONE OF THE PERSONS ON SUCH PREFERRED LIST WAS SUSPENDED FROM OR DEMOTED IN THE DEPARTMENT OR SUSPENSION AND DEMOTION UNIT IN WHICH SUCH VACANCY EXISTS. NO OTHER NAME SHALL BE CERTIFIED FROM ANY OTHER LIST FOR ANY SUCH POSITION UNTIL SUCH PREFERRED LIST IS EXHAUSTED. THE ELIGIBILITY FOR REINSTATEMENT OF A PERSON WHOSE NAME APPEARS ON ANY SUCH PREFERRED LIST SHALL NOT CONTINUE FOR A PERIOD LONGER THAN FOUR YEARS FROM THE DATE OF SEPARATION OR DEMOTION.

(II) EXCEPT AS HEREINAFTER PROVIDED, THE NAMES OF PERSONS ON A PREFERRED LIST SHALL BE CERTIFIED THEREFROM FOR REINSTATEMENT TO A VACANCY WITHIN THE AUTHORITY IN AN APPROPRIATE POSITION IN THE ORDER OF THEIR ORIGINAL PERMANENT APPOINTMENTS IN ORDER OF SENIORITY AS DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (J) OF THIS SUBDIVISION. WHERE SUCH A VACANCY EXISTS IN A SEPARATE SUSPENSION AND/OR DEMOTION UNIT, THE NAMES OF PERSONS SUSPENDED FROM OR DEMOTED IN SUCH UNIT, AND NOT THOSE SUSPENDED FROM OR DEMOTED IN ANOTHER UNIT OR IN THE AUTHORITY GENERALLY SHALL BE CERTIFIED FIRST.

(III) NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS PARAGRAPH, NO PERSON SUSPENDED OR DEMOTED PRIOR TO THE COMPLETION OF HIS OR HER PROBATIONARY TERM SHALL BE CERTIFIED FOR REINSTATEMENT UNTIL THE EXHAUSTION OF THE PREFERRED LIST OF ALL OTHER ELIGIBLES THEREON. UPON REINSTATEMENT, SUCH PROBATIONER SHALL BE REQUIRED TO COMPLETE HIS OR HER PROBATIONARY TERM.

(IV) THE PERSONNEL REVIEW BOARD SHALL ADOPT RULES PROVIDING FOR THE RELINQUISHMENT OF ELIGIBILITY FOR REINSTATEMENT UPON FAILURE OR REFUSAL TO ACCEPT REINSTATEMENT FROM A PREFERRED LIST.

(V) A PERSON REINSTATED FROM A PREFERRED LIST TO HIS OR HER FORMER POSITION OR A SIMILAR POSITION IN THE SAME GRADE SHALL RECEIVE AT LEAST THE SAME SALARY SUCH PERSON WAS RECEIVING AT THE TIME OF SUSPENSION OR DEMOTION, EXCEPT IN THE EVENT THAT A SALARY REDUCTION HAS BEEN IMPLEMENTED IN THE FORMER POSITION PRIOR TO THE REINSTATEMENT, IN WHICH CASE THE SALARY AT REINSTATEMENT MUST INCLUDE THE REDUCTION.

(VI) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE AUTHORITY MAY DISQUALIFY FOR REINSTATEMENT AND REMOVE FROM A PREFERRED LIST THE NAME OF ANY ELIGIBLE WHO IS PHYSICALLY OR MENTALLY UNABLE TO PERFORM THE DUTIES OF THE POSITION FOR WHICH SUCH LIST IS ESTABLISHED, OR WHO

HAS BEEN GUILTY OF SUCH MISCONDUCT AS WOULD WARRANT HIS OR HER DISMISSAL FROM THE PUBLIC SERVICE. 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 FOR A HEARING AT WHICH SUCH REASONS SHALL BE ESTABLISHED BY APPROPRIATE EVIDENCE, AND AT WHICH SUCH PERSON MAY BE REPRESENTED BY COUNSEL AND PRESENT EVIDENCE. THE AUTHORITY MAY DESIGNATE A PERSON TO HOLD SUCH HEARING AND REPORT THEREON.

(VII) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS PARAGRAPH, ANY PERSON MAY VOLUNTARILY REMOVE HIS OR HER NAME FROM A PREFERRED LIST BY APPLICATION TO THE AUTHORITY.

(VIII) AN EMPLOYEE WHO IS ELIGIBLE TO BE PLACED ON A PREFERRED LIST PURSUANT TO THIS PARAGRAPH AND WHO ELECTS, AS A MEMBER OF A PUBLIC EMPLOYEE RETIREMENT SYSTEM, TO RETIRE UPON A SUSPENSION OR DEMOTION, SHALL BE PLACED ON A PREFERRED LIST AND SHALL BE ELIGIBLE FOR REINSTATEMENT WITHIN THE AUTHORITY FROM SUCH LIST.

(IX) NOTHING IN THIS PARAGRAPH SHALL REQUIRE THE AUTHORITY TO FILL ANY VACANCY.

(L) WITH RESPECT TO LEAVE FOR ORDINARY DISABILITY, SECTION SEVENTY-TWO OF THE CIVIL SERVICE LAW SHALL BE APPLIED EXCEPT THAT THE INDEPENDENT HEARING OFFICER PROVIDED FOR UNDER SUBDIVISION ONE OF SUCH SECTION SHALL BE SELECTED FROM A PANEL DESIGNATED BY THE AUTHORITY.

5. UPON THE REQUEST OF THE PERSONNEL REVIEW BOARD OR THE AUTHORITY, THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY SHALL PROVIDE TECHNICAL ADVICE AND ASSISTANCE IN THE ADMINISTRATION OF THE PROVISIONS OF THIS SECTION, WITH RESPECT TO ALL MATTERS PENDING ON THE EFFECTIVE DATE OF THIS SECTION. THE AUTHORITY AND SUCH MUNICIPAL CIVIL SERVICE COMMISSION MAY AGREE UPON THE TERMS OF SUCH ADVICE AND ASSISTANCE. THEY MAY FURTHER AGREE UPON THE TERMS AND CONDITIONS OF THE PROVISION OF ADVICE AND ASSISTANCE WITH RESPECT TO MATTERS ARISING AFTER SUCH EFFECTIVE DATE, AND SUCH AGREEMENT MAY PROVIDE FOR COMPENSATION TO SUCH COMMISSION FOR SUCH ADVICE AND ASSISTANCE.

6. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL OR LOCAL LAW, AND SPECIFICALLY NOTWITHSTANDING THE PROVISIONS OF SECTION SIXTY-FIVE OF THE CIVIL SERVICE LAW:

(A) THE AUTHORITY, WITH THE APPROVAL OF THE REVIEW BOARD, SHALL PROPOSE A PLAN TO THE STATE CIVIL SERVICE COMMISSION TO REDUCE THE NUMBER OF PROVISIONAL EMPLOYEES IN THE COMPETITIVE CLASS SERVING IN EXCESS OF THE AUTHORIZED TIMEFRAMES TO A NUMBER NOT TO EXCEED FIVE PERCENT OF THE COMPETITIVE CLASS WORKFORCE WITHIN FIVE YEARS FROM THE EFFECTIVE DATE OF THIS SECTION. THE STATE CIVIL SERVICE COMMISSION SHALL HAVE THE POWER TO ACCEPT, REJECT OR MODIFY SUCH PLAN, PROVIDED THAT ANY MODIFICATIONS SHALL BE MADE BY THE COMMISSION ONLY WITH THE CONSENT OF THE AUTHORITY. IF THE AUTHORITY DOES NOT CONSENT TO MODIFICATIONS MADE BY THE COMMISSION WITHIN SIXTY DAYS, THEN THE PLAN MAY BE DISAPPROVED BY SUCH COMMISSION. SHOULD THE AUTHORITY NOT PROPOSE AN ACCEPTABLE PLAN TO SUCH COMMISSION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, SUCH COMMISSION MAY CREATE ITS OWN PLAN AND APPROVE A FINAL PLAN AFTER AFFORDING THE AUTHORITY AND ITS REVIEW BOARD SIXTY DAYS TO SUBMIT COMMENTS AND RECOMMENDATIONS. THE REVIEW BOARD AND SUCH COMMISSION SHALL HAVE THE POWER TO DIRECT THE AUTHORITY TO TAKE SPECIFIC ACTIONS TO MEET THE REQUIREMENTS OF THE APPROVED PLAN. THE APPROVED PLAN MAY BE MODIFIED BY SUCH COMMISSION UPON APPLICATION BY THE AUTHORITY, MADE WITH APPROVAL OF THE REVIEW BOARD. MODIFICATION PURSUANT TO THE PRECEDING SENTENCE MAY EXTEND THE DURATION OF THE PLAN TO A DATE NO MORE THAN ONE YEAR BEYOND THE FIVE-YEAR PERIOD OTHERWISE AUTHORIZED BY THIS SUBDIVISION. FAILURE OF SUCH COMMISSION TO ACT UPON ANY SUBMISSION BY THE AUTHORITY PURSUANT

TO THIS SUBDIVISION WITHIN SIXTY DAYS SHALL BE DEEMED AN APPROVAL OF SUCH SUBMISSION. ANY SUCH SIXTY-DAY TIMEFRAME SHALL BE TOLLED BY A REQUEST BY SUCH COMMISSION FOR ADDITIONAL INFORMATION PENDING THE RECEIPT OF SUCH INFORMATION. SUCH COMMISSION SHALL APPROVE THE PLAN AND ANY MODIFICATION THEREOF IF IT FINDS THAT, CONSISTENT WITH AVAILABLE RESOURCES AND THE NEED FOR CONTINUITY IN PUBLIC SERVICES, SUCH PLAN OR MODIFICATION THEREOF PROVIDES A TIMELY AND PRACTICABLE IMPLEMENTATION SCHEDULE IN FURTHERANCE OF THE PURPOSES OF THIS SUBDIVISION. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION, WHERE A MODIFICATION IS INSUBSTANTIAL, AND WILL NOT MATERIALLY AFFECT THE ABILITY OF THE AUTHORITY TO ACHIEVE TIMELY SUBSTANTIAL COMPLIANCE WITH THE TIME PERIODS SET FORTH IN THE PLAN, THE AUTHORITY WITH APPROVAL OF ITS REVIEW BOARD, MAY SO CERTIFY AND THE MODIFICATION MAY BE IMPLEMENTED AND SHALL BE FILED BY THE AUTHORITY WITH SUCH COMMISSION WITHIN FIVE BUSINESS DAYS.

(B) UPON THE EFFECTIVE DATE OF THIS SECTION, THE PROVISIONS OF SUBDIVISIONS TWO, FIVE AND SIX OF SECTION SIXTY-FIVE OF THE CIVIL SERVICE LAW SHALL NOT APPLY TO AUTHORITY EMPLOYEES DURING THE PERIOD OF DEVELOPMENT, SUBMISSION, APPROVAL AND IMPLEMENTATION OF SAID PLAN, AND THE AUTHORITY SHALL IN NO EVENT BE CONSIDERED A "DCAS EMPLOYER" WITHIN THE MEANING OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SUCH SECTION. THE PROVISIONS OF SUBDIVISION TWO OF SUCH SECTION SHALL BE APPLICABLE TO ANY PROVISIONAL EMPLOYEE SERVING IN A POSITION FOR WHICH AN APPROPRIATE ELIGIBLE LIST HAS BEEN ESTABLISHED PURSUANT TO SUCH PLAN, UNLESS SUCH LIST IS NOT ADEQUATE TO FILL ALL POSITIONS THEN HELD ON A PROVISIONAL BASIS OR IS EXHAUSTED IMMEDIATELY FOLLOWING ITS ESTABLISHMENT.

7. EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN EMPLOYEE OF THE AUTHORITY SHALL NOT BE CONSIDERED A STATE OR CITY EMPLOYEE FOR ANY PURPOSES SET FORTH IN ARTICLES ONE THROUGH NINE OF THE CIVIL SERVICE LAW.

8. THE AUTHORITY AND THE METROPOLITAN TRANSPORTATION AUTHORITY OR ANY OF ITS AFFILIATES OR SUBSIDIARIES ARE AUTHORIZED TO ASSIST OR COOPERATE IN THE PERFORMANCE OF THE RESPONSIBILITIES OR FUNCTIONS SET FORTH IN THIS SECTION IN SUCH MANNER AS THE AUTHORITY AND THE METROPOLITAN TRANSPORTATION AUTHORITY DEEM APPROPRIATE.

9. ALL REFERENCES IN THIS SECTION TO THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL THE POWERS AND DUTIES OF A MUNICIPAL CIVIL SERVICE COMMISSION ASSIGNED TO THE COMMISSIONER OF THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES, THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES, THE MAYOR, THE CITY CIVIL SERVICE COMMISSION AND/OR THE HEADS OF THE CITY AGENCIES AS PROVIDED IN CHAPTER THIRTY-FIVE OF THE NEW YORK CITY CHARTER AND AS SET FORTH IN THE PERSONNEL RULES AND REGULATIONS OF THE CITY OF NEW YORK.

S 5. Subdivision 1 of section 554 of the public authorities law, as amended by chapter 1011 of the laws of 1984, is amended to read as follows:

1. [Officers] EXCEPT AS PROVIDED IN SECTION FIVE HUNDRED FIFTY-FOUR-A OF THIS TITLE, OFFICERS and employees of any board or department in or of the city may be transferred to the authority, and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Notwithstanding the provisions of this title, the officers and employees of the city, who are members or beneficiaries of any existing pension or retirement system, shall continue to have the rights, privileges, obligations and status with respect to such system or systems, as are now prescribed by law; and all such employees, who have been appointed to positions in the service of the

city under the rules and classifications of the municipal civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. Any person appointed by the authority under the rules and classifications of the municipal civil service commission of the city, originally or by transfer or otherwise, including persons employed or eligible for appointment under the board of education of the city or of any agency of any kind whatsoever subject to the rules and classifications of the municipal civil service commission of the city, shall have and shall continue to have all the rights, privileges, obligations and status with respect to such pension or retirement systems, including not only the right to admission therein, but continuance and reinstatement therein, to the same extent and in like manner as though he had been appointed, transferred or restored to the civil service of the city, the board of education or any other agency of any kind whatsoever subject to the rules and classifications of the municipal civil service commission of the city. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law under the jurisdiction of the municipal civil service commission of the city.

S 6. The public authorities law is amended by adding a new section 554-a to read as follows:

S 554-A. PERSONNEL SYSTEM; PERSONNEL REVIEW BOARD. 1. THE FOLLOWING WORDS AND PHRASES, AS USED IN THIS SECTION, SHALL HAVE THE FOLLOWING MEANINGS:

(A) "PERSONNEL REVIEW BOARD" OR "REVIEW BOARD" MEANS THE BODY APPOINTED PURSUANT TO THIS SECTION BY THE BOARD AND SHALL ACT IN THE CAPACITY AND FULFILL THE ROLES WHICH WOULD BE PERFORMED BY THE COMMISSION, CIVIL SERVICE COMMISSION AND MUNICIPAL CIVIL SERVICE COMMISSION FOR THE PURPOSES OF APPLYING THE CIVIL SERVICE LAW TO POSITIONS FORMERLY COVERED BY SECTION FIVE HUNDRED FIFTY-FOUR OF THIS TITLE.

(B) "CLASSIFIED SERVICE" MEANS ALL POSITIONS IN THE AUTHORITY WHICH ARE NOT IN THE UNCLASSIFIED SERVICE.

(C) "JURISDICTIONAL CLASSIFICATION" MEANS THE ASSIGNMENT OF POSITIONS IN THE CLASSIFIED SERVICE TO THE COMPETITIVE, NONCOMPETITIVE, EXEMPT OR LABOR CLASSES.

(D) "POSITION CLASSIFICATION", "CLASSIFICATION", "RECLASSIFICATION" AND "CLASSIFY" MEAN GROUPING TOGETHER UNDER COMMON AND DESCRIPTIVE TITLES THOSE POSITIONS THAT ARE SUBSTANTIALLY SIMILAR IN THE ESSENTIAL CHARACTER AND SCOPE OF THEIR DUTIES AND RESPONSIBILITIES AND REQUIRED QUALIFICATIONS.

2. THE APPOINTMENT, PROMOTION AND CONTINUATION OF EMPLOYMENT OF ALL EMPLOYEES OF THE AUTHORITY SHALL BE GOVERNED BY THE CIVIL SERVICE LAW AND THE RULES AND REGULATIONS PRESCRIBED BY THE PERSONNEL REVIEW BOARD WHICH SHALL ASSUME THE POWERS PREVIOUSLY EXERCISED BY THE COMMISSION, CIVIL SERVICE COMMISSION AND BY THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY. UNTIL SUCH TIME AS RULES ARE PROMULGATED BY THE PERSONNEL REVIEW BOARD, THE AUTHORITY SHALL ADMINISTER ITS PERSONNEL ACTIONS PURSUANT TO RULES AND REGULATIONS, CLASS SPECIFICATIONS AND PERSONNEL ORDERS OF THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY IN EFFECT ON THE EFFECTIVE DATE OF THIS SUBDIVISION. SUCH RULES AND REGULATIONS, SPECIFICATIONS AND ORDERS SHALL COLLECTIVELY BE DEEMED TO CONSTITUTE THE RULES AND REGULATIONS OF THE REVIEW BOARD UNTIL SUCH TIME AS THE REVIEW BOARD PROMULGATES ITS OWN RULES AND REGULATIONS. DURING SUCH PERIOD, ANY REFERENCE TO THE MUNICIPAL CIVIL SERVICE COMMISSION, THE COMMISSIONER OF CITYWIDE ADMINISTRATIVE SERVICES, THE DEPARTMENT OF CITYWIDE ADMINISTRA-

TIVE SERVICES OR ANY OTHER GOVERNMENTAL OFFICER, EMPLOYEE, AGENCY OR OFFICE CONTAINED IN SUCH RULES AND REGULATIONS, SPECIFICATIONS AND ORDERS SHALL BE DEEMED TO REFER TO THE PERSONNEL REVIEW BOARD, THE AUTHORITY OR SUCH OTHER POSITION OR PERSON AS MAY BE DESIGNATED BY THE PERSONNEL REVIEW BOARD.

(A) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL OR LOCAL LAW, AND EXCEPT AS PROVIDED IN THIS SUBDIVISION, PERMANENT EMPLOYEES OF THE AUTHORITY SHALL CONTINUE TO HOLD THEIR POSITIONS WITHOUT FURTHER EXAMINATION AND SHALL HAVE ALL THE RIGHTS AND PRIVILEGES OF THE JURISDICTIONAL CLASS TO WHICH SUCH POSITIONS MAY BE ALLOCATED, EXCEPT THAT EFFECTIVE WITH THE ENACTMENT OF THIS SECTION, ALL MANAGERIAL POSITIONS THAT REPORT TO THE EXECUTIVE OFFICER OF THE AUTHORITY, THEIR DIRECT REPORTS, AND THE DIVISION HEADS THAT REPORT TO THESE DIRECT REPORTS SHALL BE DESIGNATED AS NON-COMPETITIVE IN RECOGNITION THAT IT IS NOT PRACTICABLE TO ASCERTAIN THE MERIT AND FITNESS FOR THESE POSITIONS BY COMPETITIVE EXAMINATION. THIS PROVISION SHALL NOT ACT TO CHANGE THE NON-COMPETITIVE CLASSIFICATION OF ANY OTHER POSITION OR TITLE CLASSIFIED AS NON-COMPETITIVE AS OF THE EFFECTIVE DATE OF THIS SECTION. FURTHER, NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL OR LOCAL LAW, OR ANY OTHER PROVISION CONTAINED IN THIS SECTION, WITHIN ONE YEAR FROM THE APPOINTMENT OF THE REVIEW BOARD, THE AUTHORITY MAY REQUEST THAT THE REVIEW BOARD APPROVE THE RECLASSIFICATION OR CREATION OF OTHER POSITIONS AND TITLES WITHIN THE AUTHORITY'S MANAGERIAL WORK FORCE AS NON-COMPETITIVE WITHOUT THE NECESSITY OF ANY FURTHER REVIEW IN RECOGNITION THAT IT IS NOT PRACTICABLE TO ASCERTAIN THE MERIT AND FITNESS FOR THESE POSITIONS THROUGH COMPETITIVE EXAMINATIONS, SO LONG AS THE POSITIONS REQUESTED TO BE CLASSIFIED AS NON-COMPETITIVE ARE NOT MORE THAN FIVE REPORTING LEVELS FROM THE EXECUTIVE OFFICER OF THE AUTHORITY. SUCH REQUEST SHALL INCLUDE A DESCRIPTION OF THE DUTIES OF SUCH POSITIONS AND AN EXPLANATION OF THE JUSTIFICATION FOR THE CLASSIFICATION AS NON-COMPETITIVE. THE REVIEW BOARD SHALL HAVE THE POWER TO DESIGNATE SUCH POSITIONS AS NON-COMPETITIVE UPON RECEIPT OF SUCH REQUEST OR WITHIN SUCH TIME AS IT FINDS APPROPRIATE. THIS SECTION SHALL NOT PRECLUDE ANY OTHER APPLICATION FOR CLASSIFICATION OF POSITIONS OR TITLES AS NON-COMPETITIVE IN ACCORDANCE WITH THE PROCEDURES OTHERWISE APPLICABLE TO CLASSIFICATIONS.

(B) THE OFFICERS AND EMPLOYEES OF THE AUTHORITY SHALL CONTINUE TO BE SUBJECT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND FOR ALL SUCH PURPOSES SHALL BE DEEMED "PUBLIC EMPLOYEES". NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW OR ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, ANY MATTER CONSIDERED TO BE A TERM AND CONDITION OF EMPLOYMENT THAT HAD BEEN WITHIN THE EXCLUSIVE AUTHORITY OF THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY ON OR PRIOR TO THE EFFECTIVE DATE OF THIS SECTION THAT WAS NOT A MANDATORY SUBJECT OF BARGAINING UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AS A RESULT OF SUCH EXCLUSIVE AUTHORITY SHALL REMAIN A NON-MANDATORY SUBJECT OF BARGAINING FOR THE AUTHORITY AFTER, AND REGARDLESS OF, THE CHANGES SET FORTH IN THIS SECTION.

(C) NOTHING CONTAINED IN THIS SUBDIVISION SHALL SUPERSEDE, EXPAND, IMPAIR OR DIMINISH THE RIGHTS OF ANY OFFICER OR EMPLOYEE OF THE AUTHORITY UNDER OR PURSUANT TO SECTION TWO HUNDRED TWENTY OF THE LABOR LAW, OR LIMIT EMPLOYEE RIGHTS TO INSTITUTE PROCEEDINGS AGAINST THE AUTHORITY IN ACCORDANCE WITH ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

3. (A) THE BOARD SHALL APPOINT A PERSONNEL REVIEW BOARD CONSISTING OF THREE PERSONS. THE BOARD AND THE BOARD OF THE NEW YORK CITY TRANSIT

AUTHORITY SHALL JOINTLY APPOINT BY SEPARATE RESOLUTIONS THE MEMBERS OF THE PERSONNEL REVIEW BOARD, AND SUCH MEMBERS SHALL ALSO SERVE AS THE PERSONNEL REVIEW BOARD THAT IS ESTABLISHED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION TWELVE HUNDRED TEN-B OF THIS CHAPTER. PERSONS APPOINTED TO THE PERSONNEL REVIEW BOARD MAY NOT BE CURRENT MEMBERS, OFFICERS OR EMPLOYEES OF THE AUTHORITY, THE NEW YORK CITY TRANSIT AUTHORITY, OR THE METROPOLITAN TRANSPORTATION AUTHORITY, INCLUDING AFFILIATES AND/OR SUBSIDIARIES OF SUCH AUTHORITIES, OR CURRENT OFFICERS OR AGENTS OF ANY LABOR ORGANIZATION REPRESENTING EMPLOYEES OF SUCH AUTHORITIES, AFFILIATES, AND/OR SUBSIDIARIES.

(I) THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL BE APPOINTED FOR THREE-YEAR TERMS, EXCEPT THAT THE TERMS OF THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL BE STAGGERED SO THAT THE TERM OF ONE MEMBER EXPIRES EACH YEAR, WITH THE INITIAL TERM OF THE FIRST MEMBER EXPIRING AT THE CONCLUSION OF THE THIRD YEAR FOLLOWING APPOINTMENT, THE INITIAL TERM OF THE SECOND MEMBER EXPIRING AT THE CONCLUSION OF THE FOURTH YEAR AND THE INITIAL TERM OF THE THIRD MEMBER EXPIRING AT THE CONCLUSION OF THE FIFTH YEAR.

(II) ANY MEMBER OF THE PERSONNEL REVIEW BOARD MAY BE REMOVED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF SECTION TWENTY-FOUR OF THE CIVIL SERVICE LAW. IN THE EVENT OF SUCH A REMOVAL, OR OF A RESIGNATION BY A MEMBER OF THE PERSONNEL REVIEW BOARD, THE BOARD OF THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY, IN CONJUNCTION WITH THE BOARD OF THE NEW YORK CITY TRANSIT AUTHORITY, SHALL APPOINT A SUCCESSOR FOR THE UNEXPIRED TERM OF THE MEMBER IN ACCORDANCE WITH THE REQUIREMENTS AND PROCEDURES SET FORTH IN THIS PARAGRAPH.

(III) THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL ANNUALLY ELECT ONE OF THE MEMBERS TO SERVE AS CHAIR.

(B) (I) THE PERSONNEL REVIEW BOARD SHALL PRESCRIBE AND AMEND RULES AND REGULATIONS CONSISTENT WITH THE APPLICABLE PROVISIONS OF THE CIVIL SERVICE LAW, FOR EFFECTING THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO RULES FOR:

(A) THE JURISDICTIONAL CLASSIFICATION OF OFFICES AND POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY;

(B) EXAMINATIONS, APPOINTMENTS, PROMOTIONS, TRANSFERS, AND REINSTATEMENTS;

(C) THE HEARING AND DETERMINATION OF APPEALS;

(D) THE DESIGNATION OF POSITIONS IN THE NON-COMPETITIVE CLASS WHICH ARE CONFIDENTIAL OR REQUIRE THE PERFORMANCE OF FUNCTIONS INFLUENCING POLICY; AND

(E) THE DESIGNATION AS SEPARATE UNITS FOR SUSPENSION OR DEMOTION UPON THE ABOLITION OR REDUCTION OF POSITIONS IN ANY DEPARTMENT, DIVISION OR SUBDIVISION OF THE AUTHORITY.

(II) THE PERSONNEL REVIEW BOARD SHALL HEAR AND DETERMINE APPEALS INSTITUTED BY ANY PERSON BELIEVING HIMSELF OR HERSELF AGGRIEVED BY ANY ACTION OR DETERMINATION OF THE AUTHORITY ALLEGED TO BE IN VIOLATION OF THE APPLICABLE REVIEW BOARD RULES OR APPLICABLE PERSONNEL RULES AND REGULATIONS, CLASS SPECIFICATIONS AND PERSONNEL ORDERS OF THE CITY OF NEW YORK AND ALL OTHER APPLICABLE PROVISIONS OF LOCAL OR GENERAL LAWS RELATING TO CIVIL SERVICE PERSONNEL UNTIL SUCH REVIEW BOARD RULES ARE ADOPTED; PROVIDED, HOWEVER, THAT NO SUCH APPEAL SHALL BE ALLOWED IF THE ACTION OR DETERMINATION INVOLVED WAS CONSIDERED AND APPROVED IN ADVANCE BY THE PERSONNEL REVIEW BOARD.

(III) UPON SUBMISSION OF A NOTICE OF APPEAL FROM ANY INDIVIDUAL OR HIS OR HER REPRESENTATIVE, THE PERSONNEL REVIEW BOARD SHALL REVIEW THE CLAIM AND DETERMINE IF THE ACTION VIOLATED THE REVIEW BOARD RULES, PROMULGATED

UNDER THE POWERS GRANTED HEREIN, INCLUDING, BUT NOT LIMITED TO RULES FOR:

(A) THE JURISDICTIONAL CLASSIFICATION OF OFFICES AND POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY;

(B) EXAMINATIONS, APPOINTMENTS, PROMOTIONS, TRANSFERS, AND REINSTATEMENTS; AND

(C) THE DESIGNATION OF POSITIONS IN THE NON-COMPETITIVE CLASS WHICH ARE CONFIDENTIAL OR REQUIRE THE PERFORMANCE OF FUNCTIONS INFLUENCING POLICY.

(IV) THE PERSONNEL REVIEW BOARD SHALL HAVE THE POWER TO ADMINISTER OATHS AND TO ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE IN THIS STATE OF WITNESSES AND THE PRODUCTION OF BOOKS AND PAPERS PERTINENT TO THE APPEAL. FOR THIS PURPOSE THE PERSONNEL REVIEW BOARD SHALL POSSESS ALL THE POWERS CONFERRED BY THE CIVIL PRACTICE LAW AND RULES UPON A BOARD, COMMISSION OR COMMITTEE. THE PERSONNEL REVIEW BOARD AND ANY OFFICER OR EMPLOYEE DESIGNATED IN WRITING BY THE AUTHORITY TO ACT ON BEHALF OF THE PERSONNEL REVIEW BOARD MAY INVOKE THE POWER OF ANY COURT OF RECORD IN THE STATE TO COMPEL WITNESSES TO ATTEND, TESTIFY AND PRODUCE BOOKS AND PAPERS.

(C) THE SECRETARY OF THE AUTHORITY, OR SUCH OTHER PERSON EMPLOYED BY THE AUTHORITY OR THE METROPOLITAN TRANSPORTATION AUTHORITY, ITS OTHER AFFILIATES OR SUBSIDIARIES AS MAY BE DESIGNATED BY THE EXECUTIVE DIRECTOR, SHALL SERVE AS SECRETARY OF THE PERSONNEL REVIEW BOARD.

(D) THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL RECEIVE THE NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE PERFORMANCE OF THE DUTIES OF SUCH OFFICE, AND SHALL RECEIVE IN ADDITION A PER DIEM FEE FOR SERVICES RENDERED AS SHALL BE DETERMINED BY THE BOARD.

(E) (I) ANY APPEAL AUTHORIZED BY THIS SUBDIVISION SHALL BE INSTITUTED BY FILING WITH THE PERSONNEL REVIEW BOARD A WRITTEN NOTICE OF APPEAL STATING THE RULE AND REGULATION, ACTION OR DETERMINATION WHICH IS THE SUBJECT OF THE APPEAL, THE GROUNDS FOR THE APPEAL AND THE RULE OR REGULATION CLAIMED TO BE VIOLATED AND SIGNED BY THE PERSON OR PERSONS APPEALING OR THEIR REPRESENTATIVE.

(II) ANY SUCH APPEAL SHALL BE FILED WITHIN THIRTY DAYS FOLLOWING NOTICE BY THE AUTHORITY OF THE ACTION OR DETERMINATION TO BE REVIEWED; EXCEPT THAT THE PERSONNEL REVIEW BOARD FOR GOOD CAUSE SHOWN MAY WAIVE SUCH THIRTY-DAY LIMITATION.

(III) THE PERSONNEL REVIEW BOARD MAY INVESTIGATE OR INQUIRE INTO THE FACTS RELATIVE TO THE ACTION OR DETERMINATION APPEALED FROM AS MAY BE DEEMED ADVISABLE AND SHALL AFFORD THE APPELLANT AND/OR HIS OR HER REPRESENTATIVE AN OPPORTUNITY TO BE HEARD IN PERSON OR IN WRITING TO PRESENT EVIDENCE AND ARGUMENT. THE PERSONNEL REVIEW BOARD MAY AFFIRM, MODIFY OR REVERSE SUCH ACTION OR DETERMINATION.

(IV) THE PERSONNEL REVIEW BOARD SHALL DECIDE EACH APPEAL FILED WITHIN SIXTY DAYS FOLLOWING THE DATE ON WHICH THE SUBMISSION OF FACTS, INFORMATION AND EVIDENCE IS DEEMED COMPLETE BY THE PERSONNEL REVIEW BOARD.

(V) THE PERSON SEEKING REVIEW AND HIS OR HER REPRESENTATIVE SHALL BE FURNISHED A COPY OF THE PERSONNEL REVIEW BOARD'S WRITTEN DECISION CONCURRENTLY WITH ITS FILING WITH THE SECRETARY OF THE PERSONNEL REVIEW BOARD. A DECISION OF THE PERSONNEL REVIEW BOARD SHALL BECOME FINAL AND BINDING WHEN FILED WITH THE SECRETARY OF THE PERSONNEL REVIEW BOARD. REVIEW OF ANY SUCH FINAL DECISION SHALL BE BY A PROCEEDING AUTHORIZED BY ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

(F) BEFORE ADOPTING ANY RULE OR REGULATION AFFECTING THE RIGHTS OF EMPLOYEES, THE PERSONNEL REVIEW BOARD SHALL PUBLISH NOTICE OF THE

PROPOSED RULE CHANGES NO LATER THAN THIRTY DAYS PRIOR TO THE PROPOSED EFFECTIVE DATE.

(I) PUBLICATION OF THE NOTICE OF PROPOSED RULE-MAKING SHALL BE ACCOMPLISHED BY POSTING A COPY AT APPROPRIATE FACILITIES THROUGHOUT THE AUTHORITY AS DETERMINED BY THE AUTHORITY AND BY SERVING A COPY OF THE NOTICE BY CERTIFIED MAIL RETURN RECEIPT REQUESTED UPON THE UNIONS CERTIFIED OR RECOGNIZED TO REPRESENT EMPLOYEES OF THE AUTHORITY. PUBLICATION SHALL BE COMPLETE UPON THE POSTING AND MAILING AS DESCRIBED ABOVE.

(II) A NOTICE OF THE PROPOSED RULE-MAKING SHALL CONTAIN THE COMPLETE TEXT OF THE PROPOSED RULE OR RULES, AND THE LAST DATE UPON WHICH THE PERSONNEL REVIEW BOARD WILL RECEIVE COMMENT UPON THE PROPOSED RULE OR RULES; PROVIDED, HOWEVER, THAT IF THE TEXT OF THE PROPOSED RULE EXCEEDS TWO THOUSAND WORDS, THE NOTICE SHALL CONTAIN ONLY A DESCRIPTION OF THE SUBJECT, PURPOSE AND SUBSTANCE OF SUCH RULE, AND SHALL STATE FROM WHAT PERSON THE COMPLETE TEXT MAY BE OBTAINED.

(III) THE PERSONNEL REVIEW BOARD MAY RECEIVE COMMENTS ON A PROPOSED RULE OR RULES IN WRITING OR, IN AN APPROPRIATE CASE, MAY CONDUCT A HEARING UPON THE PROPOSED RULE.

(IV) ANY RULE ADOPTED BY THE PERSONNEL REVIEW BOARD SHALL TAKE EFFECT WHEN SIGNED BY THE CHAIRPERSON OF THE PERSONNEL REVIEW BOARD. NOTICE OF ADOPTION OF A RULE SHALL BE PUBLISHED WITHIN TEN BUSINESS DAYS OF ITS ADOPTION IN THE SAME MANNER AS THE NOTICE OF PROPOSED RULE-MAKING.

(V) IN PROMULGATING ITS RULES, THE PERSONNEL REVIEW BOARD SHALL NOT BE SUBJECT TO THE PROVISIONS OF THE STATE ADMINISTRATIVE PROCEDURE ACT, THE EXECUTIVE LAW OR THE PROCEDURE FOR ADOPTING RULES CONTAINED IN THE CIVIL SERVICE LAW.

(VI) THE SECRETARY TO THE PERSONNEL REVIEW BOARD SHALL MAINTAIN MINUTES OF THE MEETINGS OF THE PERSONNEL REVIEW BOARD AND SHALL MAINTAIN COMPLETE COPIES OF THE RULES AND REGULATIONS ADOPTED BY THE PERSONNEL REVIEW BOARD. SUCH MINUTES AND RULES SHALL BE OPEN TO PUBLIC INSPECTION AND COPYING DURING ALL ORDINARY BUSINESS HOURS OF THE AUTHORITY IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

4. (A) THE AUTHORITY SHALL HAVE THE POWER TO PREPARE AND PROPOSE PERSONNEL RULES AND REGULATIONS FOR CONSIDERATION AND ADOPTION OR MODIFICATION BY THE PERSONNEL REVIEW BOARD. SUCH ADOPTED RULES SHALL GUIDE THE AUTHORITY IN THE ADMINISTRATION OF PERSONNEL SERVICE.

(B) THE AUTHORITY SHALL DETERMINE THE MERIT AND FITNESS OF CANDIDATES FOR COMPETITIVE CLASS POSITIONS THROUGH THE PREPARATION AND ADMINISTRATION OF CONTENT BASED EXAMINATIONS FOR ENTRY LEVEL AND PROMOTIONAL POSITIONS. THE AUTHORITY'S RESPONSIBILITIES INCLUDE, BUT ARE NOT LIMITED TO:

(I) CONDUCTING JOB ANALYSES TO IDENTIFY ESSENTIAL JOB DUTIES FOR THE PREPARATION OF CONTENT BASED EXAMINATIONS AND ADMINISTERING SUCH EXAMINATIONS;

(II) ISSUING NOTICES OF EXAMINATION SETTING FORTH MINIMUM QUALIFICATIONS REQUIRED, THE SUBJECTS OF THE EXAMINATION AND SUCH OTHER INFORMATION AS IS APPROPRIATE;

(III) DETERMINING CANDIDATES' ELIGIBILITY FOR EXAMINATION;

(IV) ESTABLISHING ELIGIBLE LISTS BASED UPON THE RATINGS RECEIVED BY CANDIDATES FOR HIRE AND PROMOTION; AND

(V) CERTIFICATION AND APPOINTMENT IN ACCORDANCE WITH THE REVIEW BOARD RULES.

(C) THE AUTHORITY SHALL ESTABLISH REVIEW PROCEDURES FOR EXAMINATIONS AND WHERE, FOLLOWING THE DULY ESTABLISHED PROCEDURES, A FINAL DETERMINATION IS MADE AS TO THE ANSWERS THAT ARE ACCEPTABLE ON A PARTICULAR

EXAMINATION, COURT REVIEW SHALL BE LIMITED TO A DETERMINATION OF WHETHER SUCH DULY ESTABLISHED REVIEW PROCEDURES WERE FOLLOWED, AND NO COURT SHALL HAVE AUTHORITY TO DETERMINE WHETHER THE AUTHORITY'S DETERMINATION WAS CORRECT.

(D) THE AUTHORITY SHALL HAVE THE POWER, SUBJECT TO APPEAL TO THE PERSONNEL REVIEW BOARD OF ANY CLAIMED VIOLATION OF THE REVIEW BOARD RULES:

(I) TO CLASSIFY AND/OR RECLASSIFY ANY POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY; AND

(II) TO ALLOCATE AND REALLOCATE TO AN APPROPRIATE SALARY GRADE ALL POSITIONS IN THE EXEMPT, COMPETITIVE, NON-COMPETITIVE AND LABOR CLASSES OF THE CLASSIFIED SERVICE OF THE AUTHORITY, INCLUDING TEMPORARY AND SEASONAL POSITIONS.

(E) THE AUTHORITY SHALL ALSO HAVE THE FOLLOWING POWERS AND DUTIES:

(I) TO ASCERTAIN AND RECORD THE DUTIES AND RESPONSIBILITIES OF ALL POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY, TO ESTABLISH ADEQUATE SPECIFICATIONS SHOWING THE QUALIFICATIONS FOR, AND THE NATURE AND EXTENT AND SCOPE OF THE DUTIES AND RESPONSIBILITIES OF SUCH POSITIONS, AND TO ASSIGN UNIFORM TITLES TO POSITIONS THAT ARE SO SUBSTANTIALLY SIMILAR IN THEIR ESSENTIAL CHARACTER AND SCOPE OF THEIR DUTIES, RESPONSIBILITIES AND QUALIFICATION REQUIREMENTS THAT THE SAME DESCRIPTIVE TITLE MAY BE USED TO DESIGNATE THEM, AND TO ASSURE THAT THE SAME QUALIFICATIONS FOR APPOINTMENT THERETO MAY BE REASONABLY REQUIRED, THAT THE SAME TESTS OF FITNESS MAY BE ESTABLISHED, AND THAT THE SAME RATE OF COMPENSATION MAY BE REASONABLY APPLIED;

(II) TO INVESTIGATE ALL MATTERS AFFECTING THE CLASSIFICATION AND COMPENSATION OF POSITIONS, TO HEAR AND DETERMINE ALL COMPLAINTS WITH RESPECT TO THE CLASSIFICATION AND COMPENSATION OF POSITIONS, AND FROM TIME TO TIME TO REVIEW THE DUTIES, RESPONSIBILITIES, QUALIFICATION REQUIREMENTS AND COMPENSATION OF POSITIONS AND TO MAKE SUCH REVISIONS IN THE CLASSIFICATION OR COMPENSATION OF POSITIONS AS CHANGES IN THE SERVICE OF THE AUTHORITY MAY REQUIRE;

(III) TO PROVIDE TO ANY PERSON AGGRIEVED BY THE CLASSIFICATION OR ALLOCATION OF A POSITION A REASONABLE OPPORTUNITY TO PRESENT FACTS IN SUPPORT OF OR IN RELATION TO SUCH CLASSIFICATION OR ALLOCATION, AT A TIME AND IN SUCH MANNER AS IT MAY SPECIFY, AND TO RENDER AND FURNISH TO THE PERSON AGGRIEVED A WRITTEN DECISION THEREON; AND

(IV) FOR THE PURPOSES OF SECTIONS FORTY-TWO AND SEVENTY-FIVE OF THE CIVIL SERVICE LAW, AND NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SUCH SECTIONS, AND SUBJECT TO THE REVIEW BOARD RULES, TO DESIGNATE POSITIONS IN THE NON-COMPETITIVE CLASS AS CONFIDENTIAL AND REQUIRING THE PERFORMANCE OF FUNCTIONS INFLUENCING POLICY. THIS PROVISION SHALL NOT AFFECT THE CLASSIFICATION OF ANY POSITION IN THE NON-COMPETITIVE CLASS AS CONFIDENTIAL OR REQUIRING THE PERFORMANCE OF FUNCTIONS INFLUENCING POLICY MADE BY THE APPROPRIATE CIVIL SERVICE COMMISSION PRIOR TO THE ADOPTION OF THE REVIEW BOARD RULES.

(F) ANY CLASSIFICATION OR RECLASSIFICATION OF A POSITION MADE PURSUANT TO THE REVIEW BOARD RULES AND ANY ALLOCATION OR REALLOCATION OF A POSITION TO A SALARY GRADE MADE BY THE AUTHORITY PURSUANT TO THIS SECTION SHALL BECOME EFFECTIVE ON THE DATE APPROVED BY THE EXECUTIVE OFFICER OF THE AUTHORITY OR HIS OR HER DESIGNEE.

(G) THE CLASSIFIED SERVICE OF THE AUTHORITY SHALL COMPRISE ALL POSITIONS NOT INCLUDED IN THE UNCLASSIFIED SERVICE. THE POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY SHALL BE DIVIDED INTO FOUR CLASSES DESIGNATED AS THE EXEMPT CLASS, THE NON-COMPETITIVE CLASS, THE COMPETITIVE CLASS AND THE LABOR CLASS.

(I) THE EXEMPT CLASS SHALL CONSIST OF SUCH POSITIONS AND OFFICES WHICH THE AUTHORITY SHALL DETERMINE TO BE IMPRACTICABLE TO FILL BY COMPETITIVE OR NON-COMPETITIVE EXAMINATION.

(II) THE NON-COMPETITIVE CLASS SHALL INCLUDE ALL POSITIONS THAT ARE NOT IN THE EXEMPT CLASS OR LABOR CLASS AND FOR WHICH THE AUTHORITY CANNOT PRACTICALLY ASCERTAIN THE MERIT AND FITNESS OF APPLICANTS BY COMPETITIVE EXAMINATION.

(III) THE LABOR CLASS SHALL COMPRISE ALL UNSKILLED LABORERS IN THE SERVICE OF THE AUTHORITY. THE AUTHORITY MAY DETERMINE THAT A TITLE IN THE LABOR CLASS IS APPROPRIATE TO PARTICIPATE IN A PROMOTIONAL EXAMINATION FOR A HIGHER TITLE IN THE COMPETITIVE CLASS.

(IV) THE COMPETITIVE CLASS SHALL INCLUDE ALL POSITIONS WHERE THE AUTHORITY HAS DETERMINED THAT THE MERIT AND FITNESS OF APPLICANTS MAY BE DETERMINED BY COMPETITIVE EXAMINATION, AND SHALL INCLUDE ALL POSITIONS IN THE CLASSIFIED SERVICE OF THE AUTHORITY EXCEPT SUCH POSITIONS AS ARE IN THE EXEMPT CLASS, THE NON-COMPETITIVE CLASS OR THE LABOR CLASS.

(H) (I) ALL APPLICANTS SHALL BE SUBJECT TO BACKGROUND INVESTIGATIONS, INCLUDING BUT NOT LIMITED TO THE CRIMINAL HISTORY OF ALL APPLICANTS FOR EMPLOYMENT TO DETERMINE THE SUITABILITY OF SUCH APPLICANTS FOR EMPLOYMENT. SUCH INVESTIGATION SHALL INCLUDE BUT NOT BE LIMITED TO THE TAKING OF FINGERPRINTS OF SUCH OFFICERS AND EMPLOYEES AS A PREREQUISITE FOR EMPLOYMENT; PROVIDED, HOWEVER, THAT EVERY SET OF FINGERPRINTS TAKEN PURSUANT TO THIS PARAGRAPH EITHER SHALL BE PROMPTLY SUBMITTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES, OR ITS SUCCESSOR, WHERE IT SHALL BE APPROPRIATELY PROCESSED AND FORWARDED TO THE FEDERAL BUREAU OF INVESTIGATION, OR ITS SUCCESSOR, AT A RATE REQUIRED BY SUCH AGENCIES FOR STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS OR THE AUTHORITY MAY USE SUCH ALTERNATIVE MEANS TO PROCESS FINGERPRINTS FOR THE PURPOSE OF A CRIMINAL HISTORY RECORD CHECK AS IT MAY DEEM APPROPRIATE.

(II) THE AUTHORITY MAY ALSO AUTHORIZE THE METROPOLITAN TRANSPORTATION AUTHORITY OR ANY SUBSIDIARY OR AFFILIATE OF THE AUTHORITY OR OF THE METROPOLITAN TRANSPORTATION AUTHORITY, ON BEHALF OF WHICH THE AUTHORITY PROCESSES APPLICANTS, TO OBTAIN THE FINGERPRINTS OF SUCH APPLICANTS AND THAT AUTHORITY SHALL CONDUCT THE BACKGROUND INVESTIGATION AS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(I) (I) THE AUTHORITY IS AUTHORIZED TO ESTABLISH AND COLLECT FEES FROM EVERY APPLICANT FOR EXAMINATION FOR A POSITION IN THE COMPETITIVE CLASS OR FOR APPOINTMENT IN THE LABOR CLASS AND FROM EVERY APPOINTEE UPON ANY PROVISIONAL APPOINTMENT OR UPON APPOINTMENT IN THE NON-COMPETITIVE CLASS, AS SET FORTH IN THE REVIEW BOARD RULES.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE EXECUTIVE OFFICER OF THE AUTHORITY, SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR, MAY ELECT TO WAIVE APPLICATION FEES, OR TO ABOLISH FEES FOR SPECIFIC CLASSES OF POSITIONS OR TYPES OF EXAMINATIONS OR CANDIDATES.

(III) ALL FEES COLLECTED HEREUNDER BY THE AUTHORITY SHALL CONSTITUTE REVENUE FOR THE AUTHORITY.

(J) (I) WHERE, BECAUSE OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNCTIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE, POSITIONS IN THE COMPETITIVE CLASS OF SERVICE OF THE AUTHORITY, ARE ABOLISHED OR REDUCED IN RANK OR SALARY GRADE, INCUMBENTS HOLDING THE SAME OR SIMILAR POSITIONS WITHIN THE SAME JURISDICTIONAL CLASSIFICATION WITHIN THE AUTHORITY SHALL BE SUSPENDED OR DEMOTED IN THE INVERSE ORDER OF ORIGINAL APPOINTMENT ON A PERMANENT BASIS IN THE CLASSIFIED SERVICE AS SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH; PROVIDED, HOWEVER, THAT INCUMBENTS HOLDING THE SAME OR SIMILAR POSITIONS WITHIN THE SAME JURISDICTIONAL CLASSIFICATION

WITHIN THE AUTHORITY WHO HAVE NOT COMPLETED THEIR PROBATIONARY SERVICE SHALL BE SUSPENDED OR DEMOTED AS THE CASE MAY BE BEFORE ANY PERMANENT INCUMBENTS, AND AMONG SUCH PROBATIONARY EMPLOYEES THE ORDER OF SUSPENSION OR DEMOTION SHALL BE DETERMINED AS IF SUCH EMPLOYEES WERE PERMANENT INCUMBENTS. THE PERSONNEL REVIEW BOARD MAY, BY RULE, DESIGNATE AS SEPARATE UNITS FOR SUSPENSION AND/OR DEMOTION UNDER THE PROVISIONS OF THIS SUBSECTION ANY DEPARTMENT, DIVISION OR SUBDIVISION OF THE AUTHORITY AND UPON THE ABOLITION OR REDUCTION OF POSITIONS IN SUCH SERVICE, SUSPENSION AND/OR DEMOTION SHALL BE MADE FROM AMONG INCUMBENTS HOLDING THE SAME OR SIMILAR POSITIONS IN SUCH SEPARATE UNIT.

(II) THE DATE OF ORIGINAL APPOINTMENT OF EMPLOYEES OF THE AUTHORITY SHALL BE THE DATE OF ORIGINAL APPOINTMENT ON A PERMANENT BASIS IN THE CLASSIFIED SERVICE OF THE AUTHORITY, FOLLOWED BY CONTINUOUS SERVICE IN THE AUTHORITY UP TO THE TIME OF SUSPENSION OR DEMOTION; EXCEPT THAT FOR THOSE EMPLOYEES WHO WERE IN THE COMPETITIVE AND LABOR CLASSES OF THE AUTHORITY ON THE EFFECTIVE DATE OF THIS SECTION, THE DATE OF ORIGINAL APPOINTMENT SHALL BE THE DATE OF ORIGINAL APPOINTMENT ON A PERMANENT BASIS IN THE CIVIL SERVICE OF THE CITY OF NEW YORK FOLLOWED BY CONTINUOUS SERVICE IN THE CIVIL SERVICE OF THE CITY OF NEW YORK OR THE AUTHORITY UP TO THE TIME OF SUSPENSION OR DEMOTION. FOR THE PURPOSES OF THIS SUBPARAGRAPH, AN EMPLOYEE WHO RESIGNED AND WAS REINSTATED OR REAPPOINTED IN THE CLASSIFIED SERVICE WITHIN ONE YEAR OF THE RESIGNATION, OR WHO WAS TERMINATED BECAUSE OF AN OCCUPATIONAL DISABILITY AND WAS AFTERWARDS REINSTATED, SHALL BE DEEMED TO HAVE CONTINUOUS SERVICE.

(III) THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY SHALL SUPPLY SUCH INFORMATION AS IS NECESSARY FOR THE DETERMINATION OF RIGHTS FOR RETENTION, ABOLITION OF POSITIONS, REDUCTIONS IN RANK OR REINSTATEMENT OF EMPLOYEES OF THE AUTHORITY WHOSE ORIGINAL APPOINTMENT WAS PRIOR TO THE ENACTMENT OF THIS SECTION, OR ANY OTHER SUCH INFORMATION OR ASSISTANCE NEEDED BY THE AUTHORITY OR BY THE PERSONNEL REVIEW BOARD IN ORDER TO TAKE OVER THE FUNCTIONS PREVIOUSLY PERFORMED BY THE MUNICIPAL CIVIL SERVICE COMMISSION.

(IV) IN ANY CASE WHERE AN EMPLOYEE OF THE AUTHORITY IS SUSPENDED OR DEMOTED BECAUSE OF ABOLITION OR REDUCTION OF POSITIONS, THE AUTHORITY SHALL NOTIFY THE EMPLOYEE OR HIS OR HER REPRESENTATIVE OF THE PENDING ACTION.

(K) (I) PREFERRED LISTS SHALL BE ESTABLISHED AS FOLLOWS: WHERE, BECAUSE OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNCTIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE, AN EMPLOYEE IN THE COMPETITIVE CLASS OF SERVICE OF THE AUTHORITY IS SUSPENDED OR DEMOTED, THE AUTHORITY SHALL PLACE THE NAME OF SUCH EMPLOYEE UPON A PREFERRED LIST, TOGETHER WITH OTHERS WHO MAY HAVE BEEN SUSPENDED OR DEMOTED FROM THE SAME OR SIMILAR POSITIONS IN THE SAME JURISDICTIONAL CLASS, AND CERTIFY SUCH LIST, AS HEREINAFTER PROVIDED, FOR FILLING VACANCIES WITHIN THE AUTHORITY IN THE SAME JURISDICTIONAL CLASS IN THE FOLLOWING ORDER: FIRST, IN THE SAME OR SIMILAR POSITION; SECOND, IN ANY POSITION IN A LOWER GRADE IN LINE OF PROMOTION; AND THIRD, IN ANY COMPARABLE POSITION AS DETERMINED BY THE AUTHORITY. SUCH PREFERRED LIST SHALL BE CERTIFIED FOR FILLING A VACANCY IN ANY SUCH POSITION BEFORE CERTIFICATION IS MADE FROM ANY OTHER LIST, INCLUDING A PROMOTION ELIGIBLE LIST, NOTWITHSTANDING THE FACT THAT NONE OF THE PERSONS ON SUCH PREFERRED LIST WAS SUSPENDED FROM OR DEMOTED IN THE DEPARTMENT OR SUSPENSION AND DEMOTION UNIT IN WHICH SUCH VACANCY EXISTS. NO OTHER NAME SHALL BE CERTIFIED FROM ANY OTHER LIST FOR ANY SUCH POSITION UNTIL SUCH PREFERRED LIST IS EXHAUSTED. THE ELIGIBILITY FOR REINSTATEMENT OF A PERSON WHOSE NAME APPEARS ON ANY SUCH PREFERRED

LIST SHALL NOT CONTINUE FOR A PERIOD LONGER THAN FOUR YEARS FROM THE DATE OF SEPARATION OR DEMOTION.

(II) EXCEPT AS HEREINAFTER PROVIDED, THE NAMES OF PERSONS ON A PREFERRED LIST SHALL BE CERTIFIED THEREFROM FOR REINSTATEMENT TO A VACANCY WITHIN THE AUTHORITY IN AN APPROPRIATE POSITION IN THE ORDER OF THEIR ORIGINAL PERMANENT APPOINTMENTS IN ORDER OF SENIORITY AS DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (J) OF THIS SUBDIVISION. WHERE SUCH A VACANCY EXISTS IN A SEPARATE SUSPENSION AND/OR DEMOTION UNIT, THE NAMES OF PERSONS SUSPENDED FROM OR DEMOTED IN SUCH UNIT, AND NOT THOSE SUSPENDED FROM OR DEMOTED IN ANOTHER UNIT OR IN THE AUTHORITY GENERALLY SHALL BE CERTIFIED FIRST.

(III) NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS PARAGRAPH, NO PERSON SUSPENDED OR DEMOTED PRIOR TO THE COMPLETION OF HIS OR HER PROBATIONARY TERM SHALL BE CERTIFIED FOR REINSTATEMENT UNTIL THE EXHAUSTION OF THE PREFERRED LIST OF ALL OTHER ELIGIBLES THEREON. UPON REINSTATEMENT, SUCH PROBATIONER SHALL BE REQUIRED TO COMPLETE HIS OR HER PROBATIONARY TERM.

(IV) THE PERSONNEL REVIEW BOARD SHALL ADOPT RULES PROVIDING FOR THE RELINQUISHMENT OF ELIGIBILITY FOR REINSTATEMENT UPON FAILURE OR REFUSAL TO ACCEPT REINSTATEMENT FROM A PREFERRED LIST.

(V) A PERSON REINSTATED FROM A PREFERRED LIST TO HIS OR HER FORMER POSITION OR A SIMILAR POSITION IN THE SAME GRADE SHALL RECEIVE AT LEAST THE SAME SALARY SUCH PERSON WAS RECEIVING AT THE TIME OF SUSPENSION OR DEMOTION, EXCEPT IN THE EVENT THAT A SALARY REDUCTION HAS BEEN IMPLEMENTED IN THE FORMER POSITION PRIOR TO THE REINSTATEMENT, IN WHICH CASE THE SALARY AT REINSTATEMENT MUST INCLUDE THE REDUCTION.

(VI) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE AUTHORITY MAY DISQUALIFY FOR REINSTATEMENT AND REMOVE FROM A PREFERRED LIST THE NAME OF ANY ELIGIBLE WHO IS PHYSICALLY OR MENTALLY UNABLE TO PERFORM THE DUTIES OF THE POSITION FOR WHICH SUCH LIST IS ESTABLISHED, OR WHO HAS BEEN GUILTY OF SUCH MISCONDUCT AS WOULD WARRANT HIS OR HER DISMISSAL FROM THE PUBLIC SERVICE. 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 FOR A HEARING AT WHICH SUCH REASONS SHALL BE ESTABLISHED BY APPROPRIATE EVIDENCE, AND AT WHICH SUCH PERSON MAY BE REPRESENTED BY COUNSEL AND PRESENT EVIDENCE. THE AUTHORITY MAY DESIGNATE A PERSON TO HOLD SUCH HEARING AND REPORT THEREON.

(VII) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS PARAGRAPH, ANY PERSON MAY VOLUNTARILY REMOVE HIS OR HER NAME FROM A PREFERRED LIST BY APPLICATION TO THE AUTHORITY.

(VIII) AN EMPLOYEE WHO IS ELIGIBLE TO BE PLACED ON A PREFERRED LIST PURSUANT TO THIS PARAGRAPH AND WHO ELECTS, AS A MEMBER OF A PUBLIC EMPLOYEE RETIREMENT SYSTEM, TO RETIRE UPON A SUSPENSION OR DEMOTION, SHALL BE PLACED ON A PREFERRED LIST AND SHALL BE ELIGIBLE FOR REINSTATEMENT WITHIN THE AUTHORITY FROM SUCH LIST.

(IX) NOTHING IN THIS PARAGRAPH SHALL REQUIRE THE AUTHORITY TO FILL ANY VACANCY.

(L) WITH RESPECT TO LEAVE FOR ORDINARY DISABILITY, SECTION SEVENTY-TWO OF THE CIVIL SERVICE LAW SHALL BE APPLIED EXCEPT THAT THE INDEPENDENT HEARING OFFICER PROVIDED FOR UNDER SUBDIVISION ONE OF SUCH SECTION SHALL BE SELECTED FROM A PANEL DESIGNATED BY THE AUTHORITY.

5. UPON THE REQUEST OF THE PERSONNEL REVIEW BOARD OR THE AUTHORITY, THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY SHALL PROVIDE TECHNICAL ADVICE AND ASSISTANCE IN THE ADMINISTRATION OF THE PROVISIONS OF THIS SECTION WITH RESPECT TO ALL MATTERS PENDING ON THE EFFECTIVE DATE OF THIS SECTION. THE AUTHORITY AND SUCH MUNICIPAL CIVIL SERVICE COMMIS-

SION MAY AGREE UPON THE TERMS OF SUCH ADVICE AND ASSISTANCE. THEY MAY FURTHER AGREE UPON THE TERMS AND CONDITIONS OF THE PROVISION OF ADVICE AND ASSISTANCE WITH RESPECT TO MATTERS ARISING AFTER SUCH EFFECTIVE DATE, AND SUCH AGREEMENT MAY PROVIDE FOR COMPENSATION TO SUCH COMMISSION FOR SUCH ADVICE AND ASSISTANCE.

6. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN ANY GENERAL, SPECIAL OR LOCAL LAW, AND SPECIFICALLY NOTWITHSTANDING THE PROVISIONS OF SECTION SIXTY-FIVE OF THE CIVIL SERVICE LAW:

(A) THE AUTHORITY, WITH THE APPROVAL OF THE REVIEW BOARD, SHALL PROPOSE A PLAN TO THE STATE CIVIL SERVICE COMMISSION TO REDUCE THE NUMBER OF PROVISIONAL EMPLOYEES IN THE COMPETITIVE CLASS SERVING IN EXCESS OF THE AUTHORIZED TIMEFRAMES TO A NUMBER NOT TO EXCEED FIVE PERCENT OF THE COMPETITIVE CLASS WORKFORCE WITHIN FIVE YEARS FROM THE EFFECTIVE DATE OF THIS SECTION. THE STATE CIVIL SERVICE COMMISSION SHALL HAVE THE POWER TO ACCEPT, REJECT OR MODIFY SUCH PLAN, PROVIDED THAT ANY MODIFICATIONS SHALL BE MADE BY THE COMMISSION ONLY WITH THE CONSENT OF THE AUTHORITY. IF THE AUTHORITY DOES NOT CONSENT TO MODIFICATIONS MADE BY THE COMMISSION WITHIN SIXTY DAYS, THEN THE PLAN MAY BE DISAPPROVED BY SUCH COMMISSION. SHOULD THE AUTHORITY NOT PROPOSE AN ACCEPTABLE PLAN TO SUCH COMMISSION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, SUCH COMMISSION MAY CREATE AND APPROVE A FINAL PLAN AFTER AFFORDING THE AUTHORITY SIXTY DAYS TO SUBMIT COMMENTS AND RECOMMENDATIONS. THE REVIEW BOARD AND SUCH COMMISSION SHALL HAVE THE POWER TO DIRECT THE AUTHORITY TO TAKE SPECIFIC ACTIONS TO MEET THE REQUIREMENTS OF THE APPROVED PLAN. THE APPROVED PLAN MAY BE MODIFIED BY SUCH COMMISSION UPON APPLICATION BY THE AUTHORITY, MADE WITH APPROVAL OF THE REVIEW BOARD. MODIFICATION PURSUANT TO THE PRECEDING SENTENCE MAY EXTEND THE DURATION OF THE PLAN TO A DATE NO MORE THAN ONE YEAR BEYOND THE FIVE-YEAR PERIOD OTHERWISE AUTHORIZED BY THIS SUBDIVISION. FAILURE OF SUCH COMMISSION TO ACT UPON ANY SUBMISSION BY THE AUTHORITY PURSUANT TO THIS SUBDIVISION WITHIN SIXTY DAYS SHALL BE DEEMED AN APPROVAL OF SUCH SUBMISSION. ANY SUCH SIXTY-DAY TIMEFRAME SHALL BE TOLLED BY A REQUEST BY SUCH COMMISSION FOR ADDITIONAL INFORMATION PENDING THE RECEIPT OF SUCH INFORMATION. SUCH COMMISSION SHALL APPROVE THE PLAN AND ANY MODIFICATION THEREOF IF IT FINDS THAT, CONSISTENT WITH AVAILABLE RESOURCES AND THE NEED FOR CONTINUITY IN PUBLIC SERVICES, SUCH PLAN OR MODIFICATION THEREOF PROVIDES A TIMELY AND PRACTICABLE IMPLEMENTATION SCHEDULE IN FURTHERANCE OF THE PURPOSES OF THIS SUBDIVISION. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION, WHERE A MODIFICATION IS INSUBSTANTIAL, AND WILL NOT MATERIALLY AFFECT THE ABILITY OF THE AUTHORITY TO ACHIEVE TIMELY SUBSTANTIAL COMPLIANCE WITH THE TIME PERIODS SET FORTH IN THE PLAN, THE AUTHORITY WITH APPROVAL OF ITS REVIEW BOARD, MAY SO CERTIFY AND THE MODIFICATION MAY BE IMPLEMENTED AND SHALL BE FILED BY THE AUTHORITY WITH SUCH COMMISSION WITHIN FIVE BUSINESS DAYS.

(B) UPON THE EFFECTIVE DATE OF THIS SECTION, THE PROVISIONS OF SUBDIVISIONS TWO, FIVE AND SIX OF SECTION SIXTY-FIVE OF THE CIVIL SERVICE LAW SHALL NOT APPLY TO AUTHORITY EMPLOYEES DURING THE PERIOD OF DEVELOPMENT, SUBMISSION, APPROVAL AND IMPLEMENTATION OF SAID PLAN, AND THE AUTHORITY SHALL IN NO EVENT BE CONSIDERED A "DCAS EMPLOYER" WITHIN THE MEANING OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SUCH SECTION. THE PROVISIONS OF SUBDIVISION TWO OF SUCH SECTION SHALL BE APPLICABLE TO ANY PROVISIONAL EMPLOYEE SERVING IN A POSITION FOR WHICH AN APPROPRIATE ELIGIBLE LIST HAS BEEN ESTABLISHED PURSUANT TO SUCH PLAN, UNLESS SUCH LIST IS NOT ADEQUATE TO FILL ALL POSITIONS THEN HELD ON A PROVISIONAL BASIS OR IS EXHAUSTED IMMEDIATELY FOLLOWING ITS ESTABLISHMENT.

7. EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN EMPLOYEE OF THE AUTHORITY SHALL NOT BE CONSIDERED A STATE OR CITY EMPLOYEE FOR ANY PURPOSES SET FORTH IN ARTICLES ONE THROUGH NINE OF THE CIVIL SERVICE LAW.

8. THE AUTHORITY AND THE METROPOLITAN TRANSPORTATION AUTHORITY OR ANY OF ITS AFFILIATES OR SUBSIDIARIES ARE AUTHORIZED TO ASSIST OR COOPERATE IN THE PERFORMANCE OF THE RESPONSIBILITIES OR FUNCTIONS SET FORTH IN THIS SECTION IN SUCH MANNER AS THE AUTHORITY AND THE METROPOLITAN TRANSPORTATION AUTHORITY DEEM APPROPRIATE.

9. ALL REFERENCES IN THIS SECTION TO THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL THE POWERS AND DUTIES OF A MUNICIPAL CIVIL SERVICE COMMISSION ASSIGNED TO THE COMMISSIONER OF THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES, THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES, THE MAYOR, THE CITY CIVIL SERVICE COMMISSION AND/OR THE HEADS OF THE CITY AGENCIES AS PROVIDED IN CHAPTER THIRTY-FIVE OF THE NEW YORK CITY CHARTER AND AS SET FORTH IN THE PERSONNEL RULES AND REGULATIONS OF THE CITY OF NEW YORK.

S 7. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the New York city transit authority, the triborough bridge and tunnel authority, the New York city department of citywide administrative services, and all other affected agencies, officers and employees shall take all actions necessary for the timely implementation of this act upon its effective date. Such actions are hereby authorized to include, but need not be limited to, the appointment of a personnel review board pursuant to subdivision 3 of section 1210-b and subdivision 3 of section 554-a of the public authorities law, as added by sections four and six of this act, respectively.