

6355

2013-2014 Regular Sessions

I N A S S E M B L Y

March 25, 2013

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York city transit authority and triborough bridge and tunnel
3 authority civil service reorganization act".
4 S 2. Legislative findings and intent. The legislature hereby finds and
5 declares as follows:
6 (a) The New York city transit authority, created by section 1201 of
7 the public authorities law, was formed in 1953 to acquire and operate
8 the transit facilities formerly operated by the board of transportation
9 of the city of New York, and those employees were transferred to the
10 authority from the city with the same status they held when in service
11 to the city. Since 1953, appointment, promotion and continuance of
12 employment of all employees of the authority have been governed by the
13 provisions of the civil service law and the rules of the municipal civil
14 service commission of the city.
15 (b) The triborough bridge and tunnel authority, created by section 552
16 of the public authorities law, was formed in 1939 to acquire, construct,
17 maintain, and improve the bridges and tunnels under the jurisdiction of
18 such authority. Since 1939, appointment, promotion and continuance of
19 employment of all employees of the authority have been governed by the
20 provisions of the civil service law and the rules of the municipal civil
21 service commission of the city.
22 (c) The provision of governmental services, including the provision of
23 transit services and services relating to bridges and tunnels, has
24 become increasingly complex since the creation of the New York city

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

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1 transit authority and the triborough bridge and tunnel authority, and
2 the continued exercise of jurisdiction by the municipal civil service
3 commission no longer serves the best interests of the city or these
4 authorities.

5 (d) The specialized needs of transit operations as well as the oper-
6 ations of triborough bridge and tunnel authority require that the New
7 York city transit authority and the triborough bridge and tunnel author-
8 ity be served by independent civil service commissions with the power to
9 promulgate rules and regulations relating to the hiring, promoting, and
10 termination of employees.

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

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

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

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

33 2. [The] EXCEPT AS PROVIDED IN SECTION TWELVE HUNDRED TEN-B OF THIS
34 TITLE, THE appointment, promotion and continuance of employment of all
35 employees of the authority shall be governed by the provisions of the
36 civil service law and the rules of the municipal civil service commis-
37 sion of the city. Employees of any board, commission or department of
38 the city may be transferred to positions of employment under the author-
39 ity in accordance with the provisions of the civil service law and shall
40 be eligible for such transfer and appointment without examination to
41 such positions of employment. Employees who have been appointed to posi-
42 tions in the service of the city under the rules of the municipal civil
43 service commission of the city shall have the same status with respect
44 thereto after transfer to positions of employment under the authority as
45 they had under their original appointments. Employees of the authority
46 shall be subject to the provisions of the civil service law.

47 S 4. The public authorities law is amended by adding a new section
48 1210-b to read as follows:

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

52 (A) "PERSONNEL REVIEW BOARD" OR "REVIEW BOARD" MEANS THE BODY
53 APPOINTED PURSUANT TO THIS SECTION BY THE BOARD AND SHALL ACT IN THE
54 CAPACITY AND FULFILL THE ROLES WHICH WOULD BE PERFORMED BY THE COMMIS-
55 SION, 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

1 AND AN EXPLANATION OF THE JUSTIFICATION FOR THE CLASSIFICATION AS
2 NON-COMPETITIVE. THE REVIEW BOARD SHALL HAVE THE POWER TO DESIGNATE SUCH
3 POSITIONS AS NON-COMPETITIVE UPON RECEIPT OF SUCH REQUEST OR WITHIN SUCH
4 TIME AS IT FINDS APPROPRIATE. THIS SECTION SHALL NOT PRECLUDE ANY OTHER
5 APPLICATION FOR CLASSIFICATION OF POSITIONS OR TITLES AS NON-COMPETITIVE
6 IN ACCORDANCE WITH THE PROCEDURES OTHERWISE APPLICABLE TO CLASSIFICA-
7 TIONS.

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

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

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

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

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

54 (III) THE MEMBERS OF THE PERSONNEL REVIEW BOARD SHALL ANNUALLY ELECT
55 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 REIN-STATEMENTS;

(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 REIN-STATEMENTS; 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 AND 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 IN THIS SUBPARAGRAPH.

(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 INVES-

1 TIGATION, OR ITS SUCCESSOR, AT A RATE REQUIRED BY SUCH AGENCIES FOR
2 STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS OR THE AUTHORITY MAY
3 USE SUCH ALTERNATIVE MEANS TO PROCESS FINGERPRINTS FOR THE PURPOSE OF A
4 CRIMINAL HISTORY RECORDS CHECK AS IT MAY DEEM APPROPRIATE.

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

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

16 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARA-
17 GRAPH, THE PRESIDENT OF THE AUTHORITY, SUBJECT TO THE APPROVAL OF THE
18 EXECUTIVE DIRECTOR, MAY ELECT TO WAIVE APPLICATION FEES, OR TO ABOLISH
19 FEES FOR SPECIFIC CLASSES OF POSITIONS OR TYPES OF EXAMINATIONS OR
20 CANDIDATES.

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

23 (J) (I) WHERE, BECAUSE OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNC-
24 TIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE, POSITIONS IN THE COMPET-
25 ITIVE CLASS OF SERVICE OF THE AUTHORITY ARE ABOLISHED OR REDUCED IN RANK
26 OR SALARY GRADE, INCUMBENTS HOLDING THE SAME OR SIMILAR POSITIONS WITHIN
27 THE SAME JURISDICTIONAL CLASSIFICATION WITHIN THE AUTHORITY SHALL BE
28 SUSPENDED OR DEMOTED IN THE INVERSE ORDER OF ORIGINAL APPOINTMENT ON A
29 PERMANENT BASIS IN THE CLASSIFIED SERVICE AS SET FORTH IN SUBPARAGRAPH
30 (II) OF THIS PARAGRAPH; PROVIDED, HOWEVER, THAT INCUMBENTS HOLDING THE
31 SAME OR SIMILAR POSITIONS WITHIN THE SAME JURISDICTIONAL CLASSIFICATION
32 WITHIN THE AUTHORITY WHO HAVE NOT COMPLETED THEIR PROBATIONARY SERVICE
33 SHALL BE SUSPENDED OR DEMOTED AS THE CASE MAY BE BEFORE ANY PERMANENT
34 INCUMBENTS, AND AMONG SUCH PROBATIONARY EMPLOYEES THE ORDER OF SUSPEN-
35 SION OR DEMOTION SHALL BE DETERMINED AS IF SUCH EMPLOYEES WERE PERMANENT
36 INCUMBENTS. THE PERSONNEL REVIEW BOARD MAY, BY RULE, DESIGNATE AS SEPA-
37 RATE UNITS FOR SUSPENSION AND/OR DEMOTION UNDER THE PROVISIONS OF THIS
38 SUBPARAGRAPH ANY DEPARTMENT, DIVISION OR SUBDIVISION OF THE AUTHORITY
39 AND UPON THE ABOLITION OR REDUCTION OF POSITIONS IN SUCH SERVICE,
40 SUSPENSION AND/OR DEMOTION SHALL BE MADE FROM AMONG INCUMBENTS HOLDING
41 THE SAME OR SIMILAR POSITIONS IN SUCH SEPARATE UNIT.

42 (II) THE DATE OF ORIGINAL APPOINTMENT OF EMPLOYEES OF THE AUTHORITY
43 SHALL BE THE DATE OF ORIGINAL APPOINTMENT ON A PERMANENT BASIS IN THE
44 CLASSIFIED SERVICE OF THE AUTHORITY FOLLOWED BY CONTINUOUS SERVICE IN
45 THE AUTHORITY UP TO THE TIME OF SUSPENSION OR DEMOTION; EXCEPT THAT FOR
46 THOSE EMPLOYEES WHO WERE IN THE COMPETITIVE AND LABOR CLASSES OF THE
47 AUTHORITY ON THE EFFECTIVE DATE OF THIS SECTION, THE DATE OF ORIGINAL
48 APPOINTMENT SHALL BE THE DATE OF ORIGINAL APPOINTMENT ON A PERMANENT
49 BASIS IN THE CIVIL SERVICE OF THE CITY OF NEW YORK FOLLOWED BY CONTIN-
50 UOUS SERVICE IN THE CIVIL SERVICE OF THE CITY OF NEW YORK OR THE AUTHOR-
51 ITY UP TO THE TIME OF SUSPENSION OR DEMOTION. FOR THE PURPOSES OF THIS
52 SUBPARAGRAPH, AN EMPLOYEE WHO RESIGNED AND WAS REINSTATED OR REAPPOINTED
53 IN THE CLASSIFIED SERVICE WITHIN ONE YEAR OF THE RESIGNATION, OR WHO WAS
54 TERMINATED BECAUSE OF AN OCCUPATIONAL DISABILITY AND WAS AFTERWARDS
55 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 IMPLE-

MENTED 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 THEREFORE 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 AUTHORITY SHALL SUBMIT ITS PLAN TO THE REVIEW BOARD WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION OR WITHIN SIXTY DAYS OF ITS APPOINTMENT, WHICHEVER IS LATER, AND THE REVIEW BOARD SHALL APPROVE, MODIFY OR REJECT SUCH PLAN WITHIN NINETY DAYS OF SUCH SUBMISSION. 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 EIGHTEEN MONTHS OF THE EFFECTIVE DATE OF THIS

1 SECTION, SUCH COMMISSION MAY CREATE ITS OWN PLAN AND APPROVE A FINAL
2 PLAN AFTER AFFORDING THE AUTHORITY AND ITS REVIEW BOARD SIXTY DAYS TO
3 SUBMIT COMMENTS AND RECOMMENDATIONS. THE REVIEW BOARD AND SUCH COMMISS-
4 SION SHALL HAVE THE POWER TO DIRECT THE AUTHORITY TO TAKE SPECIFIC
5 ACTIONS TO MEET THE REQUIREMENTS OF THE APPROVED PLAN. THE APPROVED PLAN
6 MAY BE MODIFIED BY SUCH COMMISSION UPON APPLICATION BY THE AUTHORITY,
7 MADE WITH APPROVAL OF THE REVIEW BOARD. MODIFICATION PURSUANT TO THE
8 PRECEDING SENTENCE MAY EXTEND THE DURATION OF THE PLAN TO A DATE NO MORE
9 THAN ONE YEAR BEYOND THE FIVE-YEAR PERIOD OTHERWISE AUTHORIZED BY THIS
10 SUBDIVISION. FAILURE OF SUCH COMMISSION TO ACT UPON ANY SUBMISSION BY
11 THE AUTHORITY PURSUANT TO THIS SUBDIVISION WITHIN SIXTY DAYS SHALL BE
12 DEEMED AN APPROVAL OF SUCH SUBMISSION. ANY SUCH SIXTY-DAY TIME FRAME
13 SHALL BE TOLLED BY A REQUEST BY SUCH COMMISSION FOR ADDITIONAL INFORMA-
14 TION PENDING THE RECEIPT OF SUCH INFORMATION. THE EIGHTEEN-MONTH PERIOD
15 WITHIN WHICH THE AUTHORITY IS TO PROPOSE AN ACCEPTABLE PLAN TO THE
16 COMMISSION, AFTER WHICH PERIOD THE COMMISSION MAY CREATE A FINAL PLAN AS
17 PROVIDED ABOVE, SHALL ALSO BE TOLLED PENDING THE COMMISSION'S RECEIPT OF
18 SUCH ADDITIONAL INFORMATION. SUCH COMMISSION SHALL APPROVE THE PLAN AND
19 ANY MODIFICATION THEREOF IF IT FINDS THAT, CONSISTENT WITH AVAILABLE
20 RESOURCES AND THE NEED FOR CONTINUITY IN PUBLIC SERVICES, SUCH PLAN OR
21 MODIFICATION THEREOF PROVIDES A TIMELY AND PRACTICABLE IMPLEMENTATION
22 SCHEDULE IN FURTHERANCE OF THE PURPOSES OF THIS SUBDIVISION. NOTWITH-
23 STANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION, WHERE A MODIFI-
24 CATION IS INSUBSTANTIAL, AND WILL NOT MATERIALLY AFFECT THE ABILITY OF
25 THE AUTHORITY TO ACHIEVE TIMELY SUBSTANTIAL COMPLIANCE WITH THE TIME
26 PERIODS SET FORTH IN THE PLAN, THE AUTHORITY WITH APPROVAL OF ITS REVIEW
27 BOARD, MAY SO CERTIFY AND THE MODIFICATION MAY BE IMPLEMENTED AND SHALL
28 BE FILED BY THE AUTHORITY WITH SUCH COMMISSION WITHIN FIVE BUSINESS
29 DAYS.

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

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

46 8. THE AUTHORITY AND THE METROPOLITAN TRANSPORTATION AUTHORITY OR ANY
47 OF ITS AFFILIATES OR SUBSIDIARIES ARE AUTHORIZED TO ASSIST OR COOPERATE
48 IN THE PERFORMANCE OF THE RESPONSIBILITIES OR FUNCTIONS SET FORTH IN
49 THIS SECTION IN SUCH MANNER AS THE AUTHORITY AND THE METROPOLITAN TRANS-
50 PORTATION AUTHORITY DEEM APPROPRIATE.

51 9. ALL REFERENCES IN THIS SECTION TO THE MUNICIPAL CIVIL SERVICE
52 COMMISSION OF THE CITY SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL THE
53 POWERS AND DUTIES OF A MUNICIPAL CIVIL SERVICE COMMISSION ASSIGNED TO
54 THE COMMISSIONER OF THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES,
55 THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES, THE MAYOR, THE CITY
56 CIVIL SERVICE COMMISSION AND/OR THE HEADS OF THE CITY AGENCIES AS

1 PROVIDED IN CHAPTER THIRTY-FIVE OF THE NEW YORK CITY CHARTER AND AS SET
2 FORTH IN THE PERSONNEL RULES AND REGULATIONS OF THE CITY OF NEW YORK.

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

6 1. [Officers] EXCEPT AS PROVIDED IN SECTION FIVE HUNDRED FIFTY-FOUR-A
7 OF THIS TITLE, OFFICERS and employees of any board or department in or
8 of the city may be transferred to the authority, and shall be eligible
9 for such transfer and appointment without examination to offices and
10 positions under the authority. Notwithstanding the provisions of this
11 title, the officers and employees of the city, who are members or bene-
12 ficiaries of any existing pension or retirement system, shall continue
13 to have the rights, privileges, obligations and status with respect to
14 such system or systems, as are now prescribed by law; and all such
15 employees, who have been appointed to positions in the service of the
16 city under the rules and classifications of the municipal civil service
17 commission shall have the same status with respect thereto after trans-
18 fer to the authority as they had under their original appointments. Any
19 person appointed by the authority under the rules and classifications of
20 the municipal civil service commission of the city, originally or by
21 transfer or otherwise, including persons employed or eligible for
22 appointment under the board of education of the city or of any agency of
23 any kind whatsoever subject to the rules and classifications of the
24 municipal civil service commission of the city, shall have and shall
25 continue to have all the rights, privileges, obligations and status with
26 respect to such pension or retirement systems, including not only the
27 right to admission therein, but continuance and reinstatement therein,
28 to the same extent and in like manner as though he had been appointed,
29 transferred or restored to the civil service of the city, the board of
30 education or any other agency of any kind whatsoever subject to the
31 rules and classifications of the municipal civil service commission of
32 the city. The appointment and promotion of all employees of the authori-
33 ty shall be made in accordance with the provisions of the civil service
34 law under the jurisdiction of the municipal civil service commission of
35 the city.

36 S 6. The public authorities law is amended by adding a new section
37 554-a to read as follows:

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

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

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

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

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

1 2. THE APPOINTMENT, PROMOTION AND CONTINUATION OF EMPLOYMENT OF ALL
2 EMPLOYEES OF THE AUTHORITY SHALL BE GOVERNED BY THE CIVIL SERVICE LAW
3 AND THE RULES AND REGULATIONS PRESCRIBED BY THE PERSONNEL REVIEW BOARD
4 WHICH SHALL ASSUME THE POWERS PREVIOUSLY EXERCISED BY THE COMMISSION,
5 CIVIL SERVICE COMMISSION AND BY THE MUNICIPAL CIVIL SERVICE COMMISSION
6 OF THE CITY. UNTIL SUCH TIME AS RULES ARE PROMULGATED BY THE PERSONNEL
7 REVIEW BOARD, THE AUTHORITY SHALL ADMINISTER ITS PERSONNEL ACTIONS
8 PURSUANT TO RULES AND REGULATIONS, CLASS SPECIFICATIONS AND PERSONNEL
9 ORDERS OF THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY IN EFFECT
10 ON THE EFFECTIVE DATE OF THIS SUBDIVISION. SUCH RULES AND REGULATIONS,
11 SPECIFICATIONS AND ORDERS SHALL COLLECTIVELY BE DEEMED TO CONSTITUTE THE
12 RULES AND REGULATIONS OF THE REVIEW BOARD UNTIL SUCH TIME AS THE REVIEW
13 BOARD PROMULGATES ITS OWN RULES AND REGULATIONS. DURING SUCH PERIOD, ANY
14 REFERENCE TO THE MUNICIPAL CIVIL SERVICE COMMISSION, THE COMMISSIONER OF
15 CITYWIDE ADMINISTRATIVE SERVICES, THE DEPARTMENT OF CITYWIDE ADMINISTRA-
16 TIVE SERVICES OR ANY OTHER GOVERNMENTAL OFFICER, EMPLOYEE, AGENCY OR
17 OFFICE CONTAINED IN SUCH RULES AND REGULATIONS, SPECIFICATIONS AND
18 ORDERS SHALL BE DEEMED TO REFER TO THE PERSONNEL REVIEW BOARD, THE
19 AUTHORITY OR SUCH OTHER POSITION OR PERSON AS MAY BE DESIGNATED BY THE
20 PERSONNEL REVIEW BOARD.

21 (A) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN ANY
22 GENERAL, SPECIAL OR LOCAL LAW, AND EXCEPT AS PROVIDED IN THIS SUBDIVI-
23 SION, PERMANENT EMPLOYEES OF THE AUTHORITY SHALL CONTINUE TO HOLD THEIR
24 POSITIONS WITHOUT FURTHER EXAMINATION AND SHALL HAVE ALL THE RIGHTS AND
25 PRIVILEGES OF THE JURISDICTIONAL CLASS TO WHICH SUCH POSITIONS MAY BE
26 ALLOCATED, EXCEPT THAT EFFECTIVE WITH THE ENACTMENT OF THIS SECTION, ALL
27 MANAGERIAL POSITIONS THAT REPORT TO THE EXECUTIVE OFFICER OF THE AUTHOR-
28 ITY, THEIR DIRECT REPORTS, AND THE DIVISION HEADS THAT REPORT TO THESE
29 DIRECT REPORTS SHALL BE DESIGNATED AS NON-COMPETITIVE IN RECOGNITION
30 THAT IT IS NOT PRACTICABLE TO ASCERTAIN THE MERIT AND FITNESS FOR THESE
31 POSITIONS BY COMPETITIVE EXAMINATION. THIS PROVISION SHALL NOT ACT TO
32 CHANGE THE NON-COMPETITIVE CLASSIFICATION OF ANY OTHER POSITION OR TITLE
33 CLASSIFIED AS NON-COMPETITIVE AS OF THE EFFECTIVE DATE OF THIS SECTION.
34 FURTHER, NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN ANY
35 GENERAL, SPECIAL OR LOCAL LAW, OR ANY OTHER PROVISION CONTAINED IN THIS
36 SECTION, WITHIN ONE YEAR FROM THE APPOINTMENT OF THE REVIEW BOARD, THE
37 AUTHORITY MAY REQUEST THAT THE REVIEW BOARD APPROVE THE RECLASSIFICATION
38 OR CREATION OF OTHER POSITIONS AND TITLES WITHIN THE AUTHORITY'S MANAGE-
39 RIAL WORK FORCE AS NON-COMPETITIVE WITHOUT THE NECESSITY OF ANY FURTHER
40 REVIEW IN RECOGNITION THAT IT IS NOT PRACTICABLE TO ASCERTAIN THE MERIT
41 AND FITNESS FOR THESE POSITIONS THROUGH COMPETITIVE EXAMINATIONS, SO
42 LONG AS THE POSITIONS REQUESTED TO BE CLASSIFIED AS NON-COMPETITIVE ARE
43 NOT MORE THAN FIVE REPORTING LEVELS FROM THE EXECUTIVE OFFICER OF THE
44 AUTHORITY. SUCH REQUEST SHALL INCLUDE A DESCRIPTION OF THE DUTIES OF
45 SUCH POSITIONS AND AN EXPLANATION OF THE JUSTIFICATION FOR THE CLASSI-
46 FICATION AS NON-COMPETITIVE. THE REVIEW BOARD SHALL HAVE THE POWER TO
47 DESIGNATE SUCH POSITIONS AS NON-COMPETITIVE UPON RECEIPT OF SUCH REQUEST
48 OR WITHIN SUCH TIME AS IT FINDS APPROPRIATE. THIS SECTION SHALL NOT
49 PRECLUDE ANY OTHER APPLICATION FOR CLASSIFICATION OF POSITIONS OR TITLES
50 AS NON-COMPETITIVE IN ACCORDANCE WITH THE PROCEDURES OTHERWISE APPLICA-
51 BLE TO CLASSIFICATIONS.

52 (B) THE OFFICERS AND EMPLOYEES OF THE AUTHORITY SHALL CONTINUE TO BE
53 SUBJECT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND FOR ALL SUCH
54 PURPOSES SHALL BE DEEMED "PUBLIC EMPLOYEES". NOTWITHSTANDING ANY
55 PROVISION TO THE CONTRARY IN ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW
56 OR ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, ANY MATTER CONSIDERED TO BE

1 A TERM AND CONDITION OF EMPLOYMENT THAT HAD BEEN WITHIN THE EXCLUSIVE
2 AUTHORITY OF THE MUNICIPAL CIVIL SERVICE COMMISSION OF THE CITY ON OR
3 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION THAT WAS NOT A MANDATORY
4 SUBJECT OF BARGAINING UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AS
5 A RESULT OF SUCH EXCLUSIVE AUTHORITY SHALL REMAIN A NON-MANDATORY
6 SUBJECT OF BARGAINING FOR THE AUTHORITY AFTER, AND REGARDLESS OF, THE
7 CHANGES SET FORTH IN THIS SECTION.

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

14 3. (A) THE BOARD SHALL APPOINT A PERSONNEL REVIEW BOARD CONSISTING OF
15 THREE PERSONS. THE BOARD AND THE BOARD OF THE NEW YORK CITY TRANSIT
16 AUTHORITY SHALL JOINTLY APPOINT BY SEPARATE RESOLUTIONS THE MEMBERS OF
17 THE PERSONNEL REVIEW BOARD, AND SUCH MEMBERS SHALL ALSO SERVE AS THE
18 PERSONNEL REVIEW BOARD THAT IS ESTABLISHED UNDER PARAGRAPH (A) OF SUBDI-
19 VISION THREE OF SECTION TWELVE HUNDRED TEN-B OF THIS CHAPTER. PERSONS
20 APPOINTED TO THE PERSONNEL REVIEW BOARD MAY NOT BE CURRENT MEMBERS,
21 OFFICERS OR EMPLOYEES OF THE AUTHORITY, THE NEW YORK CITY TRANSIT
22 AUTHORITY, OR THE METROPOLITAN TRANSPORTATION AUTHORITY, INCLUDING
23 AFFILIATES AND/OR SUBSIDIARIES OF SUCH AUTHORITIES, OR CURRENT OFFICERS
24 OR AGENTS OF ANY LABOR ORGANIZATION REPRESENTING EMPLOYEES OF SUCH
25 AUTHORITIES, AFFILIATES, AND/OR SUBSIDIARIES.

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

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

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

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

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

50 (B) EXAMINATIONS, APPOINTMENTS, PROMOTIONS, TRANSFERS, AND REIN-
51 STATEMENTS;

52 (C) RULES FOR THE HEARING AND DETERMINATION OF APPEALS;

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

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

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

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

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

21 (B) EXAMINATIONS, APPOINTMENTS, PROMOTIONS, TRANSFERS, AND REIN-
22 STATEMENTS; AND

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

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

36 (C) THE SECRETARY OF THE AUTHORITY, OR SUCH OTHER PERSON EMPLOYED BY
37 THE AUTHORITY OR THE METROPOLITAN TRANSPORTATION AUTHORITY, ITS OTHER
38 AFFILIATES OR SUBSIDIARIES AS MAY BE DESIGNATED BY THE EXECUTIVE DIREC-
39 TOR, SHALL SERVE AS SECRETARY OF THE PERSONNEL REVIEW BOARD.

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

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

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

54 (III) THE PERSONNEL REVIEW BOARD MAY INVESTIGATE OR INQUIRE INTO THE
55 FACTS RELATIVE TO THE ACTION OR DETERMINATION APPEALED FROM AS MAY BE
56 DEEMED ADVISABLE AND SHALL AFFORD THE APPELLANT AND/OR HIS OR HER REPRE-

1 SENTATIVE AN OPPORTUNITY TO BE HEARD IN PERSON OR IN WRITING TO PRESENT
2 EVIDENCE AND ARGUMENT. THE PERSONNEL REVIEW BOARD MAY AFFIRM, MODIFY OR
3 REVERSE SUCH ACTION OR DETERMINATION.

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

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

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

18 (I) PUBLICATION OF THE NOTICE OF PROPOSED RULE-MAKING SHALL BE ACCOM-
19 PLISHED BY POSTING A COPY AT APPROPRIATE FACILITIES THROUGHOUT THE
20 AUTHORITY AS DETERMINED BY THE AUTHORITY AND BY SERVING A COPY OF THE
21 NOTICE BY CERTIFIED MAIL RETURN RECEIPT REQUESTED UPON THE UNIONS CERTI-
22 FIED OR RECOGNIZED TO REPRESENT EMPLOYEES OF THE AUTHORITY. PUBLICATION
23 SHALL BE COMPLETE UPON THE POSTING AND MAILING AS DESCRIBED IN THIS
24 SUBPARAGRAPH.

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

32 (III) THE PERSONNEL REVIEW BOARD MAY RECEIVE COMMENTS ON A PROPOSED
33 RULE OR RULES IN WRITING OR, IN AN APPROPRIATE CASE, MAY CONDUCT A HEAR-
34 ING UPON THE PROPOSED RULE.

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

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

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

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

54 (B) THE AUTHORITY SHALL DETERMINE THE MERIT AND FITNESS OF CANDIDATES
55 FOR COMPETITIVE CLASS POSITIONS THROUGH THE PREPARATION AND ADMINIS-
56 TRATION 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 POSI-

1 TIONS IN THE NON-COMPETITIVE CLASS AS CONFIDENTIAL AND REQUIRING THE
2 PERFORMANCE OF FUNCTIONS INFLUENCING POLICY. THIS PROVISION SHALL NOT
3 AFFECT THE CLASSIFICATION OF ANY POSITION IN THE NON-COMPETITIVE CLASS
4 AS CONFIDENTIAL OR REQUIRING THE PERFORMANCE OF FUNCTIONS INFLUENCING
5 POLICY MADE BY THE APPROPRIATE CIVIL SERVICE COMMISSION PRIOR TO THE
6 ADOPTION OF THE REVIEW BOARD RULES.

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

12 (G) THE CLASSIFIED SERVICE OF THE AUTHORITY SHALL COMPRISE ALL POSI-
13 TIONS NOT INCLUDED IN THE UNCLASSIFIED SERVICE. THE POSITIONS IN THE
14 CLASSIFIED SERVICE OF THE AUTHORITY SHALL BE DIVIDED INTO FOUR CLASSES
15 DESIGNATED AS THE EXEMPT CLASS, THE NON-COMPETITIVE CLASS, THE COMPET-
16 ITIVE CLASS, AND THE LABOR CLASS.

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

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

24 (III) THE LABOR CLASS SHALL COMPRISE ALL UNSKILLED LABORERS IN THE
25 SERVICE OF THE AUTHORITY. THE AUTHORITY MAY DETERMINE THAT A TITLE IN
26 THE LABOR CLASS IS APPROPRIATE TO PARTICIPATE IN A PROMOTIONAL EXAMINA-
27 TION FOR A HIGHER TITLE IN THE COMPETITIVE CLASS.

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

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

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

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

1 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARA-
2 GRAPH, THE EXECUTIVE OFFICER OF THE AUTHORITY, SUBJECT TO THE APPROVAL
3 OF THE EXECUTIVE DIRECTOR, MAY ELECT TO WAIVE APPLICATION FEES, OR TO
4 ABOLISH FEES FOR SPECIFIC CLASSES OF POSITIONS OR TYPES OF EXAMINATIONS
5 OR CANDIDATES.

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

8 (J) (I) WHERE, BECAUSE OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNC-
9 TIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE, POSITIONS IN THE COMPET-
10 ITIVE CLASS OF SERVICE OF THE AUTHORITY, ARE ABOLISHED OR REDUCED IN
11 RANK OR SALARY GRADE, INCUMBENTS HOLDING THE SAME OR SIMILAR POSITIONS
12 WITHIN THE SAME JURISDICTIONAL CLASSIFICATION WITHIN THE AUTHORITY SHALL
13 BE SUSPENDED OR DEMOTED IN THE INVERSE ORDER OF ORIGINAL APPOINTMENT ON
14 A PERMANENT BASIS IN THE CLASSIFIED SERVICE AS SET FORTH IN SUBPARAGRAPH
15 (II) OF THIS PARAGRAPH; PROVIDED, HOWEVER, THAT INCUMBENTS HOLDING THE
16 SAME OR SIMILAR POSITIONS WITHIN THE SAME JURISDICTIONAL CLASSIFICATION
17 WITHIN THE AUTHORITY WHO HAVE NOT COMPLETED THEIR PROBATIONARY SERVICE
18 SHALL BE SUSPENDED OR DEMOTED AS THE CASE MAY BE BEFORE ANY PERMANENT
19 INCUMBENTS, AND AMONG SUCH PROBATIONARY EMPLOYEES THE ORDER OF SUSPEN-
20 SION OR DEMOTION SHALL BE DETERMINED AS IF SUCH EMPLOYEES WERE PERMANENT
21 INCUMBENTS. THE PERSONNEL REVIEW BOARD MAY, BY RULE, DESIGNATE AS SEPA-
22 RATE UNITS FOR SUSPENSION AND/OR DEMOTION UNDER THE PROVISIONS OF THIS
23 SUBSECTION ANY DEPARTMENT, DIVISION OR SUBDIVISION OF THE AUTHORITY AND
24 UPON THE ABOLITION OR REDUCTION OF POSITIONS IN SUCH SERVICE, SUSPENSION
25 AND/OR DEMOTION SHALL BE MADE FROM AMONG INCUMBENTS HOLDING THE SAME OR
26 SIMILAR POSITIONS IN SUCH SEPARATE UNIT.

27 (II) THE DATE OF ORIGINAL APPOINTMENT OF EMPLOYEES OF THE AUTHORITY
28 SHALL BE THE DATE OF ORIGINAL APPOINTMENT ON A PERMANENT BASIS IN THE
29 CLASSIFIED SERVICE OF THE AUTHORITY, FOLLOWED BY CONTINUOUS SERVICE IN
30 THE AUTHORITY UP TO THE TIME OF SUSPENSION OR DEMOTION; EXCEPT THAT FOR
31 THOSE EMPLOYEES WHO WERE IN THE COMPETITIVE AND LABOR CLASSES OF THE
32 AUTHORITY ON THE EFFECTIVE DATE OF THIS SECTION, THE DATE OF ORIGINAL
33 APPOINTMENT SHALL BE THE DATE OF ORIGINAL APPOINTMENT ON A PERMANENT
34 BASIS IN THE CIVIL SERVICE OF THE CITY OF NEW YORK FOLLOWED BY CONTIN-
35 UOUS SERVICE IN THE CIVIL SERVICE OF THE CITY OF NEW YORK OR THE AUTHOR-
36 ITY UP TO THE TIME OF SUSPENSION OR DEMOTION. FOR THE PURPOSES OF THIS
37 SUBPARAGRAPH, AN EMPLOYEE WHO RESIGNED AND WAS REINSTATED OR REAPPOINTED
38 IN THE CLASSIFIED SERVICE WITHIN ONE YEAR OF THE RESIGNATION, OR WHO WAS
39 TERMINATED BECAUSE OF AN OCCUPATIONAL DISABILITY AND WAS AFTERWARDS
40 REINSTATED, SHALL BE DEEMED TO HAVE CONTINUOUS SERVICE.

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

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

53 (K) (I) PREFERRED LISTS SHALL BE ESTABLISHED AS FOLLOWS: WHERE,
54 BECAUSE OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNCTIONS, CURTAILMENT
55 OF ACTIVITIES OR OTHERWISE, AN EMPLOYEE IN THE COMPETITIVE CLASS OF
56 SERVICE OF THE AUTHORITY IS SUSPENDED OR DEMOTED, THE AUTHORITY SHALL

1 PLACE THE NAME OF SUCH EMPLOYEE UPON A PREFERRED LIST, TOGETHER WITH
2 OTHERS WHO MAY HAVE BEEN SUSPENDED OR DEMOTED FROM THE SAME OR SIMILAR
3 POSITIONS IN THE SAME JURISDICTIONAL CLASS, AND CERTIFY SUCH LIST, AS
4 HEREINAFTER PROVIDED, FOR FILLING VACANCIES WITHIN THE AUTHORITY IN THE
5 SAME JURISDICTIONAL CLASS IN THE FOLLOWING ORDER: FIRST, IN THE SAME OR
6 SIMILAR POSITION; SECOND, IN ANY POSITION IN A LOWER GRADE IN LINE OF
7 PROMOTION; AND THIRD, IN ANY COMPARABLE POSITION AS DETERMINED BY THE
8 AUTHORITY. SUCH PREFERRED LIST SHALL BE CERTIFIED FOR FILLING A VACANCY
9 IN ANY SUCH POSITION BEFORE CERTIFICATION IS MADE FROM ANY OTHER LIST,
10 INCLUDING A PROMOTION ELIGIBLE LIST, NOTWITHSTANDING THE FACT THAT NONE
11 OF THE PERSONS ON SUCH PREFERRED LIST WAS SUSPENDED FROM OR DEMOTED IN
12 THE DEPARTMENT OR SUSPENSION AND DEMOTION UNIT IN WHICH SUCH VACANCY
13 EXISTS. NO OTHER NAME SHALL BE CERTIFIED FROM ANY OTHER LIST FOR ANY
14 SUCH POSITION UNTIL SUCH PREFERRED LIST IS EXHAUSTED. THE ELIGIBILITY
15 FOR REINSTATEMENT OF A PERSON WHOSE NAME APPEARS ON ANY SUCH PREFERRED
16 LIST SHALL NOT CONTINUE FOR A PERIOD LONGER THAN FOUR YEARS FROM THE
17 DATE OF SEPARATION OR DEMOTION.

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

27 (III) NOTWITHSTANDING ANY OF THE PROVISIONS OF THIS PARAGRAPH, NO
28 PERSON SUSPENDED OR DEMOTED PRIOR TO THE COMPLETION OF HIS OR HER PROBA-
29 TIONARY TERM SHALL BE CERTIFIED FOR REINSTATEMENT UNTIL THE EXHAUSTION
30 OF THE PREFERRED LIST OF ALL OTHER ELIGIBLES THEREON. UPON REIN-
31 STATEMENT, SUCH PROBATIONER SHALL BE REQUIRED TO COMPLETE HIS OR HER
32 PROBATIONARY TERM.

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

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

42 (VI) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE AUTHOR-
43 ITY MAY DISQUALIFY FOR REINSTATEMENT AND REMOVE FROM A PREFERRED LIST
44 THE NAME OF ANY ELIGIBLE WHO IS PHYSICALLY OR MENTALLY UNABLE TO PERFORM
45 THE DUTIES OF THE POSITION FOR WHICH SUCH LIST IS ESTABLISHED, OR WHO
46 HAS BEEN GUILTY OF SUCH MISCONDUCT AS WOULD WARRANT HIS OR HER DISMISSAL
47 FROM THE PUBLIC SERVICE. NO PERSON SHALL BE DISQUALIFIED PURSUANT TO
48 THIS SUBDIVISION UNLESS HE OR SHE IS FIRST GIVEN A WRITTEN STATEMENT OF
49 THE REASONS THEREFORE AND AN OPPORTUNITY FOR A HEARING AT WHICH SUCH
50 REASONS SHALL BE ESTABLISHED BY APPROPRIATE EVIDENCE, AND AT WHICH SUCH
51 PERSON MAY BE REPRESENTED BY COUNSEL AND PRESENT EVIDENCE. THE AUTHORITY
52 MAY DESIGNATE A PERSON TO HOLD SUCH HEARING AND REPORT THEREON.

53 (VII) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS PARAGRAPH, ANY
54 PERSON MAY VOLUNTARILY REMOVE HIS OR HER NAME FROM A PREFERRED LIST BY
55 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 AUTHORITY SHALL SUBMIT ITS PLAN TO THE REVIEW BOARD WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION OR WITHIN SIXTY DAYS OF ITS APPOINTMENT, WHICHEVER IS LATER, AND THE REVIEW BOARD SHALL APPROVE, MODIFY OR REJECT SUCH PLAN WITHIN NINETY DAYS OF SUCH SUBMISSION. 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 EIGHTEEN MONTHS 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 TIME FRAME SHALL BE TOLLED BY A REQUEST BY SUCH COMMISSION FOR ADDITIONAL INFORMATION PENDING THE RECEIPT OF SUCH INFORMATION. THE EIGHTEEN-MONTH PERIOD WITHIN WHICH THE AUTHORITY IS TO PROPOSE AN ACCEPTABLE PLAN TO THE COMMISSION, AFTER WHICH PERIOD THE COMMISSION MAY CREATE A FINAL PLAN AS PROVIDED ABOVE, SHALL ALSO BE

1 TOLLED PENDING THE COMMISSION'S RECEIPT OF SUCH ADDITIONAL INFORMATION.
2 SUCH COMMISSION SHALL APPROVE THE PLAN AND ANY MODIFICATION THEREOF IF
3 IT FINDS THAT, CONSISTENT WITH AVAILABLE RESOURCES AND THE NEED FOR
4 CONTINUITY IN PUBLIC SERVICES, SUCH PLAN OR MODIFICATION THEREOF
5 PROVIDES A TIMELY AND PRACTICABLE IMPLEMENTATION SCHEDULE IN FURTHERANCE
6 OF THE PURPOSES OF THIS SUBDIVISION. NOTWITHSTANDING ANY INCONSISTENT
7 PROVISION OF THIS SUBDIVISION, WHERE A MODIFICATION IS INSUBSTANTIAL,
8 AND WILL NOT MATERIALLY AFFECT THE ABILITY OF THE AUTHORITY TO ACHIEVE
9 TIMELY SUBSTANTIAL COMPLIANCE WITH THE TIME PERIODS SET FORTH IN THE
10 PLAN, THE AUTHORITY WITH APPROVAL OF ITS REVIEW BOARD, MAY SO CERTIFY
11 AND THE MODIFICATION MAY BE IMPLEMENTED AND SHALL BE FILED BY THE
12 AUTHORITY WITH SUCH COMMISSION WITHIN FIVE BUSINESS DAYS.

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

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

29 8. THE AUTHORITY AND THE METROPOLITAN TRANSPORTATION AUTHORITY OR ANY
30 OF ITS AFFILIATES OR SUBSIDIARIES ARE AUTHORIZED TO ASSIST OR COOPERATE
31 IN THE PERFORMANCE OF THE RESPONSIBILITIES OR FUNCTIONS SET FORTH IN
32 THIS SECTION IN SUCH MANNER AS THE AUTHORITY AND THE METROPOLITAN TRANS-
33 PORTATION AUTHORITY DEEM APPROPRIATE.

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

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