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I N A S S E M B L Y

March 23, 2016

Introduced by M. of A. NOLAN -- (at request of the State Education Department) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the abolition of offices of positions and the seniority rights of teachers and teaching assistants within a certain tenure area

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

1 Section 1. Subdivision 2 of section 2510 of the education law, as
2 added by chapter 762 of the laws of 1950, is amended to read as follows:
3 2. Whenever a board of education abolishes a position under this chap-
4 ter, the services of the teacher having the least seniority in the
5 system within the tenure of the position abolished shall be
6 discontinued; EXCEPT THAT WHERE A POSITION IS ABOLISHED IN THE TENURE
7 AREA OF A TEACHER ASSIGNED TO TEACH ENGLISH AS A SECOND LANGUAGE, BILIN-
8 GUAL EDUCATION OR A FOREIGN LANGUAGE AND THE TRUSTEE OR BOARD OF EDUCA-
9 TION DETERMINES THAT RETENTION OF A TEACHER QUALIFIED TO TEACH IN A
10 SPECIFIC LANGUAGE OTHER THAN ENGLISH IS NEEDED TO PROVIDE INSTRUCTION,
11 THE SERVICES OF THE LEAST SENIOR TEACHER IN THE TENURE AREA OF THE POSI-
12 TION ABOLISHED WHO DOES NOT HOLD THE APPROPRIATE CERTIFICATE TO TEACH IN
13 THAT POSITION SHALL BE DISCONTINUED.
14 S 2. Paragraph (a) of subdivision 3 of section 2510 of the education
15 law, as amended by chapter 236 of the laws of 1993, is amended to read
16 as follows:
17 (a) If an office or position is abolished or if it is consolidated
18 with another position without creating a new position, the person fill-
19 ing such position at the time of its abolishment or consolidation shall
20 be placed upon a preferred eligible list of candidates for appointment
21 to a vacancy that then exists or that may thereafter occur in an office
22 or position similar to the one which such person filled without
23 reduction in salary or increment, provided the record of such person has
24 been one of faithful, competent service in the office or position he OR
25 SHE has filled. The persons on such preferred list shall be reinstated
26 or appointed to such vacancies in such corresponding or similar posi-
27 tions in the order of their length of service in the system at any time

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

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1 within seven years from the date of abolition or consolidation of such
2 office or position; EXCEPT THAT A NEW POSITION IN WHICH CERTIFICATION TO
3 TEACH A SPECIFIC LANGUAGE OTHER THAN ENGLISH, ENGLISH AS A SECOND
4 LANGUAGE OR BILINGUAL EDUCATION IS REQUIRED BY THE SCHOOL DISTRICT SHALL
5 NOT BE DEEMED SIMILAR PURSUANT TO THIS SUBDIVISION TO A POSITION THAT
6 DID NOT REQUIRE SUCH CERTIFICATION. Notwithstanding any other provision
7 of law to the contrary, in the event that a member of the New York state
8 teachers' retirement system, who is receiving a disability retirement
9 allowance, shall have such disability retirement allowance rescinded,
10 such member shall be placed upon such preferred eligible list as of the
11 effective date of his or her disability retirement.

12 S 3. Subdivisions 2, 3 and 4 of section 2585 of the education law, as
13 amended by chapter 820 of the laws of 1947, subdivisions 2 and 3 as
14 renumbered by chapter 762 of the laws of 1950, and subdivision 4 as
15 renumbered by chapter 521 of the laws of 1976, are amended to read as
16 follows:

17 2. If a board of education abolishes an office or position and creates
18 another office or position for the performance of duties similar to
19 those performed in the office or position abolished, the person filling
20 such office or position at the time of its abolishment shall be
21 appointed to the office or position thus created without reduction in
22 salary or increment, provided the record of such person has been one of
23 faithful, competent service in the office or position he OR SHE has
24 filled; EXCEPT THAT A NEW POSITION IN WHICH CERTIFICATION TO TEACH A
25 SPECIFIC LANGUAGE OTHER THAN ENGLISH, ENGLISH AS A SECOND LANGUAGE OR
26 BILINGUAL EDUCATION IS REQUIRED BY THE SCHOOL DISTRICT SHALL NOT BE
27 DEEMED SIMILAR PURSUANT TO THIS SUBDIVISION TO A POSITION THAT DID NOT
28 REQUIRE SUCH CERTIFICATION.

29 3. Whenever a board of education abolishes a position under this chap-
30 ter, the services of the teacher having the least seniority in the
31 system within the tenure of the position abolished shall be
32 discontinued; EXCEPT THAT WHERE A POSITION IS ABOLISHED IN THE TENURE
33 AREA OF A TEACHER ASSIGNED TO TEACH ENGLISH AS A SECOND LANGUAGE, BILIN-
34 GUAL EDUCATION OR A FOREIGN LANGUAGE AND THE TRUSTEE OR BOARD OF EDUCA-
35 TION DETERMINES THAT RETENTION OF A TEACHER QUALIFIED TO TEACH IN A
36 SPECIFIC LANGUAGE OTHER THAN ENGLISH IS NEEDED TO PROVIDE INSTRUCTION,
37 THE SERVICES OF THE LEAST SENIOR TEACHER IN THE TENURE AREA OF THE POSI-
38 TION ABOLISHED WHO DOES NOT HOLD THE APPROPRIATE CERTIFICATE TO TEACH IN
39 THAT POSITION SHALL BE DISCONTINUED.

40 4. If an office or position is abolished or if it is consolidated with
41 another position without creating a new position, the person filling
42 such position at the time of its abolishment or consolidation shall be
43 placed upon a preferred eligible list of candidates for appointment to a
44 vacancy that then exists or that may thereafter occur in an office or
45 position similar to the one which such person filled without reduction
46 in salary or increment, provided the record of such person has been one
47 of faithful, competent service in the office or position he OR SHE has
48 filled; EXCEPT THAT A NEW POSITION IN WHICH CERTIFICATION TO TEACH A
49 SPECIFIC LANGUAGE OTHER THAN ENGLISH, ENGLISH AS A SECOND LANGUAGE OR
50 BILINGUAL EDUCATION IS REQUIRED BY THE SCHOOL DISTRICT SHALL NOT BE
51 DEEMED SIMILAR PURSUANT TO THIS SUBDIVISION TO A POSITION THAT DID NOT
52 REQUIRE SUCH CERTIFICATION. The persons on such preferred list shall be
53 reinstated or appointed to such corresponding or similar positions in
54 the order of their length of service in the system.

55 S 4. Subdivision 2 of section 2588 of the education law, as added by
56 chapter 521 of the laws of 1976, is amended to read as follows:

1 2. If a position within a tenure area is abolished and another posi-
2 tion is created in such area for the performance of duties similar to
3 those performed in the abolished position, the person filling such
4 office or position at the time of its abolition shall be appointed to
5 the position thus created without reduction in salary or increment,
6 provided the record of such person has been one of faithful, competent
7 service in the office or position he OR SHE has filled ; EXCEPT THAT A
8 NEW POSITION IN WHICH CERTIFICATION TO TEACH A SPECIFIC LANGUAGE OTHER
9 THAN ENGLISH, ENGLISH AS A SECOND LANGUAGE OR BILINGUAL EDUCATION IS
10 REQUIRED BY THE SCHOOL DISTRICT SHALL NOT BE DEEMED SIMILAR PURSUANT TO
11 THIS SUBDIVISION TO A POSITION THAT DID NOT REQUIRE SUCH CERTIFICATION.

12 S 5. Paragraph (a) of subdivision 3 of section 2588 of the education
13 law, as added by chapter 521 of the laws of 1976, is amended to read as
14 follows:

15 (a) Whenever a teaching position is abolished under this chapter, the
16 services of the person holding a position within the tenure area of the
17 position which is to be abolished who has the least seniority in the
18 city school district, including all full-time equivalent substitute
19 service and all full-time equivalent service as a paraprofessional,
20 shall be discontinued, provided that the services of a person who has
21 acquired tenure within such tenure area shall not be discontinued if
22 another person holding a position within such tenure area has not
23 acquired tenure; EXCEPT THAT WHERE A POSITION IS ABOLISHED IN THE TENURE
24 AREA OF A TEACHER ASSIGNED TO TEACH BILINGUAL EDUCATION, ENGLISH AS A
25 SECOND LANGUAGE OR A FOREIGN LANGUAGE AND THE TRUSTEE OR BOARD OF EDUCA-
26 TION DETERMINES THAT RETENTION OF A TEACHER QUALIFIED TO TEACH IN A
27 SPECIFIC LANGUAGE OTHER THAN ENGLISH IS NEEDED TO PROVIDE INSTRUCTION,
28 THE SERVICES OF THE LEAST SENIOR TEACHER IN THE TENURE AREA OF THE POSI-
29 TION ABOLISHED WHO DOES NOT HOLD THE APPROPRIATE CERTIFICATE TO TEACH IN
30 THAT POSITION SHALL BE DISCONTINUED.

31 S 6. Subdivision 7 of section 2588 of the education law, as amended by
32 chapter 783 of the laws of 1981, is amended to read as follows:

33 7. If an office or position is abolished or if it is consolidated with
34 another position without creating a new position, the person filling
35 such position at the time of its abolition or consolidation, or a person
36 displaced by a person with higher seniority as provided in this section,
37 shall be placed upon a preferred eligible list of candidates for
38 appointment to a vacancy that then exists or that may thereafter occur
39 in the tenure area of such position, without reduction in salary or
40 increment, provided the record of such person has been one of faithful,
41 competent service in the office or position he OR SHE has filled; EXCEPT
42 THAT A NEW POSITION IN WHICH CERTIFICATION TO TEACH A SPECIFIC LANGUAGE
43 OTHER THAN ENGLISH, ENGLISH AS A SECOND LANGUAGE OR BILINGUAL EDUCATION
44 IS REQUIRED BY THE SCHOOL DISTRICT SHALL NOT BE DEEMED SIMILAR PURSUANT
45 TO THIS SUBDIVISION TO A POSITION THAT DID NOT REQUIRE SUCH CERTIF-
46 ICATION. The persons on such preferred list shall be reinstated or
47 appointed to such vacancies in the order of their length of service in
48 the city school district, including all full-time equivalent substitute
49 service and all full-time equivalent service as a paraprofessional,
50 provided that in the case of vacancies in principalship positions under
51 the jurisdiction of a community school board, such persons shall be
52 reinstated or reappointed in order of their length of service in the
53 tenure area of the position in the community district and provided that
54 intermediate supervisors properly assigned or appointed on or after the
55 effective date of this subdivision to positions in a community district
56 and who have been placed on a preferred eligible list shall be entitled

1 to reinstatement or reappointment to vacancies in their tenure area
2 within that community district in order of their length of service in
3 the tenure area of the position in the community district.

4 S 7. Subdivisions 1 and 2 of section 3013 of the education law, as
5 added by chapter 737 of the laws of 1992, are amended to read as
6 follows:

7 1. If a trustee, board of trustees, board of education or board of
8 cooperative educational services abolishes an office or position and
9 creates another office or position for the performance of duties similar
10 to those performed in the office or position abolished, the person fill-
11 ing such office or position at the time of its abolishment shall be
12 appointed to the office or position thus created without reduction in
13 salary or increment, provided the record of such person has been one of
14 faithful, competent service in the office or position he or she has
15 filled; EXCEPT THAT A NEW POSITION IN WHICH CERTIFICATION TO TEACH A
16 SPECIFIC LANGUAGE OTHER THAN ENGLISH, ENGLISH AS A SECOND LANGUAGE OR
17 BILINGUAL EDUCATION IS REQUIRED BY THE SCHOOL DISTRICT SHALL NOT BE
18 DEEMED SIMILAR PURSUANT TO THIS SUBDIVISION TO A POSITION THAT DID NOT
19 REQUIRE SUCH CERTIFICATION.

20 2. Whenever a trustee, board of [trustee] TRUSTEES, board of education
21 or board of cooperative educational services abolishes a position under
22 this chapter, the services of the teacher having the least seniority in
23 the system within the tenure of the position abolished shall be discon-
24 tinued; EXCEPT THAT WHERE A POSITION IS ABOLISHED IN THE TENURE AREA OF
25 A TEACHER ASSIGNED TO TEACH BILINGUAL EDUCATION, ENGLISH AS A SECOND
26 LANGUAGE OR A FOREIGN LANGUAGE AND THE TRUSTEE OR BOARD OF EDUCATION
27 DETERMINES THAT RETENTION OF A TEACHER QUALIFIED TO TEACH IN A SPECIFIC
28 LANGUAGE OTHER THAN ENGLISH IS NEEDED TO PROVIDE INSTRUCTION, THE
29 SERVICES OF THE LEAST SENIOR TEACHER IN THE TENURE AREA OF THE POSITION
30 ABOLISHED WHO DOES NOT HOLD THE APPROPRIATE CERTIFICATE TO TEACH IN THAT
31 POSITION SHALL BE DISCONTINUED.

32 S 8. Paragraph (a) of subdivision 3 of section 3013 of the education
33 law, as added by chapter 737 of the laws of 1992, is amended to read as
34 follows:

35 (a) If an office or position is abolished or if it is consolidated
36 with another position without creating a new position, the person fill-
37 ing such position at the time of its abolishment or consolidation shall
38 be placed upon a preferred eligible list of candidates for appointment
39 to a vacancy that then exists or that may thereafter occur in an office
40 or position similar to the one which such person filled without
41 reduction in salary or increment, provided the record of such person has
42 been one of faithful, competent service in the office or position he or
43 she has filled. The persons on such preferred list shall be reinstated
44 or appointed to such vacancies in such corresponding or similar posi-
45 tions in the order of their length of service in the system at any time
46 within seven years from the date of abolition or consolidation of such
47 office or position; EXCEPT THAT A NEW POSITION IN WHICH CERTIFICATION TO
48 TEACH A SPECIFIC LANGUAGE OTHER THAN ENGLISH, ENGLISH AS A SECOND
49 LANGUAGE OR BILINGUAL EDUCATION IS REQUIRED BY THE SCHOOL DISTRICT SHALL
50 NOT BE DEEMED SIMILAR PURSUANT TO THIS SUBDIVISION TO A POSITION THAT
51 DID NOT REQUIRE SUCH CERTIFICATION.

52 S 9. This act shall take effect immediately.