

10738

I N A S S E M B L Y

June 15, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Abbate,
Woerner) -- read once and referred to the Committee on Governmental
Employees

AN ACT to amend the civil service law, in relation to term appointments
to temporary positions in information technology

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

1 Section 1. The civil service law is amended by adding a new section 66
2 to read as follows:
3 S 66. TERM APPOINTMENTS IN INFORMATION TECHNOLOGY. 1. THE DEPARTMENT
4 MAY AUTHORIZE A TERM APPOINTMENT WITHOUT EXAMINATION TO A TEMPORARY
5 POSITION REQUIRING SPECIAL EXPERTISE OR QUALIFICATIONS IN INFORMATION
6 TECHNOLOGY. SUCH APPOINTMENTS SHALL BE AUTHORIZED ONLY IN A CASE WHERE
7 THE APPOINTING AUTHORITY CERTIFIES TO THE DEPARTMENT THAT BECAUSE OF THE
8 TYPE OF SERVICES TO BE RENDERED, OR THE TEMPORARY OR OCCASIONAL CHARAC-
9 TER OF SUCH SERVICES, IT WOULD NOT BE PRACTICABLE TO HOLD AN EXAMINATION
10 OF ANY KIND. SUCH CERTIFICATION SHALL BE A PUBLIC DOCUMENT PURSUANT TO
11 THE PUBLIC OFFICERS LAW AND SHALL IDENTIFY THE SPECIAL EXPERTISE OR
12 QUALIFICATIONS THAT ARE REQUIRED AND WHY THEY CANNOT BE OBTAINED THROUGH
13 AN APPOINTMENT FROM AN ELIGIBLE LIST. THE DEPARTMENT SHALL REVIEW THE
14 CERTIFICATION TO CONFIRM THAT THE SPECIAL EXPERTISE OR QUALIFICATIONS
15 IDENTIFIED BY THE OFFICE OF INFORMATION TECHNOLOGY SERVICES CANNOT BE
16 OBTAINED THROUGH AN APPOINTMENT FROM AN ELIGIBLE LIST. THE MAXIMUM PERI-
17 OD FOR SUCH INITIAL TERM APPOINTMENT ESTABLISHED PURSUANT TO THIS SUBDI-
18 VISION SHALL NOT EXCEED SIXTY MONTHS AND, OTHER THAN AS SET FORTH IN
19 SUBDIVISION TWO OF THIS SECTION, SHALL NOT BE EXTENDED, AND THE MAXIMUM
20 NUMBER OF SUCH APPOINTMENTS SHALL NOT EXCEED FIVE HUNDRED.
21 2. AT LEAST FIFTEEN DAYS PRIOR TO MAKING A TERM APPOINTMENT PURSUANT
22 TO THIS SECTION, THE APPOINTING AUTHORITY SHALL PUBLICLY AND CONSPICU-
23 OUSLY POST IN ITS OFFICES INFORMATION ABOUT THE TEMPORARY POSITION AND
24 THE REQUIRED QUALIFICATIONS AND SHALL ALLOW ANY QUALIFIED EMPLOYEE TO
25 APPLY FOR THE POSITION. IN THE EVENT THAT A PERMANENT COMPETITIVE
26 EMPLOYEE IS QUALIFIED FOR THE POSTED POSITION, THE APPOINTMENT OF SUCH
27 EMPLOYEE SHALL TAKE PRECEDENCE OVER THE APPOINTMENT OF ANY TERM POSITION

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

LBD15890-01-6

1 PURSUANT TO THIS SECTION. AN EMPLOYEE APPOINTED PURSUANT TO THIS SECTION
2 WHO HAS COMPLETED TWO YEARS OF CONTINUOUS SERVICE UNDER THIS SECTION
3 SHALL BE ELIGIBLE TO COMPETE IN PROMOTIONAL EXAMINATIONS THAT ARE ALSO
4 OPEN TO OTHER EMPLOYEES WHO HAVE PERMANENT CIVIL SERVICE APPOINTMENTS
5 AND APPROPRIATE QUALIFICATIONS. IN THE EVENT THAT THE DEPARTMENT FAILS
6 TO CERTIFY A PROMOTIONAL LIST FOR AN EXAMINATION IN WHICH THE APPOINTEE
7 HAS COMPETED WITHIN THE INITIAL SIXTY MONTH TERM APPOINTMENT, SUCH
8 APPOINTMENT MAY BE EXTENDED BY THE DEPARTMENT, UPON CERTIFICATION OF THE
9 APPOINTING AUTHORITY, FOR PERIODS OF UP TO THIRTY-SIX MONTHS UNTIL SUCH
10 TIME AS A PROMOTIONAL LIST RESULTING FROM THE EXAMINATION IN WHICH THE
11 EMPLOYEE COMPETED, IS CERTIFIED.

12 3. A TEMPORARY POSITION ESTABLISHED PURSUANT TO THIS SECTION MAY BE
13 ABOLISHED FOR REASONS OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNC-
14 TIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE. UPON SUCH ABOLITION OR AT
15 THE END OF THE TERM OF THE APPOINTMENT, THE PROVISIONS OF SECTIONS
16 SEVENTY-EIGHT, SEVENTY-NINE, EIGHTY AND EIGHTY-ONE OF THIS CHAPTER SHALL
17 NOT APPLY. IN THE EVENT OF A REDUCTION OF WORKFORCE PURSUANT TO SECTION
18 EIGHTY OF THIS CHAPTER AFFECTING INFORMATION TECHNOLOGY POSITIONS, THE
19 TERM APPOINTMENTS PURSUANT TO THIS SECTION SHALL BE ABOLISHED PRIOR TO
20 THE ABOLITION OF PERMANENT COMPETITIVE CLASS INFORMATION TECHNOLOGY
21 POSITIONS AT SUCH AGENCY INVOLVING COMPARABLE SKILLS AND RESPONSIBIL-
22 ITIES.

23 S 2. Notwithstanding any provision of law to the contrary, the depart-
24 ment of civil service may limit certification from the eligible lists
25 associated with the following titles to those eligibles identified as
26 having knowledge, skills or certifications, or any combination thereof,
27 identified by the appointing authority as necessary to perform the
28 duties of certain positions:

29 Information Technology Specialist 4	G-25
30 Information Technology Specialist 4 (Data Communications)	G-25
31 Information Technology Specialist 4 (Systems Programming)	G-25
32 Manager Information Technology Services 1	G-27
33 Manager Information Technology Services 1 (Data Communications)	G-27
34 Manager Information Technology Services 1 (Database)	G-27
35 Manager Information Technology Services 1 (Systems Programming)	G-27
36 Manager Information Technology Services 2	G-29
37 Manager Information Technology Services (Technical)	G-29

38 S 3. Subdivision 1 of section 135 of the civil service law is amended
39 by adding a new paragraph (e) to read as follows:

40 (E) EMPLOYEES OF THE OFFICE OF INFORMATION TECHNOLOGY SERVICES WHO
41 HOLD TECHNICAL POSITIONS IN THE CLASSIFIED SERVICE SHALL, SUBJECT TO
42 AUTHORIZATION OF THE DIRECTOR OF THE CLASSIFICATION AND COMPENSATION
43 DIVISION OF THE DEPARTMENT, BE ENTITLED TO A LUMP SUM PAYMENT CALCULATED
44 BY MULTIPLYING SUCH EMPLOYEE'S ANNUAL SALARY BY TWO PERCENT, NOTWITH-
45 STANDING THEIR CURRENT SALARY, TO BE MADE UPON COMPLETION OF A COURSE OF
46 STUDY AS APPROVED BY THE OFFICE OF INFORMATION TECHNOLOGY SERVICES.

47 (I) THE OFFICE OF INFORMATION TECHNOLOGY SERVICES SHALL POST CONSPICU-
48 OUSLY IN ALL OFFICES IN WHICH SUCH ELIGIBLE TECHNICAL EMPLOYEES ARE
49 LOCATED, AND ON BOTH THE PUBLIC AND EMPLOYEE-ONLY ACCESS WEBSITES, THOSE
50 APPROVED COURSES OF STUDY FOR WHICH A LUMP SUM PAYMENT MAY BE AWARDED.
51 SUCH COURSES OF STUDY SHALL BE RECERTIFIED EVERY TWELVE MONTHS BEGINNING
52 APRIL FIRST IN THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS PARAGRAPH,
53 AND EVERY TWELVE MONTHS THEREAFTER. SUCH COURSES OF STUDY SHALL INCLUDE,
54 BUT NOT BE LIMITED TO, CYBER SECURITY, TECHNOLOGIES STRATEGIC FOR THE
55 OFFICE OF INFORMATION TECHNOLOGY SERVICES, AND ANY OTHER SUBJECT MATTER
56 SUCH OFFICE DEEMS APPROPRIATE, AND SHALL, BE CONDUCTED BY AN APPROVED

1 AND ACCREDITED INSTITUTION OF LEARNING. THE OFFICE OF INFORMATION TECH-
2 NOLOGY SHALL PAY FOR THE COURSE OF STUDY, COSTS ASSOCIATED WITH THE
3 COURSE OF STUDY AND THE REASONABLE AND NECESSARY TRAVEL EXPENSES ASSOCI-
4 ATED WITH AN EMPLOYEE'S ATTENDANCE OF SUCH COURSE OF STUDY.

5 (II) NO PROVISION OF THIS PARAGRAPH SHALL BE CONSTRUED TO CREATE AN
6 OBLIGATION ON THE PART OF THE OFFICE OF INFORMATION TECHNOLOGY SERVICES
7 TO APPROVE ANY PARTICULAR COURSE OF STUDY OR TO PREVENT SUCH OFFICE TO
8 ACT IN A MANNER THE OFFICE REASONABLY BELIEVES TO BE IN THE BEST INTER-
9 EST OF THE STATE. ALL EMPLOYEES SEEKING TO PARTICIPATE IN THIS PROGRAM
10 MUST FIRST RECEIVE APPROVAL FROM THE OFFICE OF INFORMATION TECHNOLOGY
11 SERVICES IN A MANNER TO BE DETERMINED, AND IN NO EVENT SHALL BE ELIGIBLE
12 TO RECEIVE A LUMP SUM PAYMENT MORE FREQUENTLY THAN ONCE EVERY
13 TWENTY-FOUR MONTH PERIOD COMMENCING UPON COMPLETION OF ANY PRIOR
14 APPROVED COURSE OF STUDY, AND NO MORE THAN FIVE TIMES IN TOTAL DURING
15 THE COURSE OF EMPLOYMENT WITH THE OFFICE OF INFORMATION TECHNOLOGY
16 SERVICES IN ANY PARTICULAR TITLE. NO LUMP SUM PAYMENT SHALL BE CERTIFIED
17 FOR PAYMENT BY THE OFFICE OF INFORMATION TECHNOLOGY SERVICES, THROUGH
18 THE THEN APPROPRIATE MECHANISM, AND NO EMPLOYEE SHALL BE ENTITLED TO ANY
19 LUMP SUM PAYMENT, WITHOUT RECEIPT OF AN ACCEPTABLE CERTIFICATION,
20 LICENSE, DIPLOMA OR OTHER LIKE DOCUMENT FROM THE APPROVED AND ACCREDITED
21 PROVIDER OF THE APPROVED COURSE OF STUDY REPRESENTING SATISFACTORY
22 COMPLETION OF SUCH COURSE OF STUDY BY THE EMPLOYEE.

23 (III) ANY ADDITIONAL COMPENSATION AFFORDED AN EMPLOYEE PURSUANT TO
24 THIS PARAGRAPH SHALL BE IN ADDITION TO AND SHALL NOT BE PART OF THE
25 EMPLOYEE'S BASIC ANNUAL SALARY, AND SHALL NOT AFFECT OR IMPAIR ANY
26 PERFORMANCE ADVANCEMENT PAYMENTS, PERFORMANCE AWARDS, LONGEVITY
27 PAYMENTS, SALARY DIFFERENTIALS OR OTHER RIGHTS OR BENEFITS TO WHICH AN
28 EMPLOYEE MAY BE ENTITLED UNDER ANY PROVISION OF LAW.

29 S 4. This act shall take effect immediately.