

9631

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.

LBD09678-01-5

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.