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

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I N S E N A T E

April 7, 2016

Introduced by Sen. MARCELLINO -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed 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:

Section 1. Subdivision 2 of section 2510 of the education law, as added by chapter 762 of the laws of 1950, is amended to read as follows:

2. Whenever a board of education abolishes a position under this chapter, the services of the teacher having the least seniority in the system within the tenure of the position abolished shall be discontinued; EXCEPT THAT WHERE A POSITION IS ABOLISHED IN THE TENURE AREA OF A TEACHER ASSIGNED TO TEACH ENGLISH AS A SECOND LANGUAGE, BILINGUAL EDUCATION OR A FOREIGN LANGUAGE AND THE TRUSTEE OR BOARD OF EDUCATION DETERMINES THAT RETENTION OF A TEACHER QUALIFIED TO TEACH IN A SPECIFIC LANGUAGE OTHER THAN ENGLISH IS NEEDED TO PROVIDE INSTRUCTION, THE SERVICES OF THE LEAST SENIOR TEACHER IN THE TENURE AREA OF THE POSITION ABOLISHED WHO DOES NOT HOLD THE APPROPRIATE CERTIFICATE TO TEACH IN THAT POSITION SHALL BE DISCONTINUED.

S 2. Paragraph (a) of subdivision 3 of section 2510 of the education law, as amended by chapter 236 of the laws of 1993, is amended to read as follows:

(a) If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he OR SHE has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar posi-

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

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

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

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

3. Whenever a board of education abolishes a position under this chapter, the services of the teacher having the least seniority in the system within the tenure of the position abolished shall be discontinued; EXCEPT THAT WHERE A POSITION IS ABOLISHED IN THE TENURE AREA OF A TEACHER ASSIGNED TO TEACH ENGLISH AS A SECOND LANGUAGE, BILINGUAL EDUCATION OR A FOREIGN LANGUAGE AND THE TRUSTEE OR BOARD OF EDUCATION DETERMINES THAT RETENTION OF A TEACHER QUALIFIED TO TEACH IN A SPECIFIC LANGUAGE OTHER THAN ENGLISH IS NEEDED TO PROVIDE INSTRUCTION, THE SERVICES OF THE LEAST SENIOR TEACHER IN THE TENURE AREA OF THE POSITION ABOLISHED WHO DOES NOT HOLD THE APPROPRIATE CERTIFICATE TO TEACH IN THAT POSITION SHALL BE DISCONTINUED.

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

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

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

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

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

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

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

effective date of this subdivision to positions in a community district and who have been placed on a preferred eligible list shall be entitled to reinstatement or reappointment to vacancies in their tenure area within that community district in order of their length of service in the tenure area of the position in the community district.

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

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

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

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

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

S 9. This act shall take effect immediately.