STATE OF NEW YORK

2759

2023-2024 Regular Sessions

IN ASSEMBLY

January 27, 2023

Introduced by M. of A. GANDOLFO, SMULLEN, MANKTELOW, JENSEN, BYRNES, J. A. GIGLIO, DeSTEFANO, DURSO, ANGELINO, BRABENEC -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to allowing reservists who have served or who are currently serving to be eligible for two and one-half points on civil service examinations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The section heading, paragraphs (a) and (b) of subdivision 2, subdivisions 3, 4, 5 and 6 of section 85 of the civil service law, as added by chapter 790 of the laws of 1958 and paragraph (c) of subdivision 4 as amended by chapter 15 of the laws of 1971, are amended and a new paragraph (b-1) is added to subdivision 1 to read as follows:

Additional credit allowed veterans **and reservists** in competitive examinations; preference in retention upon abolition of positions.

(b-1) The term "reservist" means a member of the reserve forces or reserve components of the armed forces of the United States who is currently in service or who was honorably discharged or released under honorable circumstances from such service, who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States and who is a resident of the state of New York at the time of application for appointment or promotion or at the time of retention, as the case may be.

(a) On all eligible lists resulting from competitive examinations, the names of eligibles shall be entered in the order of their respective final earned ratings on examination, with the name of the eligible with the highest final earned rating at the head of such list, provided, however, that for the purpose of determining final earned ratings,

(1) Disabled veterans shall be entitled to receive ten points additional in a competitive examination for original appointment and five

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

LBD01292-01-3

points additional credit in a competitive examination for promotion, [~~and~~]

(2) Non-disabled veterans shall be entitled to receive five points additional credit in a competitive examination for original appointment and two and one-half points additional credit in a competitive examination for promotion[~~.~~]**, and**

(3) Reservists who have served or who are currently serving as members of a reserve component of the armed forces of the United States shall be entitled to receive two and one-half points additional credit in a competitive examination.

(b) Such additional credit shall be added to the final earned rating of such disabled veteran or non-disabled veteran **or reservist**, as the case may be, after he or she has qualified in the competitive examination and shall be granted only at the time of establishment of the resulting eligible list.

3. Application for additional credit; proof of eligibility; establishment of eligible list. Any candidate, believing himself entitled to additional credit in a competitive examination as provided herein, may make application for such additional credit at any time between the date of his application for examination and the date of the establishment of the resulting eligible list. Such candidates shall be allowed a period of not less than two months from the date of the filing of his application for examination in which to establish by appropriate documentary proof his eligibility to receive additional credit under this section. At any time after two months have elapsed since the final date for filing applications for a competitive examination for original appointment or promotion, the eligible list resulting from such examination may be established, notwithstanding the fact that a veteran or disabled veteran **or reservist** who has applied for additional credit has failed to establish his eligibility to receive such additional credit. A candidate who fails to establish, by appropriate documentary proof, his eligibility to receive additional credit by the time an eligible list is established shall not thereafter be granted additional credit on such eligible list.

4. Use of additional credit. (a) Except as herein otherwise provided, no person who has received a permanent original appointment or a permanent promotion in the civil service of the state or of any city or civil division thereof from an eligible list on which he was allowed the additional credit granted by this section, either as a veteran or disabled veteran **or reservist**, shall thereafter be entitled to any additional credit under this section either as a veteran or a disabled veteran **or reservist**.

(b) Where, at the time of establishment of an eligible list, the position of a veteran or disabled veteran **or reservist** on such list has not been affected by the addition of credits granted under this section, the appointment or promotion of such veteran or disabled veteran **or reservist**, as the case may be, from such eligible list shall not be deemed to have been made from an eligible list on which he was allowed the additional credit granted by this section.

(c) If, at the time of appointment from an eligible list, a veteran or disabled veteran **or reservist** is in the same relative standing among the eligibles who are willing to accept appointment as if he had not been granted the additional credits provided by this section, his appointment from among such eligibles shall not be deemed to have been made from an eligible list on which he was allowed such additional credits.

(d) Where a veteran or disabled veteran **or reservist** has been originally appointed or promoted from an eligible list on which he was allowed additional credit, but such appointment or promotion is thereafter terminated either at the end of the probationary term or by resignation at or before the end of the probationary term, he shall not be deemed to have been appointed or promoted, as the case may be, from an eligible list on which he was allowed additional credit, and such appointment or promotion shall not affect his eligibility for additional credit in other examinations.

5. Withdrawal of application; election to relinquish additional credit. An application for additional credit in a competitive examination under this section may be withdrawn by the applicant at any time prior to the establishment of the resulting eligible list. At any time during the term of existence of an eligible list resulting from a competitive examination in which a veteran or disabled veteran **or reservist** has received the additional credit granted by this section, such veteran or disabled veteran **or reservist** may elect, prior to permanent original appointment or permanent promotion, to relinquish the additional credit theretofore granted to him and accept the lower position on such eligible list to which he would otherwise have been entitled; provided, however, that such election shall thereafter be irrevocable. Such election shall be in writing and signed by the veteran or disabled veteran **or reservist**, and transmitted to the state civil service department or the appropriate municipal civil service commission.

6. Roster. The state civil service department and each municipal commission shall establish and maintain in its office a roster of all veterans and disabled veterans **and reservists** appointed or promoted as a result of additional credits granted by this section to positions under its jurisdiction. The appointment or promotion of a veteran or disabled veteran **or reservist** as a result of additional credits shall be void if such veteran or disabled veteran **or reservist**, prior to such appointment or promotion, had been appointed or promoted as a result of additional credits granted by this section.

§ 2. This act shall take effect immediately.