

STATE OF NEW YORK

5487

2023-2024 Regular Sessions

IN SENATE

March 6, 2023

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, the public authorities law and the military law, in relation to the suspension or demotion upon the abolition or reduction of noncompetitive or labor class positions in the state service; and to repeal certain provisions of the civil service law relating thereto

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

1 Section 1. Subdivisions 1, 1-a, 1-b, 1-c, 1-d, 2, 4, 5, 6, 7, subpara-
2 graph 1 of paragraph (b) of subdivision 7-a and subdivision 9 of section
3 80 of the civil service law, subdivision 1 as amended by chapter 283 of
4 the laws of 1972, subdivision 1-a as added by chapter 312 of the laws of
5 1976, subdivision 1-b as added by chapter 653 of the laws of 1978,
6 subdivision 1-c as added by chapter 334 of the laws of 1994, subdivision
7 1-d as added by chapter 731 of the laws of 2004, subdivision 2 as
8 amended by chapter 376 of the laws of 1977, subdivision 4 as added by
9 chapter 790 of the laws of 1958, subdivision 5 as amended and subdivi-
10 sions 6 and 7 as added by chapter 283 of the laws of 1972 and such
11 subdivisions as renumbered by chapter 360 of the laws of 1985, subpara-
12 graph 1 of paragraph (b) of subdivision 7-a as added by chapter 528 of
13 the laws of 2001 and subdivision 9 as added by chapter 470 of the laws
14 of 1988, are amended to read as follows:

15 1. Suspension or demotion. Where, because of economy, consolidation or
16 abolition of functions, curtailment of activities or otherwise, posi-
17 tions in the competitive, noncompetitive or labor class are abolished or
18 reduced in rank or salary grade, suspension or demotion, as the case may
19 be, among incumbents holding the same or similar positions in the same
20 jurisdictional class shall be made in the inverse order of original
21 appointment on a permanent basis in the classified service in the
22 service of the governmental jurisdiction in which such abolition or

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

LBD07715-01-3

1 reduction of positions occurs, subject to the provisions of subdivision
2 seven of section eighty-five of this chapter; provided, however, that
3 the date of original appointment of any such incumbent who was trans-
4 ferred to such governmental jurisdiction from another governmental
5 jurisdiction upon the transfer of functions shall be the date of
6 original appointment on a permanent basis in the classified service in
7 the service of the governmental jurisdiction from which such transfer
8 was made. Notwithstanding the provisions of this subdivision, however,
9 upon the abolition or reduction of positions in the competitive, noncom-
10 petitive or labor class, incumbents holding the same or similar posi-
11 tions in the same jurisdictional class who have not completed their
12 probationary service shall be suspended or demoted, as the case may be,
13 before any permanent incumbents, and among such probationary employees
14 the order of suspension or demotion shall be determined as if such
15 employees were permanent incumbents.

16 1-a. Notwithstanding the provisions of subdivision one of this
17 section, the members of a police or paid fire department in the city of
18 Buffalo shall be subject to the following procedure. Where, because of
19 economy, consolidation or abolition of functions, curtailment of activ-
20 ities or otherwise, positions in the competitive, noncompetitive or
21 labor class are abolished or reduced in rank or salary grade, suspension
22 or demotion, as the case may be, among incumbents holding the same or
23 similar positions in the same jurisdictional class shall be made in the
24 inverse order of original appointment on a permanent basis in the grade
25 or title in the service of the governmental jurisdiction in which such
26 abolition or reduction of positions occurs, subject to the provisions of
27 subdivision seven of section eighty-five of this chapter. Notwithstand-
28 ing the provisions of this subdivision, however, upon the abolition or
29 reduction of positions in the competitive, noncompetitive or labor
30 class, incumbents holding the same or similar positions in the same
31 jurisdictional who have not completed their probationary service shall
32 be suspended or demoted, as the case may be, before any permanent incum-
33 bents, and among such probationary employees the order of suspension or
34 demotion shall be determined as if such employees were permanent incum-
35 bents.

36 1-b. Notwithstanding the provisions of subdivision one of this
37 section, employees of secure detention facilities in the city of New
38 York and of the alternatives to secure detention facilities program in
39 such city who are performing functions which were assumed by the depart-
40 ment of social services of the city of New York on the tenth day of
41 November, nineteen hundred seventy-one and who, upon such assumption
42 were transferred to said department, shall be subject to the following
43 procedure. Where, because of economy, consolidation or abolition of
44 function, curtailment of activities or otherwise, positions in the
45 competitive, noncompetitive or labor class are abolished, or reduced in
46 rank or salary grade, suspension or demotion, as the case may be, among
47 incumbents holding the same or similar positions in the same jurisdic-
48 tional class shall be made in the inverse order of original appointment
49 on a permanent basis in the classified service in the service of the
50 governmental jurisdiction in which such abolition or reduction of posi-
51 tions occurs, subject to the provisions of subdivision seven of section
52 eighty-five of this chapter; provided, however, that if any person so
53 employed and so transferred was employed on a permanent basis in such a
54 facility or such program prior to the thirtieth day of December, nine-
55 teen hundred sixty-seven, for purposes of this subdivision regarding
56 priority of retention and for no other purpose, the date of original

1 appointment of any such person shall be deemed to be the date such
2 permanent employment commenced prior to the said thirtieth day of Decem-
3 ber, nineteen hundred sixty-seven.

4 1-c. Notwithstanding the provisions of subdivision one of this
5 section, sworn employees of the Monroe county sheriff's department shall
6 be subject to the following procedure. Where, because of economy,
7 consolidation or abolition of function, curtailment of activities or
8 otherwise, positions in the competitive, noncompetitive or labor class
9 are abolished, or reduced in rank or salary grade, suspension or
10 demotion, as the case may be, among incumbents holding the same or simi-
11 lar positions in the same jurisdictional class shall be made in the
12 inverse order of original appointment on a permanent basis in the grade
13 or title in the service of the governmental jurisdiction in which such
14 abolition or reduction of positions occurs, subject to the provisions of
15 subdivision seven of section eighty-five of this chapter; provided,
16 however, that if any person so employed was employed in such person's
17 current title prior to the first day of April, nineteen hundred ninety-
18 three, for purposes of this subdivision regarding priority of retention
19 and for no other purpose, the date of original appointment of any such
20 person shall be deemed to be the date such employment commenced prior to
21 the said first day of April, nineteen hundred ninety-three.

22 1-d. Notwithstanding the provisions of subdivision one of this
23 section, the sworn members of the police force of the county of Nassau
24 shall be subject to the following procedure. Where, because of economy,
25 consolidation or abolition of functions, curtailment of activities or
26 otherwise, positions in the competitive, noncompetitive or labor class
27 are abolished or reduced in rank or salary grade, suspension or
28 demotion, as the case may be, among incumbents holding the same or simi-
29 lar positions in the same jurisdictional class shall be made in the
30 inverse order of original appointment on a permanent basis in the grade
31 or title in the service of the governmental jurisdiction in which such
32 abolition or reduction of positions occurs, subject to the provisions of
33 subdivision seven of section eighty-five of this chapter. Notwithstand-
34 ing the provisions of this subdivision, however, upon the abolition or
35 reduction of positions, those employees who have not completed their
36 probationary service shall be suspended or demoted, as the case may be,
37 before any permanent incumbents, and among such probationary employees
38 the order of suspension or demotion shall be determined as if such
39 employees were permanent incumbents.

40 2. Continuous service. Except as otherwise provided herein, for the
41 purposes of this section the original appointment of an incumbent shall
42 mean the date of [~~his~~] their first appointment on a permanent basis in
43 the classified service followed by continuous service in the classified
44 service on a permanent basis up to the time of the abolition or
45 reduction of the competitive, noncompetitive or labor class positions.
46 An employee who has resigned and who has been reinstated or reappointed
47 in the service within one year thereafter shall, for the purposes of
48 this section, be deemed to have continuous service. An employee who has
49 been terminated because of a disability resulting from occupational
50 injury or disease as defined in the [~~workmen's~~] workers' compensation
51 law and who has been reinstated or reappointed in the service thereafter
52 shall be deemed to have continuous service. A period of employment on a
53 temporary or provisional basis, or in the unclassified service, imme-
54 diately preceded and followed by permanent service in the classified
55 service, shall not constitute an interruption of continuous service for
56 the purposes of this section; nor shall a period of leave of absence

1 without pay pursuant to law or the rules of the civil service commission
2 having jurisdiction, or any period during which an employee is suspended
3 from ~~[he]~~ their position pursuant to this section, constitute an inter-
4 ruption of continuous service for the purposes of this section.

5 4. Units for suspension or demotion in civil divisions. Upon the abol-
6 ition or reduction of positions in the service of a civil division,
7 suspension or demotion shall be made from among employees holding the
8 same or similar positions in the same jurisdictional class in the entire
9 department or agency within which such abolition or reduction of posi-
10 tions occurs. In a city having a population of one million or more, the
11 municipal civil service commission may, by rule, designate as separate
12 units for suspension and demotion under the provisions of this section
13 any hospital or institution or any division of any department or agency
14 under its jurisdiction. Upon the abolition or reduction of positions in
15 such service, suspension or demotion, as the case may be, shall be made
16 from among employees holding the same or similar positions in the same
17 jurisdictional class in the department wherein such abolition or
18 reduction occurs, except that where such abolition or reduction occurs
19 in such hospital or institution or division of a department designated
20 as a separate unit for suspension or demotion, suspension or demotion
21 shall be made from among incumbents holding the same or similar posi-
22 tions in the same jurisdictional class in such separate unit.

23 5. Units for suspension or demotion in the state service. The presi-
24 dent may, by regulation, designate as separate units for suspension or
25 demotion under the provisions of this section any state hospital, insti-
26 tution or facility or any division of any state department or agency or
27 specified hospitals, institutions and facilities of a single state
28 department or agency within a particular geographic area as determined
29 by the president. Upon the abolition or reduction of positions in the
30 same jurisdictional class in the state service, suspension or demotion,
31 as the case may be, shall be made from among employees holding the same
32 or similar positions in the department wherein such abolition or
33 reduction occurs, except that where such abolition or reduction occurs
34 in a separate unit for suspension or demotion designated by regulation
35 of the president, suspension or demotion shall be made from among incum-
36 bents holding the same or similar positions in such separate unit.

37 6. Displacement in civil divisions. A permanent incumbent of a posi-
38 tion in a civil division in a specific title to which there is a direct
39 line of promotion who is suspended or displaced pursuant to this
40 section, together with all other such incumbents suspended or displaced
41 at the same time, shall displace, in the inverse order of the order of
42 suspension or demotion prescribed in subdivisions one and two of this
43 section, incumbents serving in positions in the same ~~[lay-off]~~ layoff
44 unit in the next lower occupied title in direct line of promotion who
45 shall be displaced in the order of suspension or demotion prescribed in
46 subdivisions one and two of this section; provided, however, that no
47 incumbent shall displace any other incumbent having greater retention
48 standing in the same jurisdictional class. If a permanent incumbent of
49 a position in a civil division is suspended or displaced from a position
50 in a title for which there are no lower level occupied positions in
51 direct line of promotion, ~~[he]~~ they shall displace the incumbent with
52 the least retention right pursuant to subdivisions one and two of this
53 section who is serving in a position in the title in which the displac-
54 ing incumbent last served on a permanent basis prior to service in one
55 or more positions in the title from which ~~[he-is]~~ they are suspended or
56 displaced, if: (1) the service of the displacing incumbent while in such

1 former title was satisfactory and (2) the position of the junior incum-
2 bent is in (a) the competitive, noncompetitive or labor class, (b) the
3 layoff unit from which the displacing incumbent was suspended or
4 displaced, and (c) a lower salary grade than the position from which the
5 displacing incumbent is suspended or displaced; provided, however, that
6 no incumbent shall displace any other incumbent having greater retention
7 standing in the same jurisdictional class. Refusal of appointment to a
8 position afforded by this subdivision constitutes waiver of rights under
9 this subdivision with respect to the suspension or displacement on
10 account of which the refused appointment is afforded. The municipal
11 civil service commission shall promulgate rules to implement this subdivi-
12 sion including rules which may provide adjunctive opportunities for
13 displacement either to positions in direct line of promotion or to
14 formerly held positions; provided, however, that no such rule shall
15 permit an incumbent to displace any other incumbent having greater
16 retention standing in the same jurisdictional class. For the purpose of
17 acquiring preferred list rights, displacement pursuant to this subdivi-
18 sion is the equivalent of suspension or demotion pursuant to subdivision
19 one of this section.

20 7. Displacement in the state service. A permanent incumbent of a posi-
21 tion in the state service in a specific title to which there is a direct
22 line of promotion who is suspended or displaced pursuant to this
23 section, together with all other such incumbents suspended or displaced
24 at the same time, shall displace, in the inverse order of the order of
25 suspension or demotion prescribed in subdivisions one and two of this
26 section, incumbents serving in positions in the same layoff unit in the
27 next lower occupied title in direct line of promotion who shall be
28 displaced in the order of suspension or demotion prescribed in subdivi-
29 sions one and two of this section; provided, however, that no incumbent
30 shall displace any other incumbent having greater retention standing in
31 the same jurisdictional class. If a permanent incumbent of a position
32 in the state service is suspended or displaced from a position in a
33 title for which there are no lower level occupied positions in direct
34 line of promotion, [~~he~~] they shall displace the incumbent with the least
35 retention right pursuant to subdivisions one and two of this section who
36 is serving in a position in the title in which the displacing incumbent
37 last served on a permanent basis prior to service in one or more posi-
38 tions in the title from which [~~he is~~] they are suspended or displaced,
39 if: (1) the service of the displacing incumbent while in such former
40 title was satisfactory and (2) the position of the junior incumbent is
41 in (a) the competitive, noncompetitive or labor class, (b) the layoff
42 unit from which the displacing incumbent was suspended or displaced, and
43 (c) a lower salary grade than the position from which the displacing
44 incumbent is suspended or displaced; provided, however, that no incum-
45 bent shall displace any other incumbent having greater retention stand-
46 ing in the same jurisdictional class. Refusal of appointment to a posi-
47 tion afforded by this subdivision constitutes waiver of rights under
48 this subdivision with respect to the suspension or displacement on
49 account of which the refused appointment is afforded. The state civil
50 service commission shall promulgate rules to implement this subdivision
51 including rules which may provide adjunctive opportunities for displace-
52 ment either to positions in direct line of promotion or to formerly held
53 positions; provided, however, that no such rule shall permit an incum-
54 bent to displace any other incumbent having greater retention standing
55 in the same jurisdictional class. For the purpose of acquiring
56 preferred list rights, displacement pursuant to this subdivision is the

1 equivalent of suspension or demotion pursuant to subdivision one of this
2 section.

3 (1) Pursuant to such method of payment, such member shall pay, as
4 additional member contributions payable besides the ordinary member
5 contributions due for [~~his~~] their current service:

6 (A) the ordinary member contributions which would have been done for
7 such period of suspension if [~~he or she~~] they had actually been in
8 service during such period; and

9 (B) (if such member has elected the twenty-year retirement program
10 provided for by section six hundred four-a of the retirement and social
11 security law), the additional member contributions which [~~he~~] they would
12 have been required to make under the provisions of that section for the
13 period from the starting date of such program to the date next preceding
14 the date on which such member became a participant in such retirement
15 program, if [~~he~~] they had become such a participant on such starting
16 date; and

17 (C) additional member contributions of two per centum of [~~his or her~~]
18 their compensation for the period beginning with the first full payroll
19 period which includes the date of enactment of this subdivision and
20 ending on the earlier of his or her date of retirement or [~~his or her~~]
21 their completion of thirty years of service.

22 9. Certain suspensions or demotions in the city of Niagara Falls.
23 Notwithstanding the provisions of subdivision one of this section, the
24 members of a paid fire department in the city of Niagara Falls shall be
25 subject to the following procedure. Where, because of economy, consol-
26 idation or abolition of functions, curtailment of activities or other-
27 wise, positions in the competitive class are, noncompetitive or labor
28 abolished or reduced in rank or salary grade, suspension or demotion, as
29 the case may be, among incumbents holding the same or similar positions
30 in the same jurisdictional class shall be made in the inverse order of
31 original appointment on a permanent basis in the grade or title in the
32 service of the governmental jurisdiction in which such abolition or
33 reduction of positions occurs, subject to the provisions of subdivision
34 seven of section eighty-five of this chapter. Notwithstanding the
35 provisions of this subdivision, however, upon the abolition or reduction
36 of positions in the competitive, noncompetitive or labor class, incum-
37 bents holding the same or similar positions in the same jurisdictional
38 class who have not completed their probationary service shall be
39 suspended or demoted, as the case may be, before any permanent incum-
40 bents, and among such probationary employees the order of suspension or
41 demotion shall be determined as if such employees were permanent incum-
42 bents.

43 § 2. Section 80-a of the civil service law is REPEALED.

44 § 3. Subdivision 1 of section 81 of the civil service law, as amended
45 by chapter 152 of the laws of 2011, is amended to read as follows:

46 1. Establishment of preferred lists; general provisions. The head of
47 any department, office or institution in which an employee is suspended
48 or demoted in accordance with the provisions of [~~sections~~] section
49 eighty [~~and eighty-a~~] of this title shall, upon such suspension or
50 demotion, furnish the state civil service department or appropriate
51 municipal commission, as the case may be, a statement showing his name,
52 title or position, date of appointment, and the date of and reason for
53 suspension or demotion. It shall be the duty of such civil service
54 department or commission, as the case may be, forthwith to place the
55 name of such employee upon a preferred list, together with others who
56 may have been suspended or demoted from the same or similar positions in

1 the same jurisdictional class, and to certify such list, as hereinafter
2 provided, for filling vacancies in the same jurisdictional class; first,
3 in the same or similar position; second, in any position in a lower
4 grade in line of promotion; and third, in any comparable position. Such
5 preferred list shall be certified for filling a vacancy in any such
6 position before certification is made from any other list, including a
7 promotion eligible list, notwithstanding the fact that none of the
8 persons on such preferred list was suspended from or demoted in the
9 department or suspension and demotion unit in which such vacancy exists.
10 No other name shall be certified from any other list for any such posi-
11 tion until such preferred list is exhausted. The eligibility for rein-
12 statement of a person whose name appears on any such preferred list
13 shall not continue for a period longer than four years from the date of
14 separation or demotion. An employee whose name was placed on the
15 preferred list and at the time of such placement was on active duty with
16 the armed forces of the United States, as pursuant to title ten, four-
17 teen or thirty-two of the United States code, shall not be eligible for
18 employment reinstatement for a period longer than four years after the
19 date of termination of military duty.

20 § 4. Subdivisions 1 and 5 of section 81-a of the civil service law,
21 subdivision 1 as amended by chapter 140 of the laws of 1993 and subdivi-
22 sion 5 as added by chapter 239 of the laws of 1992, are amended to read
23 as follows:

24 1. Establishment of reemployment rosters in the state service; general
25 provisions. The head of any department, office or institution from which
26 an employee in the state service is to be suspended or demoted in
27 accordance with the provisions of section eighty [~~or eighty-a~~] of this
28 article, shall, at least twenty days prior to such suspension or
29 demotion, furnish the state civil service department with a statement
30 showing such employee's name, title or position, date of appointment,
31 and the date of and reason for suspension or demotion. Upon such employ-
32 ee's suspension or demotion, it shall be the duty of the department to
33 place the name of such employee upon a reemployment roster for filling
34 vacancies in any comparable position as determined by the department,
35 except that employees suspended or demoted from positions in the non-
36 competitive and labor classes may not be certified to fill vacancies in
37 the competitive class. Such reemployment roster shall be certified for
38 filling a vacancy in any such position before certification is made from
39 any other list, including a promotion eligible list, but not prior to a
40 preferred list. Eligibility for reinstatement of a person whose name
41 appears on any such reemployment roster shall not continue for a period
42 longer than four years from the date of suspension or demotion provided,
43 however, in no event shall eligibility for reinstatement from a reem-
44 ployment roster continue once the person is no longer eligible for rein-
45 statement from a preferred list.

46 5. Notwithstanding any other provision of this chapter, the department
47 may disqualify for reinstatement and remove from a reemployment roster
48 the name of any otherwise eligible person who, by reason of physical or
49 mental incapacity, is found to be unable to satisfactorily perform the
50 duties of the position for which such roster has been established, or
51 who has engaged in such misconduct as would warrant [~~his or her~~] ~~their~~
52 dismissal from public employment, except that a person who is not
53 completely physically incapacitated and who is suspended or demoted
54 pursuant to section eighty [~~or eighty-a~~] of this article because [~~his or~~
55 ~~her~~] ~~their~~ position has been abolished or reduced, but who is certified
56 for reinstatement to any position having the same physical requirements

1 as the position from which such person was suspended or demoted, shall
2 not be disqualified because of ~~[his or her]~~ their incapacity, unless
3 upon medical examination ~~[his or her]~~ their incapacity has worsened to a
4 degree that ~~[he or she]~~ they would not be able to satisfactorily perform
5 in such position. No person shall be disqualified pursuant to this
6 subdivision unless ~~[he or she is]~~ they are first given a written state-
7 ment of the reasons therefor and an opportunity to be heard at a hearing
8 at which satisfactory proof of such reasons must be established by
9 appropriate evidence, and at which such person may present independent
10 evidence and be entitled to representation by counsel. The department
11 shall designate a person to hold such hearing and report thereon.

12 § 5. Subdivision 1 of section 81-b of the civil service law, as
13 amended by chapter 140 of the laws of 1993, is amended to read as
14 follows:

15 1. Establishment of placement rosters in the state service; general
16 provisions. The head of any department, office or institution from
17 which an employee in the state service is to be suspended or demoted in
18 accordance with the provisions of section eighty ~~[or eighty-a]~~ of this
19 article, shall, no later than the date on which ~~[he or she furnishes]~~
20 they furnish the state civil service department with the employee infor-
21 mation required pursuant to section eighty-one-a of this article for
22 purposes of establishing reemployment rosters, furnish the state civil
23 service department with a statement showing such employee's name, title
24 or position, date of appointment, and the anticipated date of and reason
25 for suspension or demotion. Upon receiving such information, it shall be
26 the duty of the department forthwith to place the name of such employee
27 upon a placement roster for filling vacancies in the same title or in
28 any comparable position as determined by the department, except that
29 employees suspended or demoted from positions in the ~~[non-competitive]~~
30 noncompetitive and labor classes may not be certified to fill vacancies
31 in the competitive class. Such placement roster shall be certified for
32 filling a vacancy in any such position before certification is made from
33 any other list, including a promotion eligible list, but not prior to a
34 preferred list or a reemployment roster. Eligibility for appointment of
35 an employee whose name appears on any such placement roster shall termi-
36 nate at such time as the employee is suspended or demoted in accordance
37 with the provisions of section eighty ~~[or eighty-a]~~ of this article.
38 Upon such employee's suspension or demotion, the department shall place
39 the name of such employee upon a preferred list, and a reemployment
40 roster as appropriate, in accordance with the provisions of sections
41 eighty-one and eighty-one-a of this article.

42 § 6. Subdivision 7 of section 85 of the civil service law, as amended
43 by chapter 532 of the laws of 1976, is amended to read as follows:

44 7. Preference in retention upon the abolition of positions. In the
45 event of the abolition or elimination of any position in the civil
46 service ~~[for which eligible lists are established or any position the~~
47 ~~incumbent of which is encompassed by section eighty-a of this chapter]~~,
48 any suspension, demotion or displacement shall be made in the inverse
49 order of the date of original appointment in the service subject to the
50 following conditions: (1) blind employees shall be granted absolute
51 preference in retention; (2) the date of such original appointment for
52 disabled veterans shall be deemed to be sixty months earlier than the
53 actual date, determined in accordance with section thirty of the general
54 construction law; (3) the date of such original appointment for non-dis-
55 abled veterans shall be deemed to be thirty months earlier than the
56 actual date, determined in accordance with section thirty of the general

1 construction law; (4) no permanent competitive class employee subject to
2 the jurisdiction of the civil service commission of the city of New York
3 who receives an injury in the line of duty, as defined in this para-
4 graph, which requires immediate hospitalization, and which is not
5 compensable through ~~[workmen's]~~ workers' compensation may be suspended,
6 demoted or displaced pursuant to section eighty of this chapter within
7 three months of the date of ~~[his]~~ their confinement, provided that
8 medical authorities approved by such commission shall certify that the
9 employee is not able to perform the duties of ~~[his]~~ their position;
10 provided further, that such three-month period may be extended by such
11 commission for additional periods not to exceed one year each upon the
12 certification of medical authorities selected by such commission that
13 the employee is, as a result of ~~[his]~~ their injury, still not able to
14 perform the duties of ~~[his]~~ their position. An injury in the line of
15 duty, as used herein, shall be construed to mean an injury which is
16 incurred as a direct result of the lawful performance of the duties of
17 the position. In determining whether an injury was received in the line
18 of duty, such commission shall require the head of the agency by which
19 the employee is employed to certify that the injury was received as a
20 direct result of the lawful performance of the employee's duties; and
21 (5) the spouse of a veteran with one hundred percent service connected
22 disability shall be deemed to be sixty months earlier than the actual
23 date, determined in accordance with section thirty of the general
24 construction law, provided, the spouse is domiciled with the veteran-
25 spouse and is the head of the household. This section shall not be
26 construed as conferring any additional benefit upon such employee other
27 than a preference in retention. Such employee shall be subject to trans-
28 fer upon the abolition of ~~[his]~~ their function within ~~[his]~~ their agency
29 or department.

30 § 7. Paragraph (a) of subdivision 3 of section 131 of the civil
31 service law, as amended by chapter 733 of the laws of 1979, is amended
32 to read as follows:

33 (a) If such an employee is demoted, or displaced to a position in a
34 lower grade pursuant to ~~[sections]~~ section eighty ~~[or eighty-a]~~ of this
35 chapter, or is appointed, transferred or reinstated to a position in a
36 lower grade, ~~[he]~~ they shall, upon such demotion, displacement, appoint-
37 ment, transfer, or reinstatement, receive the rate of compensation which
38 corresponds with the number of annual increments and the percentage
39 value of performance advances actually received in the salary grades
40 from which and to which ~~[he is]~~ they are demoted, displaced, appointed,
41 transferred or reinstated, as the case may be.

42 § 8. Paragraph (e) of subdivision 11 and paragraph (f) of subdivision
43 13 of section 3556 of the public authorities law, as added by chapter 5
44 of the laws of 1997, are amended to read as follows:

45 (e) Notwithstanding any other provision of this title, the corporation
46 may disqualify for reinstatement and remove from a reemployment roster
47 the name of any otherwise eligible person who, by reason of physical or
48 mental incapacity, is found to be unable to satisfactorily perform the
49 duties of the position for which such roster has been established, or
50 who has engaged in such misconduct as would warrant ~~[his or her]~~ their
51 dismissal from public employment, except that a person who is not
52 completely physically incapacitated and who is suspended or demoted
53 pursuant to section eighty ~~[or eighty-a]~~ of the civil service law
54 because ~~[his or her]~~ their position has been abolished or reduced, but
55 who is certified for reinstatement to any position having the same phys-
56 ical requirements as the position from which such person was suspended

1 or demoted, shall not be disqualified because of [~~his or her~~] their
2 incapacity, unless upon medical examination [~~his or her~~] their incapaci-
3 ty has worsened to a degree that [~~he or she~~] they would not be able to
4 satisfactorily perform in such position. No person shall be disqualified
5 pursuant to this subdivision unless [~~he or she is~~] they are first given
6 a written statement of the reasons therefor and an opportunity to be
7 heard at a hearing at which satisfactory proof of such reasons must be
8 established by appropriate evidence, and at which such person may pres-
9 ent independent evidence and be entitled to representation by counsel.
10 The corporation shall designate a person to hold such hearing and report
11 thereon.

12 (f) Eligibility for appointment of an employee whose name appears on a
13 redeployment list shall terminate at such time as the employee is rede-
14 ployed pursuant to the provisions of this section to a position in the
15 same salary grade as the position from which [~~he or she has~~] they have
16 been suspended or demoted, or has exercised [~~his or her~~] their reemploy-
17 ment rights pursuant to the provisions of section eighty-one or eighty-
18 one-a of the civil service law, provided, however, that eligibility for
19 appointment shall terminate no later than six months following the
20 suspension or demotion of such employee in accordance with the
21 provisions of section eighty [~~or eighty-a~~] of the civil service law.
22 Upon such employee's suspension or demotion, the corporation shall place
23 the name of such employee upon a preferred list, and a reemployment
24 roster, as appropriate, in accordance with the provisions of subdivision
25 eight of this section.

26 § 9. Subdivision 10-b of section 243 of the military law, as added by
27 chapter 152 of the laws of 2011, is amended to read as follows:

28 10-b. If a public employer consolidates, abolishes, displaces, or
29 demotes a position, in accordance with section eighty[~~, eighty-a~~] or
30 eighty-five of the civil service law, which is occupied by a public
31 employee currently on active duty with the armed forces of the United
32 States, as pursuant to title ten, fourteen or thirty-two of the United
33 States code, such employer shall comply with subdivisions eleven and
34 twelve of this section and, upon the termination of the public employ-
35 ee's active duty, as defined in title ten, fourteen or thirty-two of the
36 United States code, such public employer shall provide full re-employ-
37 ment rights warranted to such employee under the Federal Uniformed
38 Services Employment and Reemployment Rights Act of 1994, provided,
39 however, the right of re-employment under this subdivision does not
40 entitle such employee to displacement rights over any person with great-
41 er seniority. Such public employer shall not abolish any position or
42 positions solely based upon the fact that the position or positions are
43 currently filled by an individual or individuals engaged in military
44 duty.

45 § 10. Nothing in this act shall be construed to impede, infringe, or
46 diminish any rights or benefits relating to the suspension or demotion
47 upon the abolition or reduction of positions for employees in the
48 noncompetitive class or the labor class which employees are afforded
49 through a bona fide collective bargaining agreement, or otherwise dimin-
50 ish the integrity of existing or future collective bargaining agreements
51 and other past practices.

52 § 11. This act shall take effect on the ninetieth day after it shall
53 have become a law.