§ 78. Transfer of personnel upon the abolition of positions in state civil service. 1. Where necessitated by reasons of economy, efficiency, consolidation or abolition of functions, curtailment of activities or otherwise, employees may be transferred, without further examination, from one agency or department of the state, or from the Roswell Park Cancer Institute as defined in subparagraph (i) of paragraph d of section one of chapter forty-one of the laws of nineteen hundred ninety-seven, as amended, to positions in the same title or any comparable title, as determined by the department, in another department or agency of the state. Where more than one employee in the title and location from which transfer is to be made is eligible and willing to accept transfer, the department shall place the names of those employees upon a transfer list, and certify such list for filling vacancies, as hereinafter provided, first, in the same position; second, in any position in a lower grade in line of promotion; and third, in any comparable position. Such transfer list may be certified for filling a vacancy in any such position before certification is made from any other eligible list, placement roster, reemployment or preferred list, except as provided in subdivision four of this section.

2. Order of certification of names from transfer list. a. The names of persons on a transfer list established to fill vacancies in the same position or a position in a lower grade in line of promotion shall be certified therefrom in the order of their original appointments, in accordance with the provisions of subdivision three of section eighty, subdivision three of section eighty-a and subdivision seven of section eighty-five of this chapter.

b. The names of persons on a transfer list established to fill vacancies in a comparable position shall be certified therefrom with equal ranking for appointment.

3. Probation. a. Upon appointment to a position in the same title, a probationer shall be required to complete his or her probationary term.

b. Completion of a probationary term, to the extent provided for in the rules promulgated by the commission pursuant to subdivision two of

section sixty-three of this chapter, shall be required for all appointments to a position in a comparable title.

4. Relative seniority. Where a preferred list exists containing the names of persons who have been suspended or demoted from a position in the same title to which an appointment is to be made, the relative seniority, determined in accordance with the provisions of subdivision three of section eighty, subdivision three of section eighty-a and subdivision seven of section eighty-five of this chapter, of the person certified first on such preferred list willing to accept appointment and the person certified first on the transfer list willing to accept appointment shall be compared and the person with the greater seniority shall be certified first.

5. Termination of eligibility. Eligibility for appointment from a transfer list shall terminate on the date of the suspension, demotion or relocation. Notwithstanding any other provision of this chapter, any employee may voluntarily remove his or her name from a transfer list by application to the department.

6. Rulemaking authority. The president shall adopt rules for carrying into effect the provisions of this section, including rules for the relinquishment of eligibility.

7. The department shall continue to establish lists under the provisions of this section.