CIVIL SERVICE LAW

Laws 1909, Chap. 15.

AN ACT in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws.

Became a law, February 17, 1909, with the approval of the Governor.

Passed, three-fifths being present.

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

CHAPTER 7 OF THE CONSOLIDATED LAWS

CIVIL SERVICE LAW

Article I. Short title; definitions (§§ 1-2).
II. Civil service administration (§§ 5-27).
III. Jurisdictional classification (§§ 35-45).
IV. Recruitment of personnel (§§ 50-65).
V. Personnel changes (§§ 70--83-g).
VI. Special rights for veterans and exempt volunteer firefighters (§§ 85-88).
VII. Enforcement; prohibitions; penalties (§§ 95-107).
VIII. Classification and compensation of state employees (§§ 115-140).
IX. Merit awards for state employees (§§ 145-146).
X. Miscellaneous provisions (§§ 150--159-d).
XI. Health insurance for state and retired state employees (§§ 160-170).
XI-A. Long term care insurance for state and retired state employees (§§ 171-177).
XI-B. Medical examination of public protection officials to detect and identify the human immunodeficiency virus (HIV) (§ 178)
XII. Laws repealed, when to take effect (§§ 180-181).
XIII. Saving clause; construction; separability (§§ 185-186).
XIV. Public employees' fair employment act (§§ 200-216).

ARTICLE I

SHORT TITLE; DEFINITIONS

Section 1. Short title.
2. Definitions.

Section 1. Short title. This chapter shall be known as the "Civil Service Law."

§ 2. Definitions. When used in this chapter.

1. The term "commission" or "state commission" means the state civil service commission;

2. The term "president" means the president of the state civil service commission;

3. The term "department" or "civil service department" means the state department of civil service, unless otherwise expressly stated or unless the context requires a different meaning;

4. The term "municipal commission" or "municipal civil service commission" means the civil service commission of a city, of a county, or of a suburban town governed pursuant to article three-A of the town law and having a population of at least fifty thousand as shown in the most recent decennial federal census or special population census taken pursuant to section twenty of the general municipal law, or the personnel officer of a city, of a county, or of such a suburban town, or a regional civil service commission or a regional personnel officer, as the case may be, unless otherwise expressly stated or unless the context requires a different meaning;

5. The "civil service" of the state of New York or any of its civil divisions includes all offices and positions in the service of the state or of such civil divisions, except such offices and positions in the militia and the military departments as are or may be created under the provisions of article twelve of the constitution;

6. The "state service" shall include all offices and positions in the civil service of the state;

7. The "city service" shall include all offices and positions in the civil service of any city;

8. The "service of a civil division" shall include all offices and positions in the civil service of any subdivision of the state; and the term "civil division" shall include within its meaning a city;

9. The term "appointing authority" or "appointing officer" means the officer, commission or body having the power of appointment to subordinate positions;

10. The term "jurisdictional classification" means the assignment of positions in the classified service to the competitive, non-competitive, exempt or labor classes;

11. The term "position classification" means a grouping together, under common and descriptive titles, of positions that are substantially similar in the essential character and scope of their duties and responsibilities and in the qualification requirements therefor;

12. The term "board of supervisors" shall include within its meaning the elective governing body of a county which has no board of supervisors.

ARTICLE II

CIVIL SERVICE ADMINISTRATION

Title A. Organization and functions of state civil service department (Secs. 5-11).

B. Organization and functions of municipal civil service commissions (Secs. 15-27).

TITLE A

ORGANIZATION AND FUNCTIONS OF STATE CIVIL SERVICE DEPARTMENT

Section 5. Department of civil service; state civil service commission.
6. Powers and duties of the state civil service commission.
7. Powers and duties of the president of the state civil service commission.
7-a. Commission on increasing diversity in the state government workforce.
8. Offices of department; rooms and accommodations.
9. Attendance of witnesses; fees.
11. Assessment of certain expenses of administration of the department of civil service.
12. Recruitment of women to state civil service initiative

§ 5. Department of civil service; state civil service commission. 1. The department. There shall continue to be in the state government a department of civil service. The head of the department shall be the president of the state civil service commission who shall be responsible for the discharge of the duties and functions of the department.

2. The commission. (a) Appointment. The state civil service commission is continued and shall consist of three commissioners who shall be appointed by the governor, by and with the advice and consent of the senate, not more than two of whom shall be adherents of the same political party. The governor shall designate one of the members of the commission to be president of the commission and such member shall serve in the capacity of president during the pleasure of the governor. The members shall not hold any other public office or public employment for which they shall receive compensation other than necessary travel and other expenses incurred in the performance of the duties of such other office or employment, or engage in private employment or in a profession or business which interferes with the performance of their duties or requires their disqualification from the performance of such duties because of a conflict of interests caused thereby. The commissioners other than the president of the commission shall, when performing the work of the commission, be compensated at the rate of two hundred fifty

dollars per day, together with an allowance for actual and necessary expenses incurred in the discharge of their duties hereunder. The president of the commission shall receive an annual salary established in section one hundred sixty-nine of the executive law. No member shall serve as an officer of any political party or political organization or engage in partisan political activities.

(b) Term of office. The term of office of each member shall be six years from the first day of February of the year in which the term of his predecessor expired. A vacancy in the membership of the commission shall be filled by appointment by the governor, by and with the advice and consent of the senate, for the unexpired term.

(c) Expenses. The president and each of the other members shall be paid the necessary expenses incurred in the discharge of his duties.

§ 6. Powers and duties of the state civil service commission. The state civil service commission shall

1. Prescribe and amend suitable rules and regulations for carrying into effect the provisions of this chapter and of section six of article five of the constitution of the state of New York, including (a) rules for the jurisdictional classification of offices and positions in the classified service of the state; (b) rules for examinations, appointments, promotions, transfers, leaves of absence, resignations and reinstatements, and the keeping, reporting and reviewing of performance ratings of employees in the classified service of the state and civil divisions for which the provisions of this chapter are administered by the state civil service department; (c) rules for sick leaves, vacations, time allowances and other conditions of employment in the classified service of the state and, notwithstanding any other provision of this chapter or any other law, such rules may provide for cash payment of the monetary value of accumulated and unused vacation or time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his or her separation from service or his or her entrance into the armed forces of the United States for active duty (other than for training) as defined by title ten of the United States code, whether or not such entrance constitutes a

separation from service, and for the payment of the monetary value of his or her accumulated and unused time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his or her appointment, promotion or transfer from the department or agency in which such time allowances were earned to another department or agency and provided further however that any such rules or regulations shall provide that individuals certified by an examining physician as benefiting from the use of a service animal in performing major life activities, individuals registered with the New York state commission for the blind as legally blind or certified by an examining physician or licensed optometrist as legally blind, as manifested by visual acuity of 20/200 or less in the better eye with best correction or visual field of 20 degrees or less, and individuals who are deaf or hard of hearing manifested by a speech discrimination score of forty percent or less in the better ear with appropriate correction as certified by an examining physician or a licensed audiologist or otorhinolaryngologist as defined in section seven hundred eighty-nine of the general business law, or a physician who has examined such person pursuant to the provisions of section seven hundred ninety-two of such law, may charge against accumulated sick leave credits and upon written agreement between the individual and the employer, may borrow against sick leave credits not yet accumulated, for the purpose of obtaining service animals or guide dogs and necessary training, up to a maximum of twenty-six days in any one calendar year; and (d) rules for the position classification and jurisdictional classification of offices and employees in civil divisions for which the provisions of this chapter are administered by the state civil service department.

Such rules and any modification thereof shall take effect when approved by the governor and filed in the office of the department of state, and shall have the force and effect of law;

2. Keep minutes of its own proceedings and records of its other official actions;

3. Make investigations concerning all matters touching upon the enforcement and effect of the provisions of this chapter and the rules

and regulations established thereunder and concerning the action of any person in respect to the administration of this chapter. In the course of such investigations each member and any officer or employee previously designated in writing by the commission to conduct investigations or hearings in its behalf shall have power to administer oaths. A record of such written designation shall be kept on file in the office of such commission;

4. Have power to subpoena and require the attendance in this state of witnesses and the production of books and papers pertinent to the investigation and inquiries hereby authorized and to examine them and such public records as it shall require relating to any such matter. For the purposes of such examination, the commission possesses all the powers conferred by the legislative law upon a committee of the legislature or by the civil practice law and rules, upon a board or committee. A subpoena issued under this section shall be regulated by the civil practice law and rules. Said commission and any officer or employee previously designated in writing by it to act in its behalf may invoke the power of any court of record in the state to compel witnesses to attend, testify and produce books and papers;

5. Hear and determine appeals instituted by any person believing himself aggrieved by any action or determination of the president of the commission acting as the head of the department, made under the authority conferred upon such president or department under the provisions of this chapter except article eleven hereof; provided, however, that no such appeal shall be allowed (a) if the action or determination involved relates solely to matters of internal management of the department, or (b) if the action or determination involved was considered and approved in advance by the commission. The appeals authorized by this subdivision shall be instituted by applications in writing to the commission within thirty days of the action or determination to be reviewed. The commission, for good cause shown, may waive such thirty-day limitation. The commission may make such investigation or inquiry into the facts relative to the action or determination appealed from as may be deemed advisable and may affirm, reverse or modify such action or determination;

6. Make determinations of all appeals filed with the state commission pursuant to the provisions of section one hundred twenty of this chapter;

6-a. Submit a report on or before January thirty-first of each year, to the governor and the legislature which shall include, but not be limited to, information detailing the total number of appeals received from determinations made based upon written and oral examinations, performance tests and ratings of training and experience, during the preceding twelve months, and the final disposition or dispositions of each appeal.

7. Meet in Albany at least once in each calendar month, except the month of August, and hold such other meetings at such places within the state as the needs of the public service may require. A majority of the members of the commission shall constitute a quorum.

§ 7. Powers and duties of the president of the state civil service commission. The president of the commission shall have the following powers and duties:

1. He shall be the head of the department of civil service and the appointing officer thereof, and shall be responsible for the discharge of the duties and functions of the department and for the enforcement of the rules and regulations.

2. He may select suitable persons in the service of the state or any of its civil divisions, after consulting the head of the department or office in which such persons serve, to act as examiners under his direction. Persons so selected shall be entitled to reimbursement from the department for their actual and necessary expenses incurred in connection with such service.

3. He shall adopt a departmental seal and require that it be used for the authentication of orders and other documents and for such other

purposes as he may prescribe.

4. Subject to the provisions of this chapter and the rules established thereunder, he shall make regulations for and have control of examinations for the service of the state, and the civil divisions thereof, except civil divisions for which a municipal commission performs such function, and shall supervise and preserve the records thereof.

5. He shall provide pre-retirement counseling services to employees of the state and of the civil divisions thereof who are members of the state retirement system, and in cooperation with such retirement system, municipal civil service commissions, the adult education bureau of the education department and local school boards, establish such courses on personal counseling as may be necessary to prepare public employees for retirement.

6. The president of the commission shall prepare an annual report describing occupational injuries, illnesses, and workers' compensation experience for all state agencies as defined by subdivision three of section two-a of the state finance law. Such report shall be published no later than September thirtieth of each year, beginning in two thousand eight, and shall report information on the basis of the last completed state fiscal year. In subsequent years, the report shall include comparative data for up to five prior fiscal years if such data is available. The report shall be delivered to the governor, the legislature and to any labor organization that represents state agency employees and shall be available to the public. The contents of the report shall include the following information for each state agency, broken down by institutions and facilities as was done in the report previously published by the department entitled "Occupational Accidents and Workers' Compensation Experience for NYS Government Employees" published from nineteen hundred eighty-seven to nineteen hundred ninety-two:

(a) the total number of employees, the number of work-related accidents and the rate of work-related injuries and illnesses;

(b) the number of lost work time injuries and illnesses and the rate

of lost work time cases;

(c) the number of days of lost work time and the number and rate of lost full time employees;

(d) the cost to the state of lost work time due to work-related cases;

(e) the cost to the state of medical expenses due to work-related injuries and illnesses;

(f) a description of the types of injuries, the number of injuries and illnesses of each type and the most common causes of those cases, and the body part injured;

(g) a list of the job titles with work-related injury and illness rates that are more than twenty-five percent above the average for all state agencies;

(h) a list of the state agencies with work-related injury and illness rates that are more than twenty-five percent above the average for all state agencies;

(i) work-related injury and illness rates for all state agencies by collective bargaining units; and

(j) a summary of findings and recommendations prepared in consultation with the workers' compensation board and the state insurance fund for state agencies regarding the prevention of injury and illnesses and the reduction of costs due to these cases.

7. The president, with the assistance of the office of information technology services as needed, shall prepare a report on or before the first day of September two thousand eighteen and every three years thereafter to be issued to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, and the minority leader of the senate. Such report shall detail current programs within state agencies that allow for alternative work schedules or flexible work hours, the positive and negative experiences for agencies in utilizing alternative work schedules or flexible work hours, whether legal or practical reasons affect the ability to offer such schedules, and any existing plans agencies may have for altering schedule options available to employees. The president shall compile input from agencies selected pursuant to this subdivision, and each agency shall provide all available information upon request to the president. The president may also include information about best

practices among selected agencies. Nothing set forth in this section shall be construed to impede, infringe or diminish the rights and benefits that accrue to employees and employers through collective bargaining agreements, or otherwise diminish the integrity of the collective bargaining relationship. For purposes of this subdivision, "alternative work schedules or flexible work hours" shall mean an ongoing schedule modification that applies to more than one employee in a described business unit. Alternative work schedules or flexible work hours shall not include voluntary reduction in work schedule agreements and individualized work schedules.

8. The president shall have the power to review claims for reimbursement submitted by public authorities or municipal corporations other than a city with a population of a million or more pursuant to section ninety-two-d of the general municipal law to determine if such claim shall be approved, reduced, amended or rejected. Such review and determination shall be made in accordance with section ninety-two-d of the general municipal law.

§ 7-a. Commission on increasing diversity in the state government workforce. 1. There is hereby established in the department an independent commission on increasing diversity in the state government workforce. Such commission shall not be subject to the supervision or control of the department, the commission or the president. The commission on increasing diversity in the state government workforce shall examine, evaluate and make recommendations concerning ways to increase the number of minority workers in state service.

2. The commission on increasing diversity in the state government workforce shall be composed of fifteen members, to be appointed as follows: nine members shall be appointed by the governor, three members shall be appointed by the temporary president of the senate, and three members shall be appointed by the speaker of the assembly. Of the nine members appointed by the governor, at least one member shall represent each of the following: the department, the office of employee relations, the governor's appointments office, a prominent civil rights

organization representing blacks, a prominent civil rights organization representing Hispanics, and a prominent civil rights organization representing Asians. All the members appointed by the temporary president of the senate and the speaker of the assembly shall be representatives of a protected class as established by federal statutory or case law. Every member of the commission shall serve at the pleasure of the official who appointed him or her. The members shall be broadly representative of the geographic areas of the state and the diverse minority communities of the state. The governor shall designate the chair and vice-chair of the commission from among his or her appointees. Vacancies in the membership of the commission shall be filled in the manner provided for original appointments.

3. The commission on increasing diversity in the state government workforce:

(a) shall recommend ways in which to increase the number of minority workers in state service;

(b) shall study how to diversify the workforce in state service during the replacement of the existing workforce as it ages out and retires;

(c) shall review the diversity hiring practices of other states and the federal government, including reviewing the Presidential Management Interim Program model for recruiting and advancing Hispanic and African-American college graduates, and recommend the best outcome practices;

(d) shall review and recommend changes to the existing hiring and promotion practices that will help diversify the workers in state service at all levels of service;

(e) shall review and recommend the means by which to best provide information to students and faculty at colleges and universities in the state on the employment and promotion opportunities in state service;

(f) shall review and recommend recruiting and employment practices that will bring Hispanics into jobs classified as shortage category occupations, as well as other occupations;

(g) shall review and recommend any flexibilities that exist in the state civil service system to bring minorities into jobs classified as shortage category occupations, as well as other occupations;

(h) shall review and recommend procedures that the department should

take to develop and promote the participation of minority state employees in career development programs;

(i) may meet within and without the state, shall hold public hearings and shall have all the powers of a legislative committee pursuant to the legislative law;

(j) to the maximum extent feasible, shall be entitled to request and receive, and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, commission or agency of the state as it may reasonably request to properly carry out its powers and duties pursuant to this section; and

(k) (1) shall, on or before April first, two thousand seven, report to the governor and the legislature its findings, conclusions and recommendations,

(2) shall, on or before April first, two thousand eight, report to the governor and the legislature on the status of and any actions taken on the recommendations made pursuant to subparagraph one of this paragraph, and

(3) shall, on or before April first, two thousand nine, report to the governor and the legislature on the status of and any actions taken on the recommendations made pursuant to subparagraph one of this paragraph, and which actions have and have not been taken to provide for diversity in the state government workforce.

4. The members of the commission on increasing diversity in the state government workforce shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this section.

§ 8. Offices of department; rooms and accommodations. The principal office of the department shall be in the city of Albany. It shall be the duty of the officers of the state of New York or of any civil division thereof, at any place where examinations are directed to be held, to heat, light and allow the reasonable use of public buildings in all proper ways to facilitate the holding of such examinations.

§ 9. Attendance of witnesses; fees. 1. Witnesses shall be entitled to the same fees as are allowed in civil cases in courts of record. Such fees need not be pre-paid, and shall be paid; (a) in the case of persons subpoenaed by the state civil service commission, from the state treasury on the audit and warrant of the comptroller upon vouchers approved by the president of the commission, or (b) in the case of persons subpoenaed by a municipal commission, in the manner provided by law for the payment of the lawful expenses of such municipal commission.

2. All public officers and their deputies and employees shall afford the state civil service commission and any municipal civil service commission all reasonable facilities in conducting the inquiries authorized by this chapter, give inspection to such commission of all books, papers and documents belonging or in any way appertaining to their respective offices, produce said books and papers, and attend and testify when required to do so by such commission.

§ 11. Assessment of certain expenses of administration of the department of civil service. 1. For purposes of this section,

(a) The term "expenses of administration" means the total cost of administration of the department, excluding costs of providing services to municipalities and costs of administration of the health benefit plan, and excluding costs of special programs or activities of the department as may be determined by the president, subject to approval of the director of the budget, which do not serve generally all state departments and agencies under the jurisdiction of the department;

(b) The term "public authority" means a public authority or public benefit corporation under the jurisdiction of the department of civil service;

(c) The term "position" means an office or position, other than a seasonal or temporary position, in the classified service under the jurisdiction of the department of civil service.

2. A fractional share of the expenses of administration, as determined pursuant to subdivision three of this section, shall be charged against and payable from the following sources:

(a) If the salary or compensation of ten or more positions in any department or agency of the state is payable from a special or administrative fund, other than the state purposes fund or the local assistance fund or the capital construction fund of the general fund of the state, or an income fund of the state university, or the mental hygiene services fund, such fractional share shall be charged against and payable from such special or administrative fund;

(b) If the salary or compensation of ten or more positions in any department or agency of the state is payable from an appropriation assessed or to be collected or refunded pursuant to law, such fractional share shall be included in and payable from such appropriation;

(c) Such fractional share shall be payable by each public authority having ten or more positions.

3. For the purpose of computing the fractional share of the expenses of administration for any fiscal year to be payable from a source specified in subdivision two of this section, the numerator of such fraction shall be the number of positions the salary or compensation of which is payable from such source and the denominator shall be the total number of positions in the service of the state and public authorities. The numbers of positions shall be the numbers of positions existing as of October thirty-first in such fiscal year.

4. As soon as practicable after the close of the fiscal year ending March thirty-first, nineteen hundred sixty-seven, and thereafter as soon as practicable after the close of each fiscal year, the president shall determine the amount representing the share of expenses of administration for such fiscal year chargeable to each source specified in subdivision two of this section, and shall certify such amount to the appropriate department or agency of the state or public authority. Such sums shall be payable to the commissioner of taxation and finance at the beginning of the fiscal year following such certification.

§ 12. Recruitment of women to state civil service initiative 1. The department, through existing programs, shall provide information to both women and men about high paying jobs and careers, including jobs

traditionally dominated by men. Such information shall be distributed as part of any recruitment efforts as well as be available on the department's website.

2. The president shall prepare and submit to the governor, the temporary president of the senate, and the speaker of the assembly an annual evaluation report of the initiative no later than January first, two thousand eighteen, and every year thereafter. The report shall include:

(a) how many women were referred to examinations for jobs and careers that offer high earning potential, including jobs traditionally dominated by men;

(b) the ratio of women to men in traditionally high paying jobs in state civil service and any change in that ratio from the previous year;

(c) The president's recommendations and plans for increasing the number of women in traditionally high paying jobs; and

(d) any other information the president deems relevant.

TITLE B

ORGANIZATION AND FUNCTIONS OF MUNICIPAL CIVIL SERVICE COMMISSIONS

Section 15. Optional forms of local civil service administration.
16. Change of form of administration.
17. Jurisdiction.
17-a. Placement of certain director of school facility positions.
18. Administration of civil service in jointly established agency.
19. Election by certain villages, school districts, special districts and public agencies located in two or more counties.
20. Rules.
21. Investigations.
22. Certification for positions.
23. Services by state department of civil service; certification of state and municipal eligible lists.
24. Removal of municipal civil service commissioners and

personnel officers.

25. Powers of state civil service commission with respect to local rules; appointments and eligible lists.

26. Reports; inspections.

27. Prohibition against certain public employment and political activities.

§ 15. Optional forms of local civil service administration. 1. Optional forms of administration. There shall be the following forms of local civil service administration for the purpose of administering the provisions of this chapter in counties, including civil divisions therein, in certain suburban towns, and in cities in the state:

(a) Municipal civil service commissions. A municipal civil service commission shall consist of three persons, not more than two of whom shall at any time be adherents of the same political party. The members of a county civil service commission shall be appointed by the board of supervisors, except that in a county having a county executive the members of the commission shall be appointed by the county executive with the advice and consent of the board of supervisors. The members of a suburban town civil service commission in such a town described in subdivision four of section two of this chapter shall be appointed by the town board of such town. The members of a city civil service commission shall be appointed by the mayor, city manager, or other authority, as the case may be, having the general power of appointment of city officers and employees. Of the members first appointed upon the establishment or re-establishment of a municipal civil service commission, the term of one shall expire on May thirty-first of the first even-numbered year following the date of appointment; the term of one shall expire on May thirty-first of the second even-numbered year following the date of appointment; and the term of one shall expire on May thirty-first of the third even-numbered year following the date of appointment. Upon the expiration of each of such terms, the term of office of each commissioner thereafter appointed shall be six years from the first day of June in the year in which the term of his predecessor expired. If the office of any such commissioner shall become vacant by death, resignation or otherwise, his successor shall be appointed as

herein provided for the unexpired term.

(b) Personnel officers. The personnel officer of a county shall be appointed by the board of supervisors or, in a county having a county executive, by the county executive with the advice and consent of the board of supervisors. The personnel officer of a suburban town described in subdivision four of section two of this chapter shall be appointed by the town board of such town. The personnel officer of a city shall be appointed by the mayor, city manager, or other authority, as the case may be, having the general power of appointment of city officers and employees. The term of office of a personnel officer shall be six years. A personnel officer shall have all the powers and duties of a municipal civil service commission.

(d) Administration by regional civil service commission or regional personnel officer. Any two or more adjoining counties, or any two or more cities in the same or adjoining counties, or any combination of such counties and cities, by written agreement duly approved by the governing board or body of each county or city participating, may establish a regional civil service commission or the office of regional personnel officer. (1) The agreement to establish such a commission shall provide for the manner of selection, appointment and removal of three regional civil service commissioners; provided, however, that no member of such regional commission shall be removed except for cause and after a public hearing. Not more than two members of such regional commission shall at the same time be adherents of the same political party. Of the commissioners first appointed, the term of one shall expire on May thirty-first of the first even-numbered year following the date of appointment; the term of one shall expire on May thirty-first of the second even-numbered year following the date of appointment; and the term of one shall expire on May thirty-first of the third even-numbered year following the date of appointment. Upon the expiration of each of such terms, the term of office of the commissioner thereafter appointed shall be six years from the first day of June in the year in which the term of his predecessor expired. If the office of any such commissioner shall become vacant by death, resignation, or otherwise, his successor shall be appointed for the unexpired term in the manner provided in such agreement. (2) The agreement to establish the office of regional personnel officer shall provide for the manner of selection, appointment

and removal of a regional personnel officer; provided, however, that the term of office of such personnel officer shall be six years, and provided further that no regional personnel officer shall be removed except for cause and after a public hearing. (3) Such agreement shall provide for the location of the principal office of the regional civil service commission or regional personnel officer, the employment and status of personnel, the audit and payment of salaries and expenses, the apportionment of costs among participating counties and cities, and such other matters as may be necessary or appropriate. (4) A regional civil service commisison or regional personnel officer shall have all the powers and duties of a municipal civil service commission, and shall administer the provisions of this chapter in the cities and counties, including civil divisions therein, which join in the establishment of the regional civil service agency. (5) Upon the establishment of a regional civil service commission or the office of regional personnel officer, the municipal civil service commission or office of personnel officer, as the case may be, in each of the counties and cities participating shall cease to exist, and all the rights, duties, obligations and functions thereof shall be transferred to and imposed upon such regional civil service commission or regional personnel officer. (6) The written agreement establishing a regional civil service commission or the office of regional personnel officer may be amended from time to time as necessary and for the purpose of admitting additional cities or counties, upon approval of the governing board or body of each of the cities and counties participating in such agreement.

2. Appointment by state commission. If, for any reason, the members of a municipal or regional civil service commission or a city, suburban town, county or regional personnel officer are not appointed within sixty days after the establishment of a municipal or regional civil service commission or office of city, suburban town, county or regional personnel officer, the state civil service commission shall make such appointments for the respective terms provided for herein and until the successors of such appointees are appointed and qualify. If, for any reason, the duly authorized appointing authority of a municipal or regional civil service commission or a city, suburban town, county or regional personnel officer within sixty days after it has the power to

appoint fails to appoint a municipal or regional civil service commissioner or a city, suburban town, county or regional personnel officer, the state civil service commission may appoint to such offices for the respective terms provided for herein, and until the successors are appointed and qualify.

3. Continuation of present forms of administration. The forms of civil service administration in effect and operation in the several cities and counties in this state on the effective date of this act are hereby continued.

4. Form of administration in a city wholly including within its limits two or more counties. The provisions of this chapter shall be administered in a city wholly including within its limits two or more counties under the form of administration prescribed in the charter of such city.

5. Form of administration in any county wholly included within a city. The provisions of this chapter shall be administered in and for all county offices and agencies in each county in the state wholly included within a city by and under the municipal civil service commission and department of personnel of such city, except such offices and agencies as are subject to the supervision of the administrative board of the judicial conference.

§ 16. Change of form of administration. 1. Election to change form of administration. (a) Counties. The board of supervisors of any county, other than a county wholly included within a city, may at any time and from time to time, authorize the withdrawal of the county from its then existing form of administration and elect that the provisions of this chapter be administered in such county under one of the other forms of administration authorized by section fifteen of this chapter.

(b) Cities; certain suburban towns. The common council or other legislative body of a city, other than a city containing more than one county, or the town board of a suburban town described in subdivision four of section two of this chapter, may, at any time and from time to

time, authorize the withdrawal of the city or the said suburban town, as the case may be from its then existing form of administration and elect that the provisions of this chapter be administered in such city or said suburban town under one of the other forms of administration authorized by section fifteen of this chapter, or under the jurisdiction of the civil service commission or personnel officer of the county in which such city or said suburban town is located. Such election may be made by a suburban town by adopting a local law establishing a department of civil service. This section shall apply to local laws of suburban towns establishing a department of civil service adopted prior to January 1, 1970, provided, however, such local laws did not become effective prior to January 1, 1970.

(c) Cities and counties under the jurisdiction of a regional civil service commission or regional personnel officer. The cities and counties under the jurisdiction of a regional civil service commission may, at any time and from time to time, elect, by written agreement duly approved by the respective governing board or body of each such city and county, to adopt a regional personnel officer form of administration. The cities and counties under the jurisdiction of a regional personnel officer may, in like manner, elect to adopt a regional civil service commission form of administration.

2. Effective date of election. (a) Except as herein otherwise provided, the effective date of any change of form of administration authorized pursuant to the provisions of this section shall be fixed by the governing board or body of a city or suburban town described in subdivision four of section two of this chapter, or county, as the case may be, or in the agreement for the establishment of a regional civil service commission or the office of regional personnel officer, but shall not be less than one year from the time of such election or less than two years from the effective date of the last preceding change of form of administration, whichever is the longer period. Any such election for a change of form of civil service administration may be revoked at any time within six months after the date of such election. The effective date of such change may be postponed once at any time within six months after the date on which such election is made; provided, however, that where the effective date of such change is

postponed, the new effective date of such change shall be one year from the date on which such postponement is authorized, but not earlier than two years from the effective date of the last preceding change of form of administration.

(b) In the case of a city the charter of which becomes operative on or after the effective date of this act, unless otherwise provided in such charter the common council or other legislative body thereof may elect to adopt one of the optional forms of civil service administration provided in section fifteen of this chapter within sixty days after the effective date of its charter and such election shall become effective immediately.

(c) If, after a city or suburban town described in subdivision four of section two of this chapter has elected that the provisions of this chapter shall be administered in such city or such suburban town under the jurisdiction of the civil service commission or personnel officer of the county, such county elects to change its form of civil service administration, such city or such suburban town may, within six months after such election by the county, elect to adopt one of the other forms of civil service administration provided in section fifteen of this chapter, which shall become effective on the date on which the change of form of administration of such county becomes effective.

(d) Where a city or county under the jurisdiction of a regional civil service commission or regional personnel officer elects to withdraw therefrom and adopt one of the other optional forms of civil service administration provided in section fifteen of this chapter, the remaining cities or counties under the jurisdiction of such regional commission or regional personnel officer, if there be at least two, may, within six months after such election, by a new written agreement or modification of the original agreement duly approved by the governing board or body of each such city and county, continue such regional civil service commission or the office of regional personnel officer. In the event such regional civil service commission or the office of personnel officer is not so continued, it shall be dissolved on the effective date of the withdrawal of a city or county therefrom, and the counties and cities participating therein may, prior to such dissolution, elect to adopt one of the other forms of civil service administration provided in section fifteen of this chapter, which shall become effective upon the

dissolution of such regional civil service commission or office of regional personnel officer. Upon the dissolution of a regional civil service commission or the office of regional personnel officer, the provisions of this chapter shall be administered in any city or county participating therein which has not so elected to adopt one of the other forms of civil service administration provided in section fifteen, under the form of civil service administration in effect in such city or county immediately preceding its election to come under the jurisdiction of such regional civil service commission or regional personnel officer.

(e). A suburban town as described in subdivision four of section two of this chapter, electing to initiate its own civil service administration for the first time may appoint its administration immediately upon making an election pursuant to section sixteen (b) and such administration shall assume jurisdiction upon the transfer of eligible lists, records, documents and files to it which transfer shall be completed within six months of the appointment of the administration hereunder.

3. Notice and public hearing. A public hearing shall be held after reasonable notice, before any action may be taken by the governing board or body of a city or suburban town, as specified above or county to elect a change of form of civil service administration for such city or suburban town, as specified above or county, as the case may be, or to revoke such election or postpone the effective date of such election.

§ 17. Jurisdiction. 1. County civil service commission or personnel officer. The civil service commission or personnel officer of a county shall administer the provisions of this chapter with respect to the offices and employments in the classified service of such county and the civil divisions therein including school districts, except cities which are operating under one of the optional forms of civil service administration provided in section fifteen of this chapter and the city school districts of such cities.

2. City or suburban town civil service commission or personnel officer. Except as otherwise provided by special law enacted by the

legislature, the civil service commission or personnel officer of a city or suburban town described in subdivision four of section two of this chapter shall administer the provisions of this chapter with respect to the offices and employments in the classified service of such suburban town or city, including the city school districts of such city.

3. Regional civil service commission or regional personnel officer. A regional civil service commission or regional personnel officer shall administer the provisions of this chapter with respect to the offices and employments which would otherwise be subject to the jurisdiction of the civil service commissions or personnel officers of the respective counties and cities under the jurisdiction of such regional civil service commission or regional personnel officer.

4. Each municipal commission and personnel officer shall have power at its own expense to conduct examinations and establish eligible lists for any position within its jurisdiction.

5. Administration of certain director of facility positions. Notwithstanding the provisions of this section, chapter or any provisions to the contrary contained in any general, special, or local laws, the department shall develop a statewide exam for the positions of director of facilities I, II, & III in school districts throughout the state. Such administration shall include the development of eligibility criteria for examination of potential candidates for the positions of director of facilities I, II, & III based on qualifications and experience in accordance with section fifty of this chapter. Such statewide examinations shall not affect the ability of municipal civil service commissions to determine promotion qualifications, announce promotion examinations and establish promotion eligible lists for these positions, consistent with statewide eligibility criteria as determined by the department. Any such promotion examination shall use the statewide examination developed by the department.

§ 17-a. Placement of certain director of school facility positions. 1. The legislature hereby finds and declares that the continued,

uninterrupted, adequate and efficient operation of school facilities is necessary for the general welfare of the people; that such adequate operation involves and requires personnel with highly specialized ability, skill, training, and knowledge; that local civil service commissions may decide to classify such positions where they constitute bona fide civil service positions as evidenced by factors including enhanced pay, benefits, and dignity of position; that while competitive examination has been deemed practicable for directors of school facilities, to require such examination for valid appointment of current long-standing employees would irreparably disorganize certain school facility operations, endanger the safety of students, and interrupt the continuity and effective performance of important educational operations.

2. Notwithstanding the provisions of this chapter or any provisions to the contrary contained in any general, special, or local laws, any person holding a permanent competitive class appointment as:

(a) Supervisor of Buildings and Grounds - Albany City School District, Superintendent of Buildings and Grounds, Director of Facilities, Director of Facilities and Transportation, Director of Facilities and Operations - Albany County;

(b) Superintendent of Buildings and Grounds - Allegany County;

(c) Director of School Facilities I, II and III; Director of School Facilities and Operations III - Broome County;

(d) Superintendent of Buildings & Grounds - Cattaraugus County;

(e) Superintendent of Buildings and Grounds - Cayuga County;

(f) Facilities Manager - Forestville School, Maintenance and Transportation Manager - Ripley CSD, Superintendent of Buildings and Grounds, Superintendent of Buildings and Transportation - Dunkirk School District, Senior Building and Maintenance Mechanic - Fredonia CSD, Director of Facilities and Operations and Superintendent of Buildings and Grounds - City of Jamestown - Chautauqua County;

(g) Superintendent of Buildings and Grounds, Supervisor of Buildings and Grounds - Chemung County;

(h) Superintendent of Buildings and Grounds - Chenango County;

(i) Superintendent of Buildings and Grounds; Superintendent of Buildings and Grounds II; Superintendent of Buildings and Grounds I;

Superintendent of Buildings and Transportation - Clinton County;

(j) Supervisor of Buildings and Grounds, Superintendent of Buildings and Grounds, Director of Facilities, Director of Facilities and Transportation, Director of Facilities and Operations - Columbia County;

(k) Superintendent of Buildings and Grounds - Cortland County;

(l) Superintendent of Buildings and Grounds, Head Custodian - Franklin CSD, Margaretville CSD & South Kortwright CSD - Delaware County;

(m) Director of Facilities and Operations I, II, III - Dutchess County;

(n) Superintendent of Buildings and Grounds - Erie County;

(o) Superintendent of Buildings and Grounds; Superintendent of Buildings, Grounds and Transportation - Essex County;

(p) Superintendent of Buildings and Grounds, Director of Facilities and Operations I & II; Director of Facilities - Franklin County;

(q) Supervisor of Buildings and Grounds, Superintendent of Buildings and Grounds, Director of Facilities, Director of Facilities and Transportation, Director of Facilities and Operations - Fulton County;

(r) Supervisor of Buildings and Grounds - Genesee County;

(s) Supervisor of Buildings and Grounds, Superintendent of Buildings and Grounds, Director of Facilities, Director of School Facilities, Director of Facilities and Transportation, Director of Facilities and Operations - Greene County;

(t) Facilities Manager, Superintendent of Buildings and Grounds, Director of Facilities; Head Custodian - South Jefferson Central School; Head Custodian - Thousand Island Central School - Jefferson County;

(u) Superintendent of Buildings and Grounds; Supervisor of Buildings and Grounds; Transportation and Building Maintenance Supervisor - Lewis County;

(v) Superintendent of Buildings and Grounds - Livingston County;

(w) Superintendent of Buildings and Grounds, Supervisor of Buildings and Grounds - Madison County;

(x) Director of Buildings and Grounds, Superintendent of Buildings and Grounds - Monroe County;

(y) Supervisor of Buildings and Grounds, Superintendent of Buildings and Grounds, Director of Facilities, Director of Facilities and Transportation, Director of Facilities and Operations - Montgomery County;

(z) Director of School Facilities and Operations I, II, III, IV, Director of School Facilities Planning and Director of School Facilities, Operations and Transportation - Nassau County;

(aa) Director of Facilities and Operations I, Director of Facilities and Operations II - Niagara County;

(bb) Supervisor of Buildings and Grounds, Superintendent of Buildings and Grounds, Plant Manager, Maintenance Supervisor, Head Custodian - Oriskany CSD & New York Mills UFSD - Oneida County;

(cc) Superintendent of Buildings and Grounds, Director of Facilities, Director of Facilities and Transportation - Onondaga County;

(dd) Director, Director of Buildings and Grounds, Director of Facilities and Operations - Ontario County;

(ee) Superintendent of Buildings and Grounds, Director of Facilities and Operations, Director of Buildings and Grounds, Director of Building Maintenance and Director of Operations - Orange County;

(ff) Director of Operations and Maintenance, Superintendent of Buildings and Grounds - Orleans County;

(gg) Superintendent of Buildings and Grounds, Supervisor of Buildings and Grounds - City of Oswego, Manager of Buildings & Grounds & Security - City of Fulton - Oswego County;

(hh) Superintendent of Buildings & Grounds, Head Custodian - Morris CSD, Director of Facilities - Otsego County;

(ii) Supervisor of Buildings and Grounds, Superintendent of Buildings and Grounds, Director of Facilities, Director of Facilities and Transportation, Director of Facilities and Operations - Rensselaer County;

(jj) Director of Facilities I, Director of Facilities II, Director of Facilities III - Rockland County;

(kk) Buildings and Grounds Supervisor, Superintendent of Buildings and Grounds, Superintendent of Buildings and Grounds I, Superintendent of Buildings and Grounds II, Superintendent of Buildings & Grounds & Transportation; Director of Operations - St. Lawrence County;

(ll) Supervisor of Buildings and Grounds, Superintendent of Buildings and Grounds, Director of Facilities, Director of Facilities I, II and III - City of Saratoga Springs, Director of Facilities and Transportation, Director of Facilities and Operations - Saratoga County;

(mm) Supervisor of Buildings and Grounds, Superintendent of Buildings

and Grounds, Director of Facilities, Director of Facilities and Transportation, Director of Facilities and Operations - Schenectady County;

(nn) Supervisor of Buildings and Grounds, Supervisor of Buildings, Facilities and Grounds, Maintenance Supervisor - Sharon Springs, Head Custodian - Gilboa Conesville, Schoharie County;

(oo) Superintendent of Buildings and Grounds, Building Maintenance Supervisor - Schuyler County;

(pp) Director of Facilities and Grounds - Seneca County;

(qq) Superintendent of Buildings and Grounds, Director of Facilities and Operations I, Head Building Maintenance Mechanic - Steuben County;

(rr) Plant Facilities Administrator - Suffolk County;

(ss) Director of Facilities Support and Services I, II, III - Sullivan County;

(tt) Superintendent of Buildings and Grounds - Tioga County;

(uu) Superintendent of Buildings and Grounds, Maintenance Supervisor, Director of School Facilities and Operations III - Tompkins County;

(vv) Superintendent of Buildings and Grounds, Director of Facilities and Operations, Director of Operations and Maintenance, Director of Buildings and Grounds, Director of Building Maintenance and Director of Operations - Ulster County;

(ww) Superintendent of Buildings and Grounds, Director of Facilities - Glens Falls City, Director of Facilities and Transportation, Director of Facilities and Operations - Warren County;

(xx) Supervisor of Buildings and Grounds, Superintendent of Buildings and Grounds, Director of Facilities, Director of Facilities and Transportation, Director of Facilities and Operations - Washington County;

(yy) Director of Facilities and Operations II - Wayne County;

(zz) Director of School Facilities and Operations Maintenance - Westchester County;

(aaa) Superintendent of Buildings and Grounds - Wyoming County;

(bbb) Building and Maintenance Supervisor, Superintendent of Buildings and Grounds;

or any other competitive positions not delineated in this section that are an equivalent competitive position to those listed in this section, who was serving in such capacity on the date the first exam is

administered for such position pursuant to section seventeen of this chapter, shall receive a permanent appointment to such position as may be properly classified by the local civil service commission having jurisdiction, without further examination or qualifications and shall have all the rights and privileges of the jurisdictional class to which such position may be allocated.

§ 18. Administration of civil service in jointly established agency. 1. Except where otherwise expressly provided by statute, when a public agency is established and maintained jointly by two or more civil divisions, including school districts, in the same county, the provisions of this chapter shall be administered for such agency by the municipal commission of such county, unless the appointing authority of such agency shall elect, within sixty days following the establishment thereof and with the approval of the civil service commission of a city, if there be one, participating in the establishment and maintenance of such agency, to come under the jurisdiction of the civil service commission of such city.

§ 19. Election by certain villages, school districts, special districts and public agencies located in two or more counties. The administration of this chapter in a village, school district or special district incorporated or established on or after the effective date of this act and comprising territory in two or more counties, or in a public agency established on or after the effective date of this amendment and maintained jointly by two or more counties or two or more municipal corporations or other civil divisions, including school districts, situated in different counties, shall be under the jurisdiction of the civil service commission or personnel officer having jurisdiction over the classified service of one of such counties selected by action of the governing board or body of such village, school district or special district, or the appointing authority of such public agency. In the event that such board or body of such a newly incorporated village or newly established school district or special district or the appointing authority of such newly established public

agency fails to make such selection within ninety days after the effective date of such incorporation or establishment, such village, school district, special district or public agency shall be subject to the jurisdiction of the civil service commission or personnel officer having jurisdiction over the classified service of the county in which the greater or greatest territorial area of such village, school district, special district or public agency is located.

§ 20. Rules. 1. Scope of rules. Each municipal civil service commission shall prescribe, amend and enforce suitable rules for carrying into effect the provisions of this chapter and of section six of article five of the constitution of the state of New York, including rules for the jurisdictional classification of the offices and employments in the classified service under its jurisdiction, for the position classification of such offices and employments, for examinations therefor and for appointments, promotions, transfers, resignations and reinstatements therein, all in accordance with the provisions of this chapter. Nothing in this chapter or any other law shall be construed to require that positions in the competitive class be specifically named or listed in such rules, or that the salary grade to which a position in any jurisdictional class is allocated be specified in such rules.

2. Procedure for adoption of rules. Such rules, and any modifications thereof, shall be adopted only after a public hearing, notice of which has been published for not less than three days, setting forth either a summary of the subject matter of the proposed rules or modifications or a statement of the purpose thereof. Except for the city of New York, notice shall be given to any person or agency filing written request, such request to be renewed yearly in December, for notice of hearings which may affect such person or agency. Such notification shall be made by mail to the last address specified by the person or agency at least thirty days prior to the public hearing. Unless otherwise provided by statute, a fee consisting of the cost of handling and postage may be charged for such notice. Notwithstanding the provisions of this subdivision, however, notice and public hearing shall not be required

upon the adoption or modification of a rule which is required by reason of a change in any statute in order to conform the rule to such statute. The rules and any modifications thereof adopted by a county civil service commission or county personnel officer or by a regional civil service commission or regional personnel officer shall be valid and take effect only upon approval of the state civil service commission. The rules and any modifications thereof adopted by a city civil service commission or city personnel officer shall be valid and take effect only upon approval of the mayor or a deputy mayor designated in writing by the mayor, such designation to be filed in the offices of the state civil service commission, and the municipal civil service commission, or city manager or other authority, as the case may be, having the general power of appointment of city officers and employees, and the state civil service commission; provided, however, that where the mayor, deputy mayor or city manager, or other authority, as the case may be, fails to approve or disapprove a rule or modification thereof within thirty days after the same has been submitted to him, such rule or modification thereof shall be deemed to be approved by him. The rules and any modifications thereof adopted by a suburban town civil service commission in such a town described in subdivision four of section two of this chapter or personnel officer of such a suburban town shall be valid and take effect only upon approval of the state civil service commission. Notwithstanding any other provision of this chapter, when a resolution of a municipal commission submitted to the state commission for approval includes a provision proposing the classification of a position in the exempt class, the state commission, if it determines that such position should properly be classified in the non-competitive class, may amend such provision, with the consent of the municipal commission, to classify such position in the non-competitive class and approve such resolution as so amended. Any such rule or modification thereof shall be filed with the secretary of state within thirty days after final approval thereof by the state civil service commission. Such rules shall have the force and effect of law when filed with the secretary of state.

3. State civil service commission to promulgate rules. Upon the establishment of a municipal or regional civil service commission, or

the office of municipal or regional personnel officer, it shall be the duty of such commission or personnel officer, upon appointment, to adopt and procure the approval of the rules herein provided for, and, upon failure to do so within sixty days after appointment, the state civil service commission shall forthwith make such rules.

§ 21. Investigations. A municipal commission, a municipal personnel officer, a regional commission or a regional personnel officer, for the purpose of investigating the enforcement and effect of the provisions of this chapter and the rules established thereunder in the service under the jurisdiction of such commission or personnel officer shall have the same powers which are granted to the state civil service commission by the third and fourth subdivisions of section six of this chapter.

§ 22. Certification for positions. Before any new position in the service of a civil division shall be created or any existing position in such service shall be reclassified, the proposal therefor, including a statement of the duties of the position, shall be referred to the municipal commission having jurisdiction and such commission shall furnish a certificate stating the appropriate civil service title for the proposed position or the position to be reclassified. Any such new position shall be created or any such existing position reclassified only with the title approved and certified by the commission.

§ 23. Services by state department of civil service; certification of state and municipal eligible lists. 1. Classification services. The state civil service department shall, without charge, upon the request of any municipal commission, render service or technical advice and assistance relative to the position classification and pay equity compensation assessment of offices and employments under the jurisdiction of such municipal commission; provided, however, that where, in the judgment of the president, the services requested would involve considerable expense to the state, the state civil service department may render such services pursuant to an agreement for payment

to the state of such compensation for such services as may be agreed upon. All money received for such services shall be paid into the state treasury in the manner provided by law.

2. Examination services. The state civil service department, upon the request of any such municipal commission, shall render service relative to the announcement, review of applications, preparations, construction, and rating of examinations, and establishment and certification of eligible lists for positions in the classified service under the jurisdiction of such municipal commission. The department may charge a reasonable fee as a condition of rendering any such services. Only the state civil service department and commission shall have jurisdiction to correct any errors in rating in any examination prepared and rated by such department pursuant to the provisions of this subdivision.

3. Other services. The state civil service department without charge, upon the request of any municipal commission, shall furnish technical advice and assistance in the preparation and promulgation of rules or modifications thereof and in any other matters affecting the administration of the provisions of this chapter by such municipal commission.

4. Use of state and county eligible lists by municipal commissions. A municipal commission, in the absence of an eligible list of its own, may request the state civil service department, county civil service commission or county personnel officer to furnish it with the names of persons on an appropriate eligible list established by the department, commission or personnel officer, which, if so requested by the municipal commission, shall be limited to residents of the city, or town or civil division in which appointments are to be made, or to residents of the county or judicial district in which such city, town or civil division is located, or to any reasonable combination of political subdivisions both in and outside of New York state contiguous to the city or civil division in which appointment is to be made or contiguous to the political subdivision in which such city or civil division is located, except for the position of director of facilities I, II, & III of a school district located within the state which shall use the list

developed pursuant to subdivision five of section seventeen of this chapter. Such municipal commission may certify such names for appointment to a position under its jurisdiction in the same manner as certifications are made from the eligible lists of such commission. If the state civil service department, county civil service commission or county personnel officer, upon the request of such commission, has certified an appropriate eligible list to fill a particular position, such list shall continue to be used until superseded by an eligible list established by such municipal commission for such position, or until such list expires or is exhausted or is otherwise terminated.

4-a. Residence restrictions for local positions. The state civil service department or municipal commission having jurisdiction over positions in a city or civil division may require that candidates for examination for appointment to any such positions be residents of such city or civil division, or residents of the county or judicial district in which such city or civil division is located, or of any reasonable combination of political subdivisions both in and outside of New York state contiguous to such city or civil division or contiguous to the political subdivision in which such city or civil division is located, except for candidates for the position of director of facilities I, II, & III of a school district located within the state. An appointing authority of a department or agency of a city or civil division may require that eligibles who are residents of such city or civil division shall be certified first for appointment, except for candidates for the position of director of facilities I, II, & III of a school district located within the state, wherein no such residence requirements shall apply, provided, however, no such preference shall be given on appointments from promotion lists. Upon exhaustion of the list of such resident eligibles, certifications shall be made from the whole eligible list. This subdivision shall not be deemed to supersede any general or special law pertaining to residence qualifications of local officers or employees; provided, however, that any permanent employee who has been suspended or demoted from a position and is on a preferred list for reinstatement, shall not be barred from reinstatement solely on the basis of residency requirements established subsequent to such suspension or demotion, in the event the employee does not meet such

residence qualifications but, nonetheless, was originally properly appointed.

4-b. Geographic certification based on need. A municipal commission having jurisdiction over a city or civil division may provide that eligibles, other than those eligibles on police officer and firefighter lists, who are residents of a geographically-defined area which is a portion of such city or civil division shall be certified first for appointment to positions in such area where in order to qualify for federal moneys such certification is required. Upon exhaustion of the list of such resident eligibles, certifications shall be made from the whole eligible list.

5. Construction. The provisions of this section shall not apply to municipal commissions in any city containing more than one county. The services provided for by subdivision two of this section may, in the discretion of the civil service department, be rendered to a municipal commission in a city containing more than one county upon the payment of a reasonable fee to be determined by the department.

§ 24. Removal of municipal civil service commissioners and personnel officers. 1. Removal by appointing officer or body. The officer or body having the power of appointment of the members of a municipal civil service commission or a personnel officer may at any time remove any such member or personnel officer for cause, after a public hearing, and appoint his successor for the unexpired term.

2. Removal by state civil service commission. A municipal civil service commissioner or personnel officer may be removed by the state civil service commission for incompetency, inefficiency, neglect of duty, misconduct or violation of the provisions of this chapter or of the rules established thereunder, shown after a hearing upon stated charges to be served upon him, and he shall be allowed at least eight days for answering the same in writing. The hearing shall be conducted by the state civil service commission or by one of the members thereof designated in writing by the commission. In case a member of the

commission is so designated, he shall for the purpose of such hearing, be vested with all the powers of the commission and shall make a record of such hearing which shall, together with his recommendations, be referred to the commission for review and decision. Upon the request of the municipal civil service commissioner or personnel officer against whom the charges are preferred, the commission or the member thereof designated to hold such hearing shall permit him to be represented by counsel, and shall allow him to summon witnesses in his behalf. The burden of proving the charges shall be upon the person alleging the same. Compliance with technical rules of evidence shall not be required. The state civil service commission, by unanimous vote of the three members, may find such municipal civil service commissioner or personnel officer guilty of the charges or any of them, and, upon such finding, with the written approval of the governor, may remove such municipal civil service commissioner or personnel officer. A municipal civil service commissioner or personnel officer so removed may review such removal in accordance with the provisions of article seventy-eight of the civil practice act.

3. Suspension pending determination. Where the state commission has commenced removal proceedings against all or a majority of the members of a municipal commission or against a personnel officer, such state commission by unanimous vote of the three members may, with the written approval of the governor, suspend such municipal commissioners or personnel officer or a period not exceeding sixty days pending the determination of such proceedings, and, in such event, the officer or body having the power of appointment of the municipal commissioners or personnel officer involved shall designate, with the approval of the state commission, the persons or person to serve temporarily in the place of such suspended commissioners or personnel officer, as the case may be, pending the determination of such proceedings. If such designations are not made within a period of ten days after notice from the state commission, the state commission shall make such designations. In the event of the removal of one or more members of a municipal commission or a personnel officer, any person temporarily designated to serve in place of a removed commissioner or personnel officer, as the case may be, shall continue to serve until a new commissioner or

personnel officer is appointed and qualifies.

4. Appointment of successor to removed or resigned commissioner or personnel officer. Whenever a municipal civil service commissioner or personnel officer has been removed by the state civil service commission, or whenever a municipal civil service commissioner or personnel officer shall resign or be removed by the appointing officer or body pending an investigation by the state civil service commission of the administration of civil service under the jurisdiction of such municipal commission or personnel officer or pending a hearing by the state civil service commission of charges preferred against such commissioner or personnel officer, the state civil service commission shall have exclusive jurisdiction to appoint a person to fill such vacancy. Such person so appointed shall hold office as municipal civil service commissioner or personnel officer, as the case may be, for the unexpired term of his predecessor and until his successor is appointed and qualifies; or in the event that his predecessor is reinstated pursuant to court order, he shall hold such office only until such reinstatement.

§ 25. Powers of state civil service commission with respect to local rules; appointments and eligible lists. 1. The state civil service commission may, by unanimous vote of the three members

(a) amend or rescind any rule, regulation or jurisdictional classification prescribed by a municipal commission, but shall not exempt from competitive examination any office or position in any civil division without the consent of the municipal commission having jurisdiction;

(b) rescind any appointment in the classified service of a civil division;

(c) remove from any eligible list established by a municipal commission the name of any person thereon; and

(d) rescind any examination or eligible list or cancel an appointment already made from a list so rescinded.

2. The state civil service commission, however, shall not take such

action upon any ground other than that the provisions of this chapter are not properly or sufficiently carried out, nor without specifying in writing the particulars in which such provisions are not carried out. Before any such action is taken, the state civil service commission shall state the reasons for such action in writing and file a certified copy thereof in the office of the municipal commission concerned, which shall be a public document therein, and shall give to such commission and the person aggrieved thereby a reasonable opportunity to present facts in opposition to such action.

§ 26. Reports; inspections. 1. Reports. Each municipal civil service commission shall submit a report to the state civil service commission annually on or before the first day of March of the manner in which this chapter and the rules established thereunder have been and are administered, and the results of such administration under the jurisdiction of such municipal commission and shall from time to time submit to the state civil service commission such other reports as to such other matters as the commission may require. A copy of the roster of the classified civil service of such municipality shall be transmitted to the state civil service commission whenever it shall request the same, and shall be filed in the office of the state civil service commission as a public record.

2. Inspections. All examinations conducted by a municipal civil service commission shall be publicly announced and all rules governing such examinations shall be made public. All the proceedings and papers connected with such examinations or any of the functions or activities of such municipal commission shall be at all times subject to the inspection of the state civil service commission and its agents.

§ 27. Prohibition against certain public employment and political activities. 1. A member of a municipal civil service commission or personnel officer, appointed on or after the effective date of this act, shall not hold any other public office or employment under the political subdivisions or subdivision over which such commission or personnel

officer exercises jurisdiction, for which he shall receive compensation other than necessary travel and other expenses incurred in the performance of the duties of such office or employment.

2. A member of a municipal civil service commission or personnel officer shall not serve as an officer of any political party.

ARTICLE III
JURISDICTIONAL CLASSIFICATION

Title A. Unclassified service (Sec. 35).
B. Classified service (Secs. 40-45).

TITLE A
UNCLASSIFIED SERVICE

Section 35. Unclassified service.

§ 35. Unclassified service. The civil service of the state and each of its civil divisions shall be divided into the classified and unclassified service. The unclassified service shall comprise the following:

(a) all elective offices;

(b) all offices filled by election or appointment by the legislature on joint ballot;

(c) all officers and employees of the state legislature, and all officers and employees of any other legislative body whose principal functions and duties are directly related to the performance of the legislative functions of such body;

(d) all offices filled by appointment by the governor, either upon or without confirmation by the senate, except officers and employees in the executive department who are not heads of divisions therein;

(e) the head or heads of any department of the government who are vested with authority, direction and control over a department, and who have power and authority to appoint and remove officers and employees therein;

(f) all members, officers and employees of boards of elections;

(g) all persons employed by any title whatsoever as members of the teaching and supervisory staff of a school district, board of cooperative educational services or county vocational education and extension board, as certified to the state commission by the commissioner of education. The commissioner of education shall prescribe qualifications for appointment for all classes of positions so certified by him, and shall establish specifications setting forth the qualifications for and the nature and scope of the duties and responsibility of such positions. The commissioner of education shall file such qualifications for appointment and such specifications with the civil service commission;

(h) all positions in the state university in the professional service as defined in subdivision three of section three hundred fifty-five-a of the education law, which positions shall be determined by the chancellor of the state university and certified by him to the civil service commission; provided, however, that any state university position in the classified service which the chancellor seeks to designate as unclassified must be approved by the civil service commission before such change in designation;

(i) all positions in community colleges in the professional service as defined in subdivision two of section six thousand three hundred six of the education law, which shall include all positions on the instructional staffs of the fashion institute of technology, the New York city community college of applied arts and sciences, and of the community colleges sponsored by the board of higher education in the city of New York as respectively defined in sections two thousand five hundred eighty-seven, six thousand two hundred six-a, and six thousand two hundred six-b of the education law. Such positions in community colleges other than the fashion institute of technology, the New York city community college of applied arts and sciences, and community colleges sponsored by the board of higher education of the city of New York shall be determined by the board of trustees of such colleges with the approval of the chancellor of state university, and certified by each such board to the commission or officer which administers the civil service law for the local sponsor of the community college administered by such board. Each such board of trustees shall prescribe

qualifications for appointment for all classes of positions so certified by it, and shall establish specifications setting forth the qualifications for and the nature and scope of the duties and responsibilities of such positions. Each such board of trustees shall file such qualifications for appointment and such specifications with the civil service commission and with the commission or officer to which the certification is made;

(j) all persons, other than persons covered under paragraph (g) or paragraph (h) or paragraph (i) of this section, whose principal functions are teaching or the supervision of teaching in a public school, academy or college.

(k) all positions in the professional service in the New York State School for the Blind and the New York State School for the Deaf, requiring the performance of educational functions, which positions shall be determined by the commissioner of education and certified by him to the civil service commission.

TITLE B

CLASSIFIED SERVICE

Section 40. Classified service; classes of positions.
41. Exempt class.
42. Non-competitive class.
43. Labor class.
44. Competitive class.
45. Status of employees upon acquisition of private institution or enterprise by government.

§ 40. Classified service; classes of positions. The classified service shall comprise all offices and positions not included in the unclassified service. The offices and positions in the classified service of the state and of its civil divisions shall be divided into four classes, to be designated as the exempt class, the non-competitive class, the labor class, and the competitive class.

§ 41. Exempt class. 1. The following offices and positions shall be in the exempt class:

(a) one secretary of each state department or division, temporary state commission or other state officer authorized by law to appoint a secretary;

(b) the deputies of principal executive officers authorized by law to act generally for and in place of their principals;

(c) one secretary of each municipal board or commission authorized by law to appoint a secretary;

(d) one clerk and one deputy clerk if authorized by law, of each court, and one clerk of each elective judicial officer, and also one deputy clerk, if authorized by law, of any justice of the supreme court;

(e) all other subordinate offices or positions for the filling of which competitive or non-competitive examination may be found to be not practicable. Not more than one appointment shall be made to or under the title of any office or position placed in the exempt class pursuant to the provisions of this paragraph, unless a different number is specifically prescribed in the rules.

2. No office or position shall be deemed to be in the exempt class unless it is specifically named in such class in the rules. Upon the occurrence of a vacancy in any position in the exempt class, the state or municipal civil service commission having jurisdiction shall study and evaluate such position and, within four months after the occurrence of such vacancy, shall determine whether such position, as then constituted, is properly classified in the exempt class. Pending such determination, said position shall not be filled, except on a temporary basis.

§ 42. Non-competitive class. 1. The non-competitive class shall include all positions that are not in the exempt class or the labor class and for which it is found by the commission having jurisdiction to be not practicable to ascertain the merit and fitness of applicants by competitive examination. Appointments to positions in the non-competitive class shall be made after such non-competitive examination as is prescribed by the state civil service department or

municipal commission having jurisdiction. No position shall be deemed to be in the non-competitive class unless it is specifically named in such class in the rules. Not more than one appointment shall be made to or under the title of any office or position placed in the non-competitive class pursuant to the provisions of this section, unless a different or an unlimited number is specifically prescribed in the rules.

2. With respect to civil divisions of the state whose populations, according to the latest federal decennial census or latest federal special population census, are less than five thousand and, with respect to those civil divisions whose populations are not determined as such by the federal bureau of the census, whose populations are estimated by their respective governing bodies to be less than five thousand, the state commission shall, on or before July first, nineteen hundred sixty-one, promulgate standards for determining the practicality of examination, which it may from time to time thereafter amend, and shall also provide information and advice to municipal commissions, to enable such commissions to utilize the provisions of this section, when appropriate, in order to enable such civil subdivisions to recruit and retain in their employ competent and qualified persons.

2-a. The state or municipal civil service commission by appropriate amendments to its rules shall designate among positions in the non-competitive class in its jurisdiction those positions which are confidential or require the performance of functions influencing policy.

§ 43. Labor class. 1. The labor class shall comprise all unskilled laborers in the service of the state and each of its civil divisions except those whose positions can be examined for competitively.

2. The state or municipal commission may require applicants for employment in the labor class to qualify in such examinations of their fitness for employment as may be deemed practicable.

§ 44. Competitive class. The competitive class shall include all positions for which it is practicable to determine the merit and fitness of applicants by competitive examination, and shall include all positions now existing or hereafter created, of whatever functions, designations or compensation, in each and every branch of the classified service, except such positions as are in the exempt class, the non-competitive class or the labor class.

§ 45. Status of employees upon acquisition of private institution or enterprise by government. 1. Whenever the state or any civil division or public agency shall acquire a private institution or enterprise, for the purpose of operating it as a public function, such civil division, or public agency, as the case may be, may continue the employment of all officers or employees thereof deemed necessary, who shall have been in the employ of such private institution or enterprise for at least one year prior to such acquisition. The positions so held by such employees shall be in the non-competitive class, pending the classification or reclassification of such positions as hereinafter directed, and such employees shall continue to be employed in similar or corresponding positions and shall have the seniority theretofore held by them as among themselves. The state civil service department or municipal commission having jurisdiction, however, after notice to any such employee, of the reasons therefor, and after according such employee a hearing, may exclude him or her from further employment if found by such department or municipal commission not to be a person of good character. Notwithstanding the provisions of this section, no person shall be continued in employment in a position classified in the competitive class pursuant to the provisions of this subdivision unless he or she is a citizen or a noncitizen lawfully admitted for permanent residence in the United States.

2. Not later than one year after the acquisition of such private institution or enterprise, the state or municipal civil service commission having jurisdiction shall determine for which positions or class of positions competitive examinations are practicable and shall adopt rules classifying and reclassifying the various positions. The

then incumbents of such positions who are employed therein at the time of the acquisition of the private institution or enterprise and who were so employed for at least one year prior to such acquisition shall continue to hold their positions without further examination and shall have all the rights and privileges of the jurisdictional class to which such positions may be allocated; provided, however that after such acquisition all new positions thereafter created and vacancies occurring in positions already established shall be filled in accordance with the provisions of this chapter and the rules adopted thereunder.

ARTICLE IV

RECRUITMENT OF PERSONNEL

Title A. Examinations and eligible lists (§§ 50--59-d).
B. Appointment and promotion (§§ 60-65).

TITLE A

EXAMINATIONS AND ELIGIBLE LISTS

Section 50. Examinations generally.
50-a. Test validation boards.
50-c. Discrimination based upon history of cancerous condition prohibited.
51. Filling vacancies by open competitive examination.
52. Promotion examinations.
53. Noncitizen status.
54. Age requirements.
55. Examination of blind or physically handicapped applicants.
55-a. Employment of persons with disabilities by municipalities.
55-b. Employment of persons with disabilities by the state.
55-c. Employment of veterans with disabilities by the state.
55-c*2. Acceptability of certain high school diplomas.
56. Establishment and duration of eligible lists.
57. Continuous recruitment for certain positions.
58. Requirements for appointment of certain police officers.

58-a. Requirements for provisional or permanent appointment of certain fire fighters.
59. Placement of county sheriffs' personnel in classified service.
59-a. Placement of detectives and investigators in classified service.
59-b. Promotions of supervisory personnel of the emergency medical service.
59-c. State employment of persons and veterans with disabilities study.
59-d. Public posting of employment opportunities.

§ 50. Examinations generally. 1. Positions subject to competitive examinations. The merit and fitness of applicants for positions which are classified in the competitive class shall be ascertained by such examinations as may be prescribed by the state civil service department or the municipal commission having jurisdiction.

2. Announcement of examination. (a) The state civil service department and municipal commissions shall issue an announcement of each competitive examination, setting forth the minimum qualifications required, the subjects of the examination, and such other information as they may deem necessary, and shall advertise and promote such examination in such manner as the nature of the examination may require. Such announcement and advertisement shall each inform prospective applicants of the options for religious observance provided in subdivision eight of this section.

(b) In addition to any announcement required by paragraph (a) of this subdivision, the department and municipal commissions shall provide notice of each competitive examination to the following entities if the entity is located within the same geographic area as the department or commission: board of cooperative educational services (BOCES), school districts, public colleges, public universities, local social services districts, and, to the extent practicable, job training programs. In addition, the department and each municipal commission shall allow any such entity to sign up to be notified electronically when an

announcement is issued.

3. Application for examination. The civil service department and municipal commissions shall require prospective applicants to file, during a prescribed time, a formal application in which the applicant shall state such information as may reasonably be required touching upon his background, experience and qualifications for the position sought, and his merit and fitness for the public service. The application shall be subscribed by the applicant and shall contain an affirmation by him that the statements therein are true under the penalties of perjury. Blank forms for such application shall be furnished by said department and such municipal commissions without charge to all persons requesting the same. The department and such municipal commissions may require in connection with such application such certificates of citizens, physicians, public officers or others having knowledge of the applicant, as the good of the service may require.

4. Disqualification of applicants or eligibles. The state civil service department and municipal commissions may refuse to examine an applicant, or after examination to certify an eligible

(a) who is found to lack any of the established requirements for admission to the examination or for appointment to the position for which he applies; or

(b) who is found to have a disability which renders him or her unfit to perform in a reasonable manner the duties of the position in which he or she seeks employment, or which may reasonably be expected to render him or her unfit to continue to perform in a reasonable manner the duties of such position; or

(d) who has been guilty of a crime; or

(e) who has been dismissed from a permanent position in the public service upon stated written charges of incompetency or misconduct, after an opportunity to answer such charges in writing, or who has resigned from, or whose service has otherwise been terminated in, a permanent or temporary position in the public service, where it is found after appropriate investigation or inquiry that such resignation or termination resulted from his incompetency or misconduct, provided, that in cases of dismissal, resignation or termination after written charges

of incompetency, the examination or certification in question be for a position that requires the performance of a duty or duties which are the same as or similar to the duty or duties of the position from which the applicant has been dismissed, resigned or terminated on account of incompetency; or

(f) who has intentionally made a false statement of any material fact in his application; or

(g) who has practiced, or attempted to practice, any deception or fraud in his application, in his examination, or in securing his eligibility or appointment; or

(h) who has been dismissed from private employments because of habitually poor performance.

No person shall be disqualified pursuant to this subdivision unless he has been given a written statement of the reasons therefor and afforded an opportunity to make an explanation and to submit facts in opposition to such disqualification.

Notwithstanding the provisions of this subdivision or any other law, the state civil service department or appropriate municipal commission may investigate the qualifications and background of an eligible after he has been appointed from the list, and upon finding facts which if known prior to appointment, would have warranted his disqualification, or upon a finding of illegality, irregularity or fraud of a substantial nature in his application, examination or appointment, may revoke such eligible's certification and appointment and direct that his employment be terminated, provided, however, that no such certification shall be revoked or appointment terminated more than three years after it is made, except in the case of fraud.

In connection with their lawful responsibilities or functions under paragraph (d) of this subdivision, the department and appropriate municipal commissions may require applicants to undergo a state and a national criminal history record check. When required, the fingerprints of such an applicant shall be submitted to the division of criminal justice services and the division of criminal justice services is authorized to submit such fingerprints to the federal bureau of

investigation, in accordance with applicable rules or regulations promulgated by such entities, in order to obtain relevant state criminal history record information, if any, concerning such applicant and for a national criminal history record check. The department and municipal commissions shall ensure that adequate notice be provided to applicants regarding the fact that state and national criminal history record checks may be conducted, and the procedures therefor. Provided, however, that the provisions of this section shall not apply to (1) any current employee; or (2) a person who is considered an applicant by reason of (a) a transfer pursuant to section seventy of this chapter; or (b) a person who is on a preferred list subject to section eighty-one of this chapter; or (c) a person whose name is on an eligible list as defined in section fifty-six of this article and who has successfully completed a promotion exam subject to section fifty-two of this article.

5. Application fees. (a) Every applicant for examination for a position in the competitive or non-competitive class, or in the labor class when examination for appointment is required, shall pay a fee to the civil service department or appropriate municipal commission at a time determined by it. Such fees shall be dependent on the minimum annual salary announced for the position, as follows: (1) on salaries of less than three thousand dollars per annum, a fee of two dollars; (2) on salaries of more than three thousand dollars and not more than four thousand dollars per annum, a fee of three dollars; (3) on salaries of more than four thousand dollars and not more than five thousand dollars per annum, a fee of four dollars; and (4) on salaries of more than five thousand dollars per annum, a fee of five dollars. If the compensation of a position is fixed on any basis other than an annual salary rate, the applicant shall pay a fee based on the annual compensation which would otherwise be payable in such position if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rule or order. Fees paid hereunder by an applicant whose application is not approved may be refunded in the discretion of the state civil service department or of the appropriate municipal commission.

* (b) Notwithstanding the provisions of paragraph (a) of this subdivision, the state civil service department, subject to the approval

of the director of the budget, a municipal commission, subject to the approval of the governing board or body of the city or county, as the case may be, or a regional commission or personnel officer, pursuant to governmental agreement, may elect to waive application fees, or to abolish fees for specific classes of positions or types of examinations or candidates, or to establish a uniform schedule of reasonable fees different from those prescribed in paragraph (a) of this subdivision, specifying in such schedule the classes of positions or types of examinations or candidates to which such fees shall apply; provided, however, that fees shall be waived for candidates who certify to the state civil service department, a municipal commission or a regional commission that they are unemployed and primarily responsible for the support of a household, or are receiving public assistance. Provided further, the state civil service department shall waive the state application fee for examinations for original appointment for all veterans. Provided further, the state civil service department shall, and a municipal commission may, subject to the approval of the governing board or body of the city or county, as the case may be, or a regional commission or personnel officer, pursuant to governmental agreement, waive application fees for all examinations held between July first, two thousand twenty-three and December thirty-first, two thousand twenty-seven. Notwithstanding any other provision of law, for purposes of this section, the term "veteran" shall mean a person who has served in the armed forces of the United States or the reserves thereof, or in the army national guard, air national guard, New York guard, or the New York naval militia, and who (1) has been honorably discharged or released from such service under honorable conditions, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service. The term "armed forces" shall mean the army, navy, air force, space force, marine corps, and coast guard.

* NB Effective until December 31, 2027

* (b) Notwithstanding the provisions of paragraph (a) of this subdivision, the state civil service department, subject to the approval

of the director of the budget, a municipal commission, subject to the approval of the governing board or body of the city or county, as the case may be, or a regional commission or personnel officer, pursuant to governmental agreement, may elect to waive application fees, or to abolish fees for specific classes of positions or types of examinations or candidates, or to establish a uniform schedule of reasonable fees different from those prescribed in paragraph (a) of this subdivision, specifying in such schedule the classes of positions or types of examinations or candidates to which such fees shall apply; provided, however, that fees shall be waived for candidates who certify to the state civil service department, a municipal commission or a regional commission that they are unemployed and primarily responsible for the support of a household, or are receiving public assistance. Provided further, the state civil service department shall waive the state application fee for examinations for original appointment for all veterans. Notwithstanding any other provision of law, for purposes of this section, the term "veteran" shall mean a person who has served in the armed forces of the United States or the reserves thereof, or in the army national guard, air national guard, New York guard, or the New York naval militia, and who (1) has been honorably discharged or released from such service under honorable conditions, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service. The term "armed forces" shall mean the army, navy, air force, space force, marine corps, and coast guard.

* NB Effective December 31, 2027

(c) All fees collected hereunder by the state civil service department, except as hereinafter provided, shall be paid into the state treasury in the manner prescribed by the state finance law. Fees collected from applicants for examinations given exclusively for positions in the division of employment in the department of labor shall be held in trust until such time as the costs of such examinations have been ascertained and thereupon shall be disbursed as follows: (1) to the extent that such fees are sufficient therefor, there shall be paid into

the unemployment administration fund maintained under the unemployment insurance law, an amount equal to the costs of such examinations. Such payments shall be made on the fifth day of the month following the month in which such costs were ascertained and shall be accompanied by a detailed, verified statement and a duplicate of such statement shall be filed on the same day with the state comptroller; (2) the balance, if any, of such fees shall be paid into the state treasury pursuant to the state finance law.

(d) All fees collected hereunder by any municipal civil service commission shall be paid into the general fund of the municipality for which such commission has been appointed.

5-a. Location of examinations. (a) The state civil service department shall offer examinations at any location or locations that it deems suitable.

(b) The state civil service department shall make efforts to utilize state university of New York educational opportunity centers when selecting testing sites.

6. Scope of examinations. Examinations shall be practical in their character and shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of that service into which they seek to be appointed. The state civil service department or appropriate municipal commission, as the case may be, may establish an eligible list on the basis of ratings received by the candidates in the competitive portions of the examination and thereafter conduct medical, physical and other appropriate non-competitive qualifying tests from time to time as the need for certifications from the eligible list may require. Beginning in two thousand twenty-five, the state civil service department shall review and update the questions contained within the examination, as deemed appropriate by the department, no less than every five years. Nothing in this section shall prohibit the state civil service department from reviewing or updating the examinations prior to the scheduled update, as the department deems appropriate.

7. Court review of examination questions and answers. Where the state

civil service commission or appropriate municipal civil service commission has, following its duly established review procedures, which in the case of the city of New York are set forth in section fifty-a of this chapter, made a final determination as to the answers that are acceptable on a particular examination, such determination shall not be subject to further review in any court. Court review shall be limited to be a determination of whether such duly established review procedures were followed, and the court shall have no authority to determine whether the commission's determination was correct.

8. Limitation of eligibility to one sex. The state civil service department or the municipal commission having jurisdiction may limit eligibility for examination to one sex when the duties of the position involved relate to the institutional or other custody or care of persons of the same sex, or visitation, inspection or work of any kind the nature of which requires sex selection.

9. Examination of candidates unable to attend tests because of religious observance. A person who, because of his religious beliefs, is unable to attend and take an examination scheduled to be held by the state department of civil service or a municipal commission on a Saturday or on a day which is a religious holiday observed by him, shall be permitted to take such examination on some other day designated by the state department of civil service or appropriate municipal commission, at a reasonably comparable time and place without any additional fee or penalty.

10. The term "disability" as used in this section, shall be defined as such term is defined in section two hundred ninety-two of the executive law. Determination of disability shall be made by a medical officer employed or selected by the civil service department or the municipal commission having jurisdiction.

11. Unlawful acts in respect to examinations administered pursuant to this chapter. A person who shall:

(a) Impersonate, or attempt to or offer to impersonate, another person in taking an examination held pursuant to this chapter; or

(b) Take, or attempt to take or offer to take such an examination in the name of any other person; or

(c) Procure or attempt to procure any other person to falsely impersonate him or her or to take, or attempt to take or offer to take, any such examination in his or her name; or

(d) Have in his or her possession any questions or answers relating to any such examination, or copies of such questions or answers, unless such possession is duly authorized by the appropriate authorities; or

(e) Sell or offer to sell questions or answers prepared for use in any such examination; or

(f) Use in any such examination any questions or answers secured prior to the administration of the examination or secure the questions or secure or prepare the answers to the examination questions prior to the administration of the examination, unless duly authorized to do so by the appropriate authorities; or

(g) Disclose or transmit to any person the questions or answers to such examination prior to its administration, or destroy, falsify or conceal the records or results of such examination from the appropriate authorities to whom such records are required to be transmitted in accordance with this chapter, unless duly authorized to do so by the appropriate authorities;

shall be guilty of a class A misdemeanor punishable by a sentence of imprisonment of six months or a fine of one thousand dollars, or both. Additionally, a person who is found by the state civil service department or municipal commission to have violated this section shall be disqualified from appointment to the position for which the examination is being held and may be disqualified from being a candidate for any civil service examination for a period of five years.

§ 50-a. Test validation boards. Any person who has taken a civil service examination for a position in the competitive class within the jurisdiction of the department of personnel of the city of New York shall have the opportunity to protest any answer or rating guide proposed by the department of personnel to any question on such examination in accordance with the provisions of this section. Such protest must be filed with the city personnel director within the time

limits established pursuant to this section, and in the manner set forth in this section. Within a reasonable time after the last date that protests are permitted to be filed pursuant to this section, the city personnel director shall submit all protests filed in connection with an examination to a test validation board which shall consist of one member appointed by the city personnel director, one member appointed by the city personnel director from a list of up to three incumbent employees nominated by the certified employee organization representing employees in the title of the examination in question or if no certified employee organization exists, then nominated by an employee organization recognized by the city personnel director as representing such employees, and one member appointed jointly by the other two members. If there is more than one certified employee organization or more than one recognized employee association, such organizations or associations shall submit jointly a list of three nominees. Within a reasonable period after the date a civil service examination for a position in the competitive class within the jurisdiction of the department of personnel of the city of New York is administered, the department shall make available to candidates the examination questions and proposed key answers or rating guide, as appropriate, prepared by the city personnel director or his or her designee. The candidate's answer sheet shall be made available to them at the beginning of the protest period. Within thirty days from the date that such proposed key answers and/or rating guides are made available to candidates, any candidate wishing to file a protest to one or more key answers or to the rating guide shall submit a completed written protest, together with evidence in support thereof, to the city personnel director. Such protest shall be duly subscribed by the protesting candidate, shall state the date and number of the examination, and the candidate's social security number and the original and four copies shall be submitted. Protests to proposed key answers or rating guides shall include a statement explaining why the answer selected by the protesting candidate is as good as or better than the proposed key answer or why the rating guide is in error, and any additional evidence the candidate wishes to submit in support of such statement. Within a reasonable time after the last date for filing protests, the test validation board shall make a determination whether the answers selected by the protesting candidates are as good as or

better than the proposed key answers or whether the rating guide should be modified and shall give reasons therefor in an opinion in writing. Such determination shall be binding on the city personnel director and shall be made available for review at the department of personnel. Within ten days after the determination is issued, a notice of its availability shall be served upon the protesting candidates by mail. A candidate aggrieved by the determination of the test validation board may file a petition in supreme court pursuant to article seventy-eight of the civil practice law and rules in accordance with subdivision seven of section fifty of this chapter. Such petition must be filed within thirty days after service of the notice of availability of the determination of the test validation board upon the protesting candidate in accordance with the provisions of this section. The city civil service commission shall have no jurisdiction to make determinations with respect to protests to answers or rating guides to civil service examination questions.

§ 50-c. Discrimination based upon history of cancerous condition prohibited. 1. Neither the state civil service department nor any municipal commission may refuse to examine an applicant or, after examination, to certify an individual who has been placed on a certified eligible list, nor shall such person be deemed to be unfit for the performance of the duties of a position solely because such person has a history of cancer, provided such person is able to perform in a reasonable manner the activities involved in the position sought or held.

2. Nothing contained in this section shall be construed to limit the scope of section two hundred ninety-six of the executive law.

3. A violation of this section shall be considered an unlawful discriminatory practice and, notwithstanding any other provision of law, any complaint about such violation shall be subject to the procedures set forth in section two hundred ninety-seven of the executive law.

§ 51. Filling vacancies by open competitive examination. 1. Upon the written request of the appointing officer stating his reasons therefor, or on its own initiative, the state civil service department or appropriate municipal commission may determine to conduct an open competitive examination for filling a vacancy or vacancies instead of a promotion examination.

2. Except where the state civil service department or appropriate municipal commission finds that there are less than three persons eligible for promotion in the promotion unit where the vacancy exists, or in the department, if such vacancy is not in a separate promotion unit, and except where the department or municipal commission determines to conduct an open competitive and a promotion examination simultaneously, a notice of intention to conduct such open competitive examination or a copy of the appointing officer's request for open competitive examination, as the case may be, shall be publicly and conspicuously posted in the offices of both the appointing officer and the state civil service department or appropriate municipal commission and such request shall not be acted upon until said notice has been posted as aforesaid for a period of not less than fifteen days.

3. Any employee who believes that a promotion examination should be held for filling such vacancy may submit to the state civil service department or appropriate municipal commission his request, in writing, for a promotion examination rather than an open competitive examination, stating the reasons why he believes it to be practicable and in the public interest to fill the vacancy by promotion examination.

§ 52. Promotion examinations. 1. Filling vacancies by promotion. Except as provided in section fifty-one, vacancies in positions in the competitive class shall be filled, as far as practicable, by promotion from among persons holding competitive class positions in a lower grade in the department in which the vacancy exists, provided that such lower grade positions are in direct line of promotion, as determined by the state civil service department or municipal commission; except that where the state civil service department or a municipal commission

determines that it is impracticable or against the public interest to limit eligibility for promotion to persons holding lower grade positions in direct line of promotion, such department or commission may extend eligibility for promotion to persons holding competitive class positions in lower grades which the department or commission determines to be in related or collateral lines of promotion, or in any comparable positions in any other unit or units of governmental service and may prescribe minimum training and experience qualifications for eligibility for such promotion.

2. Factors in promotion. Promotion shall be based on merit and fitness as determined by examination, due weight being given to seniority. The previous training and experience of the candidates, and performance ratings where available, may be considered and given due weight as factors in determining the relative merit and fitness of candidates for promotion.

3. Promotion eligibility of persons on preferred lists and employees on leave of absence. Any employee who has been suspended from his position through no fault of his own and whose name is on a preferred list, and any employee on leave of absence from his position, shall be allowed to compete in a promotion examination for which he would otherwise be eligible on the basis of his actual service before suspension or leave of absence.

4. Departmental and interdepartmental promotion lists. The state civil service department and municipal commissions may establish interdepartmental promotion lists which shall not be certified to a department until after the promotion eligible list for that department has been exhausted.

5. Promotion units. In the state service, or in the service of a city containing more than one county, promotion examinations may be held for such subdivisions of a department as the state civil service department or the municipal commission of such city, as the case may be, may determine to be an appropriate promotion unit, but departmental and interdepartmental promotion eligible lists shall not be certified to a

department until after the promotion unit eligible lists for that department have been exhausted.

6. Promotion and transfer to administrative positions in the state service. (a) For the purpose of this subdivision, the term "administrative positions" shall include competitive class positions in the state service in law, personnel, budgeting, methods and procedures, management, records analysis, and administrative research, as determined by the state civil service department.

(b) Except as provided in section fifty-one, vacancies in administrative positions shall be filled, so far as practicable, by promotion as prescribed in subdivision one of this section, which may be made from among persons holding administrative positions in lower grades without regard to the specialties of their lower grade positions. The civil service department, upon the request of an appointing officer stating the reasons why the filling of administrative positions in grade fourteen or higher under his jurisdiction from an interdepartmental promotion list or a promotion list including persons employed in other units of government would be in the best interests of the state service, or upon its own initiative whenever it finds that the filling of administrative positions in grade fourteen or higher in any department from such an interdepartmental or intergovernmental promotion list would be in the best interests of the state service, may certify such an interdepartmental or intergovernmental promotion list for filling such positions, without preference to departmental lists or to eligibles holding lower grade positions in the department or promotion unit in which such positions exist.

(c) Transfers shall be allowed between administrative positions in the same or related or collateral specialties which involve substantially equivalent tests or qualifications, subject to such conditions and limitations as the state civil service department may prescribe.

(d) The provisions of this subdivision shall be applicable and controlling, notwithstanding any other provisions of this section or chapter or any other law.

7. Promotion by non-competitive examination. Whenever there are no more than three persons eligible for examination for promotion to a

vacant competitive class position, or whenever no more than three persons file application for examination for promotion to such position, the appointing officer may nominate one of such persons and such nominee, upon passing an examination appropriate to the duties and responsibilities of the position may be promoted, but no examination shall be required for such promotion where such nominee has already qualified in an examination appropriate to the duties and responsibilities of the position.

8. Limitation upon promotion. No promotion shall be made from one position or title to another position or title unless specifically authorized by the state civil service department or municipal commission, nor shall a person be promoted to a position or title for which there is required, by this chapter or the rules, an examination involving essential tests or qualifications different from or higher than those required for the position or title held by such person unless he has passed the examination and is eligible for appointment to such higher position or title.

9. Increase in salary as a promotion. For the purposes of this section an increase in the salary or other compensation of any person holding an office or position within the scope of the rules in force hereunder, beyond the limit fixed for the grade in which such office or position is classified, shall be deemed a promotion.

10. Credit for provisional service. a. No credit in a promotion examination shall be granted to any person for any time served as a provisional appointee in the position to which promotion is sought or in any similar position, provided, however, such provisional appointee by reason of such provisional appointment shall receive credit in such person's permanent position from which promotion is sought for such time served in such provisional appointment.

b. A person appointed provisionally in accordance with section sixty-five of this article who receives a permanent appointment to the same title immediately following the provisional appointment shall have all time spent as a provisional appointee in such title credited towards

the qualifications required to take a promotional examination as well as eligibility for appointment from the resulting eligible list. Such time credited pursuant to this subdivision shall be used only for the purposes of any term that is required for a promotional examination and eligibility for appointment from the resulting eligible list and shall not be used for any other purpose.

11. Notwithstanding any other provision of law, the state department of civil service may, for titles designated by it, extend to employees in the state service who are holding or who have held a position in the non-competitive or labor class of such service the same opportunity as employees in the competitive class to take promotion examinations if such examinations are to be held in conjunction with open competitive examinations.

12. Notwithstanding any other provisions of law, a municipal commission may, for entrance level titles as defined and designated by it, extend to employees in the service of a civil division who are holding or who have held a position in the non-competitive class of such service for a period of two years the same opportunity as employees in the competitive class to take promotion examinations for which such non-competitive class service is determined by the municipal commission to be appropriate preparation if such examinations are to be held in conjunction with open competitive examinations.

13. a. Notwithstanding any other provision of law, the state civil service commission may, for titles designated by it, extend to disabled veterans of the Vietnam era, the same opportunities to take promotion examinations as provided to employees in the competitive class.

b. For purposes of this subdivision, "disabled veterans of the Vietnam era" shall mean veterans who served during the Vietnam conflict as defined in subparagraph four of paragraph (c) of subdivision one of section eighty-five of this chapter and who provide documented evidence that they meet the definition of disabled veteran prescribed by subdivision one of such section.

14. Notwithstanding any other provision of law, in a city containing more than one county, the municipal civil service commission may, for titles designated by it, extend to employees in the service of a civil division or public authority under its jurisdiction who are holding a position in the non-competitive class or the labor class of such service the same opportunities as employees in the competitive class to take promotional examinations for which such non-competitive class or labor class service is determined by the municipal civil service commission to be appropriate preparation.

15. Promotion eligibility of person transferred to the office of information technology services. Notwithstanding any other provision of this chapter, the names of permanent employees transferred from a state agency or department to the office of information technology services shall remain on any promotion eligible list for appointment in the agency or department from which such employees were transferred, for a period of one year or until the expiration of such list, whichever occurs first. Further, where the promotion eligible list on which such employees' names appear is established in the office of information technology services, the names of employees so transferred shall be added to such promotion eligible list.

§ 53. Noncitizen status. Except as otherwise provided by law, no noncitizen lawfully admitted for permanent residence in the United States shall be denied appointment to a position in the competitive class of civil service for reasons of noncitizen status.

§ 54. Age and educational requirements. 1. Notwithstanding any provision of law to the contrary, except as herein provided, neither the state civil service department nor the state civil service commission, nor any municipal civil service commission shall prohibit, prevent, disqualify, or discriminate against, any person who is physically and mentally qualified, from participating in a civil service examination or from qualifying for a position in the classified civil service, or penalize any such person in a final rating by reason of his or her age;

and any such rule, requirement, resolution, regulation or penalization shall be void. Nothing herein contained, however, shall prevent the adoption of reasonable minimum or maximum age requirements for open competitive examinations for positions where it is determined by the department and approved by the commission that such age requirements would be reasonable minimum qualification for such position. Minimum age requirements shall in no case prohibit an applicant who is within twelve months of the minimum age requirement from taking any competitive examination. Nothing herein contained shall be construed to prohibit the disqualification, on account of age, of any applicant for a position who has reached the mandatory retirement age applicable by law to such position.

2. Minimum education requirements shall in no case prohibit an applicant who is within twelve months of obtaining the minimum education requirements from taking any competitive examination.

§ 55. Examination of blind or physically handicapped applicants. 1. Notwithstanding any provision of law to the contrary, except as herein provided, neither the state civil service department nor the state civil service commission nor any municipal civil service commission shall hereafter prohibit, prevent, disqualify or discriminate against any person who is physically and mentally qualified, from competing, participating or registering for a civil service competitive or promotion examination or from qualifying for a position in the classified civil service solely by reason of his or her blindness or other handicap; and any such rule, requirement, resolution or regulation shall be void.

2. The state civil service department and each municipal civil service commission shall cooperate with the commission for the visually handicapped in the state department of social services, and the state education department, to the end that there shall be no discrimination against blind or handicapped persons applying in the civil service, unless the condition of blindness or other handicap be such as to prevent the blind or handicapped person from satisfactorily performing

the duties of the position to which he seeks appointment.

3. Upon request of an applicant or an eligible for a civil service position who has been found to be blind or otherwise handicapped, the commission for the visually handicapped in the state department of social services, or in the case of an otherwise handicapped person, the state education department, shall obtain from the state civil service department or the appropriate municipal civil service commission a detailed description of all duties of such position and shall investigate the extent of the alleged disability by examination of such applicant or otherwise, and shall determine and report its findings to the state civil service department or appropriate municipal civil service commission, as to the physical ability of such applicant or eligible to perform the duties of such position. Such findings shall be given due consideration by the state civil service department or municipal civil service commission.

4. Where the applicant for a civil service position is not so physically disabled by blindness or other handicap as to prevent him from satisfactorily performing the duties of the position for which he is applying, to insure competitive equality between the blind or other handicapped person and persons not so handicapped in connection with the taking of written civil service test, the commission for the visually handicapped in the state department of social services, or in the case of an otherwise handicapped person, the state education department, may request from the state civil service department or appropriate municipal civil service commission the furnishing of an amanuensis when necessary, allowing additional time for such test to insure equality.

5. The provisions of this section shall not apply to applicants or eligibles whom the state civil service commission or appropriate municipal civil service commission finds to be incapacitated by mental illness for performance of the duties of the position sought.

§ 55-a. Employment of persons with disabilities by municipalities. 1. Municipal civil service commissions in the state may, by rule, determine

a prescribed number of positions, not to exceed seven hundred positions, with duties which can be performed by physically or mentally disabled persons who are found qualified, in the manner hereafter prescribed, to perform satisfactorily such duties.

2. Upon such a determination, such positions shall be classified in the non-competitive class, and shall be filled by persons who shall have been certified by either the commission for the blind in the state office of children and family services as physically disabled by blindness or by the state education department as otherwise physically or mentally disabled and, in any event, qualified to perform satisfactorily the duties of any such position. At least three hundred of such positions shall be filled by persons who have been certified as physically disabled. If no qualified physically disabled persons have applied for such positions, the municipal civil service commission may fill those unfilled positions with qualified mentally disabled persons.

3. Prior to making certification of physically or mentally disabled persons for any such position, the commission for the blind in the case of persons physically disabled by blindness or the state education department in the case of persons otherwise physically or mentally disabled shall obtain from the appropriate municipal civil service commission a detailed description of all duties of the position, and shall investigate the extent of the disability by examination of any such person or otherwise, and shall determine and report its findings to the appropriate civil service commission, as to the ability of the disabled person to perform the duties of such position. Such findings shall be given due consideration by the municipal civil service commission.

4. Notwithstanding any other provision of law, a municipal commission may, for titles designated by it, extend to employees in the service of a civil division who are holding or who have held a position in the non-competitive class of such services pursuant to the provisions of this section, the same opportunity as employees in the competitive class to take promotion examinations.

5. Notwithstanding any other provision of law, a municipal commission shall treat employees appointed pursuant to the provisions of this section, who are holding or who have held a position in the non-competitive class, as if they were employees in the competitive class where, because of economy, consolidation, or abolition of functions, curtailment of activities or otherwise, a number of such positions in either the non-competitive or competitive classes are abolished or reduced in rank or salary grade, suspension or demotion, as further provided in title C of article five of this chapter. For purposes of seniority, the date an employee is appointed pursuant to this section, shall be deemed equivalent to the date a competitive employee is appointed from an eligible list.

§ 55-b. Employment of persons with disabilities by the state. 1. The commission may determine up to seventeen hundred positions with duties such as can be performed by persons with a physical or mental disability who are found otherwise qualified to perform satisfactorily the duties of any such position. Positions designated to be filled pursuant to this section may be filled on a full-time or part-time basis. Upon such determination the said positions shall be classified in the noncompetitive class, and may be filled only by persons who shall have been certified by the employee health service of the department as being a person with either a physical or mental disability. The number of persons appointed pursuant to this section shall not exceed seventeen hundred.

2. Those employees hired under subdivision one of this section, shall be afforded the same opportunity to take promotional examinations as provided to employees in the competitive class.

*** § 55-c. Employment of veterans with disabilities by the state.** 1. The commission may determine up to five hundred positions with duties such as can be performed by disabled veterans and veterans with disabilities who are found otherwise qualified to perform satisfactorily the duties of any such position. Positions designated to be filled

pursuant to this section may be filled on a full-time or part-time basis. Upon such determination, the said positions shall be classified in the noncompetitive class, and may be filled only by veterans of the armed forces of the United States (a) who establish by appropriate documentary evidence that they are disabled veterans, as defined in paragraph (b) of subdivision one of section eighty-five of this chapter, or (b) by those veterans, as defined in paragraph (a) of subdivision one of section eighty-five of this chapter, who shall have been certified by the employee health service of the department as being disabled but capable of performing the duties of said positions. Priority in certification and referral of both such disabled veterans and certified disabled but capable veterans shall be given to those veterans who received a wound in combat, as documented by the awarding of the purple heart, as authorized by the United States department of defense, and that wound is the cause of, or a substantially contributing factor to, the degree of impairment, who otherwise meet the requirements of this section. The number of veterans appointed pursuant to this section shall not exceed five hundred.

2. Those employees hired under subdivision one of this section, shall be afforded the same opportunity to take promotional examinations as provided to employees in the competitive class.

3. When posting jobs that fall under the provisions of this section, all state agencies shall prominently identify on such posting that such job is "55-c Eligible".

* NB There are 2 § 55-c's

*** § 55-c. Acceptability of certain high school diplomas.** Whenever a high school diploma is required by the state civil service department or a municipal commission as a minimum requirement of any competitive examination, a high school individualized education plan diploma which was granted to a child with handicapping conditions may be accepted by such department or commission in fulfillment of such diploma requirement.

* NB There are 2 § 55-c's

§ 56. Establishment and duration of eligible lists. 1. The duration of an eligible list shall be fixed at not less than one nor more than four years; provided that, except for lists promulgated for police officer positions in jurisdictions other than the city of New York, in the event that a restriction against the filling of vacancies exists in any jurisdiction, the state civil service department or municipal commission having jurisdiction shall, in the discretion of the department or commission, extend the duration of any eligible list for a period equal to the length of such restriction against the filling of vacancies. Restriction against the filling of vacancies shall mean any policy, whether by executive order or otherwise, which, because of a financial emergency, prevents or limits the filling of vacancies in a title for which a list has been promulgated. An eligible list that has been in existence for one year or more shall terminate upon the establishment of an appropriate new list, unless otherwise prescribed by the state civil service department or municipal commission having jurisdiction.

2. Notwithstanding subdivision one of this section, the duration of eligible lists established on or before December thirty-first, nineteen hundred ninety-six, shall be fixed at not less than one nor more than four years; provided that, except for lists promulgated for police officer positions in jurisdictions other than the city of New York, in the event that a restriction against the filling of vacancies exists in any jurisdiction, the state civil service department or municipal commission having jurisdiction shall, in the discretion of the department or commission, extend the duration of any such eligible list for a period equal to the length of such restriction against the filling of vacancies. Restriction against the filling of vacancies shall mean any policy, whether by executive order or otherwise, which prevents or limits the filling of vacancies in a title for which such a list has been promulgated. An eligible list that has been in existence for one year or more shall terminate upon the establishment of an appropriate new list, unless otherwise prescribed by the state civil service department or municipal commission having jurisdiction.

3. Notwithstanding any law to the contrary, the name of any applicant or eligible whose disqualification has been reversed or whose rank order on an eligible list has been adjusted through administrative or judicial action or proceeding shall be placed on an eligible list for a period of time equal to the period of disqualification or for the period the application has been improperly ranked, up to a maximum period of one year or until the expiration of the eligibility list, whichever is longer. If an eligible list expires prior to the expiration of such period of restoration, the name of the applicant or eligible shall be placed on a special eligible list, which shall have a duration equal to the longer of (a) the remainder of the period of restoration or (b) two years. An applicant or eligible whose disqualification has been reversed or whose rank order has been adjusted subsequent to the expiration of an eligible list shall be placed on a special eligible list for a length of time equal to the restored period of time not to exceed a maximum of one year.

4. Notwithstanding the foregoing provisions of this section, where a court of competent jurisdiction has determined that an eligible list is invalid, the court may order the creation of a special eligible list having a duration of not less than one nor more than four years commencing at the time the corrected list is published.

§ 57. Continuous recruitment for certain positions. Notwithstanding any other provisions of this chapter or any other law, the civil service department or a municipal commission may establish a continuing eligible list for any class of positions for which it finds such lists appropriate. The civil service department may only establish continuing eligible lists for any class of positions filled through open competitive examination. Names of eligibles shall be inserted in such list from time to time as applicants are tested and found qualified in examinations held at such intervals as may be prescribed by the civil service department or municipal commission having jurisdiction. Such successive examinations shall, so far as practicable, be constructed and rated so as to be equivalent tests of the merit and fitness of candidates. The name of any candidate who passes any such examination

and who is otherwise qualified shall be placed on the continuing eligible list in the rank corresponding to his or her final rating on such examination. The period of eligibility of successful candidates for certification and appointment from such continuing eligible list, as a result of any such examination, shall be fixed by the civil service department or municipal commission but, except as a list may reach an announced terminal date, such period shall not be less than one year; nor shall such period of eligibility exceed four years. Subject to such conditions and limitations as the civil service department or municipal commission may prescribe, a candidate may take more than one such examination; provided, however, that no such candidate shall be certified simultaneously with more than one rank on the continuing eligible list. With respect to any candidate who applies for and is granted additional credit in any such examination as a disabled or non-disabled veteran, and for the limited purpose of granting such additional credit, the eligible list shall be deemed to be established on the date on which his or her name is added thereto.

§ 58. Requirements for appointment of certain police officers. 1. Notwithstanding any other provision of this law or any general, special or local law to the contrary, no person shall be eligible for appointment as a police officer of the department of environmental conservation or of any police force or police department of any county, city, town, village, housing authority or police district unless they shall satisfy the following basic requirements:

(a) they are not less than twenty years of age as of the date of appointment nor more than forty-three years of age as of the date when the applicant takes the written examination, provided that the maximum age requirement of forty-three years of age as set forth in this paragraph shall not apply to eligible lists finalized pursuant to an examination administered prior to May thirty-first, nineteen hundred ninety-nine or a police officer in the department of environmental conservation, provided, however, that:

(i) time spent on military duty or on terminal leave, not exceeding a total of six years, shall be subtracted from the age of any applicant who has passed their forty-third birthday as provided in subdivision

ten-a of section two hundred forty-three of the military law;

(ii) such maximum age requirement of forty-three years shall not apply to any police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, who was continuously employed by the Buffalo municipal housing authority between January first, two thousand five and June thirtieth, two thousand five and who takes the next written exam offered after the effective date of this subparagraph by the city of Buffalo civil service commission for employment as a police officer in the city of Buffalo police department, or June thirtieth, two thousand six, whichever is later; and

(iii) such maximum age requirement of forty-three years shall not apply to any police officer of any county, town, city or village police force not otherwise provided for in this section if the eligible list has been exhausted and there are no other eligible candidates; provided, however, the police officer themselves are on the eligible list of such county, town, city or village and meet all other requirements of merit and fitness set forth by this chapter and do not exceed the maximum age of forty-three;

(b) they are a high school graduate or a holder of a high school equivalency diploma issued by an education department of any of the states of the United States or a holder of a comparable diploma issued by any commonwealth, territory or possession of the United States or by the Canal Zone or a holder of a report from the United States armed forces certifying their successful completion of the tests of general educational development, high school level;

(c) they satisfy the height, weight, physical and psychological fitness requirements prescribed by the municipal police training council pursuant to the provisions of section eight hundred forty of the executive law; and

(d) they are of good moral character as determined in accordance with the background investigation standards of the municipal police training council pursuant to the provisions of section eight hundred forty of the executive law.

1-a. Notwithstanding the provisions of any other section of law, general, special or local, should it be determined by the appointing authority that a candidate does not meet the psychological fitness

requirements or lacks the good moral character standards set by the municipal police training council pursuant to the provisions of section eight hundred forty of the executive law, then the appointing authority may request that the local civil service commissioner remove such candidate from the eligible list. Upon receiving such request, the local civil service commissioner shall comply forthwith.

1-b. Notwithstanding the provisions of any other section of law, general, special or local, in political subdivisions maintaining a police department serving a population of one hundred fifty thousand or less, no person shall be eligible for appointment nor shall they be appointed to any rank above the rank of police officer unless they have been appointed a police officer from an eligible list established according to merit and fitness as provided by section six of article five of the constitution of the state of New York or has previously served as a member of the New York state police.

1-c. Notwithstanding the provisions of any other section of law, general, special or local, any political subdivision maintaining a police department serving a population of one hundred fifty thousand or less and with positions for more than four full-time police officers, shall maintain the office of chief of police.

2. The provisions of this section shall not prevent any county, city, town, village, housing authority, transit authority, police district or the department of environmental conservation from setting more restrictive requirements of eligibility for its police officers.

3. As used in this section, the term "police officer" means a police officer in the department of environmental conservation, the state university police, a member of the regional state park police or a police force, police department, or other organization of a county, city, town, village, housing authority, transit authority or police district, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but shall not include any person serving as such solely by virtue of occupying any other office or position, nor shall such term include a sheriff,

under-sheriff, commissioner of police, deputy or assistant commissioner of police, chief of police, deputy or assistant chief of police or any person having an equivalent title who is appointed or employed to exercise equivalent supervisory authority.

4. (a) Any person who has received permanent appointment in the competitive class of the civil service as a police officer of the regional state park police, the state university of New York police, the department of environmental conservation or any police force or police department of any county, city, town, village, housing authority, transit authority or police district shall be eligible to resign from any police force or police department and, subject to such civil service rules as may be applicable, shall be eligible for reinstatement in the same police force or police department or in any other police force or police department to which they were eligible for transfer, without satisfying the age requirements set forth in paragraph (a) of subdivision one of this section at the time of such reinstatement, provided such reinstatement occurs within one year of the date of resignation.

(b) (i) Legislative findings and declaration. The legislature hereby finds and declares that it is frequently impracticable to ascertain fitness for the positions of detective and investigator within various police or sheriffs departments around the state by means of a competitive examination due to the unique nature of the duties assigned and the intangible personal qualities needed to perform such duties. The legislature further finds that competitive examination has never been employed in many police, correction or sheriffs departments, to ascertain fitness for the positions of detective and investigator within such police, correction or sheriffs departments; such fitness has always been determined by evaluation of the capabilities of an individual (who has in any case received permanent appointment to the position of police officer, correction officer of any rank or deputy sheriff) by supervisory personnel. The legislature further finds that an individual who performs in an investigatory position in a manner sufficiently satisfactory to the appropriate supervisors to hold such an assignment for a period of eighteen months, has demonstrated fitness for the position of detective or investigator within such police, correction or

sheriffs department at least as sufficiently as could be ascertained by means of a competitive examination.

(ii) Notwithstanding any other provision of law, in any jurisdiction, other than a city with a population of one million or more or the state department of corrections and community supervision, which does not administer examinations for designation to detective or investigator, any person who has received permanent appointment to the position of police officer, correction officer of any rank or deputy sheriff and is temporarily assigned to perform the duties of detective or investigator shall, whenever such assignment to the duties of a detective or investigator exceeds eighteen months, be permanently designated as a detective or investigator and receive the compensation ordinarily paid to persons in such designation.

(iii) Nothing contained in subparagraph (ii) of this paragraph shall be construed to limit any jurisdiction's ability to administer examinations for appointment to the positions of detective and investigator, provided however that any person temporarily assigned to perform the duties of detective or investigator within the period commencing September twenty-third, nineteen hundred ninety-three through and including the date upon which this paragraph shall have become a law and who has not been designated as a detective or investigator and who has not been subject to an examination for which there is a certified eligible list, shall be permanently designated as a detective or investigator whenever such assignment to the duties of detective or investigator exceeds eighteen months.

(iv) Detectives and investigators designated since September twenty-third, nineteen hundred ninety and prior to February twenty-fourth, nineteen hundred ninety-five by any state, county, town, village or city (other than a city with a population of one million or more or the state department of corrections and community supervision) police, correction or sheriffs department, pursuant to the provisions of this paragraph in effect during such period, who continue to serve in such positions, shall retain their detective or investigator status without any right to retroactive financial entitlement.

5. The provisions of this section shall not apply to the investigatory personnel of the office of the district attorney in any county,

including any county within the city of New York.

6. The provisions of this section shall not apply to any individual holding the position of deputy sheriff in Westchester county prior to July first, nineteen hundred seventy-nine upon the transfer of such individual to service in the Westchester county department of public safety services.

§ 58-a. Requirements for provisional or permanent appointment of certain fire fighters. 1. Notwithstanding any other provision of this law or any general, special or local law to the contrary, no person shall be eligible for provisional or permanent appointment in the competitive class of the civil service as a fire fighter unless he or she shall satisfy the basic requirements for education, health and physical fitness established by the state fire administrator pursuant to section one hundred fifty-eight of the executive law.

2. Notwithstanding the provisions of subdivision one of this section, upon the request of a municipal commission having jurisdiction over a fire department and upon a showing by such municipal commission and a determination by the state commission that aggravated recruitment difficulties are causing a serious shortage of fire fighters in such fire department and that such municipal commission and all appropriate authorities are making diligent efforts, including payment of adequate compensation, to overcome such recruitment difficulties, the state commission, with the approval of the state fire administrator, may change the educational, health and physical fitness requirements for provisional and permanent appointment as a fire fighter in such fire department for a period not exceeding two years from the date of such determination. Such changes may be authorized for an additional period not exceeding two years, upon a showing and a determination similar to that required hereunder for the original authorization.

3. The provisions of this section shall not prevent the establishment of more restrictive local requirements for eligibility for fire fighters.

4. For the purposes of this section fire fighter means a member of a fire department whose duties include fire service as the phrase fire service is defined in paragraph d of subdivision eleven of section three hundred two of the retirement and social security law.

5. Any person whose name was on an eligible list for appointment in the competitive class of the civil service as a fire fighter on the date educational, health and physical fitness requirements for fire fighters are promulgated by the state fire administrator pursuant to section one hundred fifty-eight of the executive law, shall continue to remain eligible for appointment from such list during the life of such list without satisfying such requirements provided he or she would otherwise have remained eligible for appointment from such list if this section had not been enacted.

6. The provisions of this section shall not apply to appointments made by any county, city, town, village or fire district which employs five or fewer fire fighters.

7. Notwithstanding any other provision of this law or any general, special or local law to the contrary, no person shall be eligible for provisional or permanent appointment as a fire chief other than those chiefs employed by a fire department of cities with a population of one million or more unless he or she shall:

(a) satisfy the basic requirements for education, health and physical fitness established by the state fire administrator pursuant to section one hundred fifty-eight of the executive law; and

(b) has successfully completed training and education requirements established by the state fire administrator.

§ 59. Placement of county sheriffs' personnel in classified service. 1. The legislature hereby finds that the continued, uninterrupted, adequate and efficient operation of the sheriff's department in counties in New York state outside the city of New York is necessary for the general welfare of the people of such counties; that such adequate

operation involves and requires personnel with highly specialized ability, skill, training and knowledge, integrated and unified by practical experience; that the January first, nineteen hundred ninety amendment to subdivision (a) of section thirteen of article thirteen of the New York state constitution brings appointees of a county sheriff into the classified service of the civil service; that to require competitive examination for valid appointment of appointees of the county sheriff within the classified service would irreparably disorganize county sheriffs' departments and endanger the public safety, interrupt the continuance and performance of the important services performed by such sheriff's departments, and place an undue financial burden on their respective counties.

2. Notwithstanding the provisions of this chapter or any provisions to the contrary contained in any general, special, or local laws, all lawful appointees of a county sheriff employed as of the effective date of this section whose employments hereinbefore were considered not to be subject to the civil service law, shall continue to hold their positions without further examination or qualification and shall have all the rights and privileges of the jurisdictional classification to which such positions may be allocated in the classified service of the county in which they are employed.

§ 59-a. Placement of detectives and investigators in classified service. 1. The legislature hereby finds and declares that the continued, uninterrupted, adequate and efficient operation of detective and investigative units in local police, correction or sheriffs departments is necessary for the general welfare of the people; that such adequate operation involves and requires personnel with highly specialized ability, skill, training, and knowledge; that local civil service commissions may decide to classify such positions where they constitute bona fide civil service positions as evidenced by factors including enhanced pay, benefits, and dignity of position; that while competitive examination has been deemed practicable for certain detective and investigator positions, to require such examination for valid appointment of current long standing employees would irreparably

disorganize detective or investigative operations, endanger the public safety, interrupt the continuity and effective performance of important investigatory operations.

2. Notwithstanding the provisions of this chapter or any provisions to the contrary contained in any general, special, or local laws, any person holding a permanent competitive class appointment as a police officer, correction officer of any rank or deputy sheriff in a police force, police department or sheriffs department in a jurisdiction other than a city with a population of one million or more or the state department of corrections and community supervision, who was serving in a detective or investigator capacity, as designated by such police force, police department or sheriffs department, on the date such position was classified by the local civil service commission having jurisdiction and for at least eighteen months immediately preceding such date, shall receive a permanent appointment to a detective or investigator position, in such title as may be properly classified by the local civil service commission having jurisdiction, without further examination or qualifications and shall have all the rights and privileges of the jurisdictional class to which such position may be allocated.

§ 59-b. Promotions of supervisory personnel of the emergency medical service. 1. The legislature hereby finds and declares that the continued, uninterrupted, adequate and efficient operation of emergency medical services is necessary for the general welfare of the people; that such adequate operation involves and requires personnel with highly specialized ability, skill, training and knowledge, which necessitate that vacancies in the emergency medical services in the positions of Supervising Emergency Medical Service Specialist Level II (Captains), Deputy Chief, Division Chief, and Division Commander, shall be filled as far as practicable by promotion from among persons holding competitive class positions in a lower grade in the department in which the vacancy exists, provided that such lower grade positions are in direct line of promotion, as determined by the department or municipal commission.

2. Promotion shall be based on merit and fitness as determined by competitive examination, due weight being given to seniority. The previous training and experience of the candidates, and performance ratings where available, may be considered and given due weight as factors in determining the relative merit and fitness of candidates for promotion.

3. Any permanent competitive employee holding a provisional or discretionary appointment in the affected supervisory titles of the emergency medical service described in subdivision one of this section shall be given the opportunity to participate in a competitive promotional examination for the next higher level title.

4. Except as provided above, the provisions of this chapter shall apply to employees covered by this section.

§ 59-c. State employment of persons and veterans with disabilities study. 1. The president shall conduct a comprehensive study analyzing the effectiveness of sections fifty-five-b and fifty-five-c of this title which deals with the employment of persons and veterans with disabilities by the state and prepare and submit an annual report to the speaker of the assembly, the minority leader of the assembly, the temporary president of the senate, the minority leader of the senate and the governor's office of employee relations, and make publicly available on the department's website no later than one year after the effective date of this section, and every year thereafter.

2. Such report shall include but not be limited to:

(a) the number of persons with a letter of eligibility under sections fifty-five-b and fifty-five-c of this title that have received a civil service appointment;

(b) the number of persons at the time of the report who have received a letter of eligibility from the department certifying they are eligible to be appointed in accordance with sections fifty-five-b and fifty-five-c of this title;

(c) the number of persons with a physical or mental disability

appointed in accordance with sections fifty-five-b and fifty-five-c of this title that have taken a promotional examination including the number of such persons that have taken a promotional examination within the last five years;

(d) a determination as to whether the state is underutilizing the provisions of such sections based on such findings from the report;

(e) an assessment of whether the state offers any additional programs run by the state with the mission to increase the employment of people with disabilities, including, but not limited to: Adult Career and Continuing Ed Services (ACCES-VR) within the education department and the office for people with developmental disabilities' supported employment services programs; and

(f) recommendations based on the findings from the report as to whether the state can take additional action to market or inform the public of state job opportunities for persons and veterans with disabilities and if so, what specific actions should be taken.

3. For the purposes of this section, the president may conduct such study in conjunction with any other department, division, board, bureau, commission, agency, or public authority of the state deemed necessary. To the maximum extent feasible, the president shall be authorized to request, receive, and utilize such resources and data of any other department, division, board, bureau, commission, agency, or public authority of the state as he or she may reasonably request to properly carry his or her powers and duties pursuant to this section.

4. The president shall promulgate rules and regulations as may be necessary to effectuate the provisions of this section.

***§ 59-d. Public posting of employment opportunities.** The department shall make publicly available on its website all employment opportunities in the civil service of the state and information on obtaining employment with the state, including, but not limited to, vacancies in the competitive, non-competitive and labor jurisdictional classes, announcements for upcoming open-competitive and promotional examinations, test application instructions, and designations of which

employment opportunities are eligible to be filled by individuals with disabilities and veterans with disabilities, including whether such positions may be filled on a full-time or part-time basis, pursuant to section fifty-five-b and section fifty-five-c, as amended by a chapter of the laws of two thousand twenty-three, of this title. The president shall work in conjunction with the New York state department of labor and the governor's office of employee relations in order to effectuate the provisions of this section.

* NB Effective until December 31, 2027 OR thirty days after the commissioner of civil service certifies that the department's website is able to accommodate the amendments to section 59-d of the civil service law made by chapter 664 of 2025, whichever occurs earlier

* § 59-d. Public posting of employment opportunities. 1. For the purposes of this section, the term "municipality" shall mean a village, town, city, or county.

2. The department shall make publicly available on its website all employment opportunities in the civil service of the state and information on obtaining employment with the state, including, but not limited to, vacancies in the competitive, non-competitive and labor jurisdictional classes, announcements for upcoming open-competitive and promotional examinations, test application instructions, and designations of which employment opportunities are eligible to be filled by individuals with disabilities and veterans with disabilities, including whether such positions may be filled on a full-time or part-time basis, pursuant to section fifty-five-b and section fifty-five-c, as amended by a chapter of the laws of two thousand twenty-three, of this title.

3. The department shall provide municipalities in the state with the ability to post municipal employment opportunities on the same website of the department under which state civil service positions are posted pursuant to subdivision two of this section, including all other relevant information as described under subdivision two of this section. Such municipal employment opportunities shall be posted in a format where job seekers may search by municipality and municipal employment position type.

4. The president shall work in conjunction with the New York state department of labor, the governor's office of employee relations, and municipalities seeking to post municipal employment positions pursuant to subdivision three of this section, in order to effectuate the provisions of this section.

* NB Effective December 31, 2027 OR thirty days after the commissioner of civil service certifies that the department's website is able to accommodate the amendments to section 59-d of the civil service law made by chapter 664 of 2025, whichever occurs earlier

TITLE B

APPOINTMENT AND PROMOTION

Section 60. Certification of eligible lists.
61. Appointment and promotion.
62. Constitutional oath upon appointment.
63. Probationary term.
64. Temporary appointments.
65. Provisional appointments.

§ 60. Certification of eligible lists. 1. Certification of eligibles from prior list. When an eligible list has been in existence for less than one year and contains the names of less than three persons willing to accept appointment, and a new list for the same position or group of positions is established, the names of the persons remaining on the old list shall have preference in certification over the new list until such old list is one year old, and during such period such names shall be certified along with enough names from the new list to provide the appointing officer with a sufficient number of eligibles from which selection for appointment may be made. Where an old list which has been in existence for one year or more is continued upon the establishment of a new list which contains less than three names, the civil service department or a municipal commission may certify the names on the old list along with enough names from the new list to provide the appointing officer with a sufficient number of eligibles from which selection for

appointment may be made.

2. Certification on basis of sex. The state department of civil service or the municipal commission having jurisdiction may limit certification from an eligible list to one sex when the duties of the position involved relate to the institutional or other custody or care of persons of the same sex, or visitation, inspection or work of any kind the nature of which requires sex selection.

3. Certification of lists for state positions. Certifications for appointments to positions in the state service, regardless of the location thereof, shall be made from the state-wide lists of eligibles; provided, however, that the state civil service department may, wherever practicable, certify from an appropriate eligible list for appointment to a state position, in any locality outside Albany county, residents of the county or judicial district including such locality, or of any combination of counties or judicial districts including such locality, as determined by such department. Notice of the proposed certification of eligibles by local residence in accordance with the provisions of this subdivision shall be included in the announcement of examination. Upon the exhaustion of the list of local residents certified to a position in the state service in a particular locality pursuant to the provisions of this subdivision, the state-wide list of eligibles shall be certified to fill vacancies in such position in such locality.

§ 61. Appointment and promotion. 1. Appointment or promotion from eligible lists. Appointment or promotion from an eligible list to a position in the competitive class shall be made by the selection of one of the three persons certified by the appropriate civil service commission as standing highest on such eligible list who are willing to accept such appointment or promotion; provided, however, that the state or a municipal commission may provide, by rule, that where it is necessary to break ties among eligibles having the same final examination ratings in order to determine their respective standings on the eligible list, appointment or promotion may be made by the selection of any eligible whose final examination rating is equal to or higher

than the final examination rating of the third highest standing eligible willing to accept such appointment or promotion. Appointments and promotions shall be made from the eligible list most nearly appropriate for the position to be filled.

2. Prohibition against out-of-title work. No person shall be appointed, promoted or employed under any title not appropriate to the duties to be performed and, except upon assignment by proper authority during the continuance of a temporary emergency situation, no person shall be assigned to perform the duties of any position unless he has been duly appointed, promoted, transferred or reinstated to such position in accordance with the provisions of this chapter and the rules prescribed thereunder. No credit shall be granted in a promotion examination for out-of-title work.

3. Notification to eligible candidates. Persons on an eligible list who are certified pursuant to section sixty of this chapter and are considered and not selected for appointment or promotion pursuant to this section shall, whenever another candidate is appointed or promoted, be given or sent written notice by the appointing authority of such non-selection. In a city containing more than one county, persons on an eligible list who are made ineligible for further certification pursuant to a rule of the appropriate municipal commission shall be given or sent written notice of such ineligibility. Sending written notice by ordinary mail to the last address of record shall be adequate to comply with the requirements of this subdivision.

* 4. Appointment and promotion letter. (a) An appointing authority who extends an offer of appointment or promotion to a position in the classified service to any person shall provide such person with an appointment letter within fourteen days of the effective date of such appointment. Such appointment letter shall include:

(i) the appointment type being offered, whether permanent, provisional, temporary, temporary pending commission approval, or any other appointment type authorized by law, rule, or regulation;

(ii) the position type and, if the position is not a permanent position, the expected duration of the appointment, and, if the position is not a full-time position, the expected percentage of time at work per

week;

(iii) the jurisdictional class of the position;

(iv) if a probationary period is required upon appointment, the minimum and maximum duration of such period and information regarding an appointee's tenure rights, if any, upon completion of the probationary period;

(v) the starting salary or wages that the person would earn upon appointment, provided that such salary or wages shall be specific to the individual being offered appointment, and the full salary range of the title;

(vi) if the individual to whom appointment is offered has prior graded service at a higher salary grade than the position to which an offer of appointment has been made, an explanation of how such individual's salary shall be reduced upon appointment, if any;

(vii) the bargaining unit representing the title to which such person is being appointed and, if applicable, the contact information or website of the employee organization that represents the bargaining unit of such position pursuant to article fourteen of this chapter;

(viii) if the offer of appointment is to a trainee title:

(1) the length of the traineeship;

(2) the title and salary grade of the performance level to which such traineeship advances;

(3) all requirements that a trainee must meet to be advanced;

(4) the schedule of performance reviews for such traineeship; and

(5) information regarding performance advances during such traineeship;

(ix) if the person offered appointment would have a hold item on another position from which they were placed on leave at the time of appointment, information regarding the date at which such hold would expire and circumstances under which the appointee would be eligible to return to the hold; and

(x) information regarding employee benefits and links to applicable websites, including, but not limited to:

(1) health insurance, dental and other health related benefits provided by the employer;

(2) retirement system membership and benefits;

(3) the New York state deferred compensation plan; and

(4) any other information required by law, rule, or regulation, and any information that the appointing authority deems reasonable to include.

(b) If an appointee who receives an appointment or promotion letter believes any of the information contained therein to be incorrect, such appointee shall be permitted to notify the appointing authority of such error and, upon notification, the appointing authority shall review the concern to determine if any information contained therein is incorrect. If any information contained therein is deemed by the appointing authority to be incorrect, the appointing authority shall reissue the appointment or promotion letter to the appointee containing any corrections necessary to ensure that all information contained therein is correct within sixty days of notification by the appointee. If the appointing authority finds no errors in the appointment or promotion letter, the appointing authority shall inform the appointee that the information is correct.

* NB Effective December 31, 2027 OR thirty days after the commissioner of civil service certifies that the department's computer system is able to accommodate the amendments to section 61 of the civil service law made by chapter 657 of 2025, whichever occurs earlier

§ 62. Constitutional oath upon appointment. Every person employed by the state or any of its civil divisions, except an employee in the labor class, before he shall be entitled to enter upon the discharge of any of his duties, shall take and file an oath or affirmation in the form and language prescribed by the constitution for executive, legislative and judicial officers, which may be administered by any officer authorized to take the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed. In lieu of such oath administered by an officer, an employee may comply with the requirements of this section by subscribing and filing the following statement: "I do hereby pledge and declare that I will support the constitution of the United States, and the constitution of the state of New York, and that I will faithfully discharge the duties of the position of ....., according to the best of my ability." Such oath or statement shall be required only upon original appointment or

upon a new appointment following an interruption of continuous service, and shall not be required upon promotion, demotion, transfer, or other change of title during the continued service of the employee, or upon the reinstatement pursuant to law or rules of an employee whose services have been terminated and whose last executed oath or statement is on file. The oath of office heretofore taken by any employee as previously required by law, and the oath of office hereafter taken or statement hereafter subscribed by any employee pursuant to this section, shall extend to and encompass any position or title in which such person may serve as an employee during the period of his continuous service following the taking of such oath or subscribing of such statement, and his acceptance of such new title shall constitute a reaffirmance of such oath or statement. The oath or statement of every state employee shall be filed in the office of the secretary of state, of every employee of a municipal corporation with the clerk thereof, and of every other employee, including the employees of a public library and the employees of boards of cooperative educational services, if no place be otherwise provided by law, in the office of the clerk of the county in which he shall reside. The refusal or wilful failure of such employee to take and file such oath or subscribe and file such statement shall terminate his employment until such oath shall be taken and filed or statement subscribed and filed as herein provided.

An enrolled member of an Indian nation or an Indian individual having an affiliation with an Indian nation recognized by the United States or the state of New York may elect to comply with the requirements of this section by instead subscribing and filing the following statement:

"I do solemnly affirm that I will faithfully discharge the duties of the position of according to the best of my ability, and perform my duties in a manner consistent with the constitution of the United States and the constitution of the state of New York."

§ 63. Probationary term. 1. Every original appointment to a position in the competitive class and every interdepartmental promotion from a position in one department or agency to a position in another department or agency shall be for a probationary term; provided, however, that upon

interdepartmental promotion the appointing officer may waive the requirement of satisfactory completion of the probationary term. The state civil service commission and municipal civil service commissions may provide, by rule, for probationary service upon intradepartmental promotion to positions in the competitive class and upon appointment to positions in the exempt, non-competitive or labor classes.

When probationary service is required upon promotion, the position formerly held by the person promoted shall be held open and shall not be filled, except on a temporary basis, pending completion of his probationary term.

Notwithstanding the foregoing or any other law or rule to the contrary, when a permanent appointment or promotion to a position in the competitive class is conditioned upon the completion of a term of training service or of a period of service in a designated trainee title, such service and the probationary term for such competitive position shall run concurrently.

Notwithstanding the foregoing or any law or rule to the contrary, any person appointed provisionally in accordance with section sixty-five of this title who receives a permanent appointment to the same title immediately following the provisional appointment shall have all time spent as a provisional appointment credited to any probationary term that is required upon permanent appointment to a position.

2. The state civil service commission and municipal civil service commissions shall, subject to the provisions of this section, provide by rule for the conditions and extent of probationary service.

§ 64. Temporary appointments. 1. Temporary appointments authorized; duration. A temporary appointment may be made for a period not exceeding three months when the need for such service is important and urgent. A temporary appointment may be made for a period exceeding three months under the following circumstances only:

(a) when an employee is on leave of absence from his position, a

temporary appointment to such position may be made for a period not exceeding the authorized duration of such leave of absence as prescribed by statute or rule;

(b) a temporary appointment may be made for a period not exceeding six months when it is found by the state civil service department or appropriate municipal civil service commission, upon due inquiry, that the position to which such appointment is proposed will not continue in existence for a longer period; provided, however, that where a temporary appointment is made to a position originally expected to exist for no longer than six months and it subsequently develops that such position will remain in existence beyond such six-month period, such temporary appointment may be extended, with the approval of the state civil service department or municipal civil service commission having jurisdiction, for a further period not to exceed an additional six months;

(c) when the department of civil service or appropriate municipal civil service commission of any city containing more than one county finds that a reduction or abolition of positions in the state service or such city service is planned or imminent and that such reduction or abolition of positions will probably result in the suspension or demotion of permanent employees, such department or commission may authorize temporary instead of permanent appointments to be made for a period not exceeding one year in positions in state service or such city service to which permanent employees to be affected by such abolition or reduction of positions will be eligible for transfer or reassignment.

Successive temporary appointments shall not be made to the same position after the expiration of the authorized period of the original temporary appointment to such position.

2. Temporary appointments from eligible lists. A temporary appointment for a period not exceeding three months may be made without regard to existing eligible lists. A temporary appointment for a period exceeding three months but not exceeding six months may be by the selection of a person from an appropriate eligible list, if available, without regard to the relative standing of such person on such list. Any further temporary appointment beyond such six month period or any temporary

appointment originally made for a period exceeding six months shall be made by the selection of an appointee from among those graded highest on an appropriate eligible list, if available.

3. Temporary appointments without examination in exceptional cases. Notwithstanding the provisions of subdivisions one and two of this section, the civil service department or municipal commission having jurisdiction may authorize a temporary appointment, without examination, when the person appointed will render professional, scientific, technical or other expert services (1) on an occasional basis or (2) on a full-time or regular part-time basis in a temporary position established to conduct a special study or project for a period not exceeding eighteen months. Such appointment may be authorized only in a case where, because of the nature of the services to be rendered and the temporary or occasional character of such services, it would not be practicable to hold an examination of any kind.

4. The state and municipal civil service commissions may, by rule, provide for the extension of some or all of the rights and benefits of permanent status to an employee who is appointed or promoted, after having qualified therefor in the same manner as required for permanent appointment or promotion, to a position left temporarily vacant by the leave of absence of the permanent incumbent thereof. Such rights and benefits shall be subject to such conditions and limitations as may be prescribed in the rules.

§ 65. Provisional appointments. 1. Provisional appointments authorized. Whenever there is no appropriate eligible list available for filling a vacancy in the competitive class, the appointing officer may nominate a person to the state civil service department or municipal commission for non-competitive examination, and if such nominee shall be certified by such department or municipal commission as qualified after such non-competitive examination, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination. Such non-competitive examination may consist of a review and evaluation of the training, experience and other

qualifications of the nominee, without written, oral or other performance tests.

2. Time limitation on provisional appointments. No provisional appointment shall continue for a period in excess of nine months. The civil service department shall for competitive positions within its jurisdiction, and a municipal civil service commission shall for competitive positions within its jurisdiction, order a civil service examination for any position held by provisional appointment for a period of one month and such department or commission shall conduct a civil service examination, or see that such an examination is conducted, as soon as practicable thereafter, in order to prevent the provisional appointment from continuing for a period in excess of nine months.

3. Termination of provisional appointments. A provisional appointment to any position shall be terminated within two months following the establishment of an appropriate eligible list for filling vacancies in such positions; provided, however, that where there are a large number of provisional appointees in any department or agency in the service of the state or any civil division thereof to be replaced by permanent appointees from a newly established eligible list, and the appointing officer or body deems that the termination of the employment of all such provisional appointees within two months following establishment of such list would disrupt or impair essential public services, evidence thereof may be presented to the civil service department or municipal commission having jurisdiction which, after due inquiry, and upon finding that it is in the best interest of the public service, may waive the provisions of this subdivision requiring the termination of the employment of provisional appointees within two months following the establishment of an appropriate eligible list and authorize the termination of the employment of various numbers of such provisional appointees at stated intervals prescribed by such commission; provided, however, that in no case shall the employment of any such provisional appointee be continued longer than four months following the establishment of such eligible list.

4. Successive provisional appointments. Successive provisional

appointments shall not be made to the same position after the expiration of the authorized period of the original provisional appointment to such position; provided, however, that where an examination for a position or group of positions fails to produce a list adequate to fill all positions then held on a provisional basis, or where such list is exhausted immediately following its establishment, a new provisional appointment may be made to any such position remaining unfilled by permanent appointment, and such new provisional appointment may, in the discretion of the appointing authority, be given to a current or former provisional appointee in such position, except that a current or former provisional appointee who becomes eligible for permanent appointment to any such position shall, if he is then to be continued in or appointed to any such position be afforded permanent appointment to such position.

ARTICLE V
PERSONNEL CHANGES

Title A. Transfers; reinstatements (Secs. 70-73).
B. Removal and other disciplinary proceedings (Secs. 75-79).
C. Abolition of positions; suspension; demotion (Secs. 80-82).
D. Leaves of absence (Secs. 82-a-82-c).
E. Police advisory board (Secs. 83-83-g).

TITLE A
TRANSFERS: REINSTATEMENTS

Section 70. Transfers.
71. Reinstatement after separation for disability.
72. Leave for ordinary disability.
73. Separation for ordinary disability; reinstatement.

§ 70. Transfers. 1. General provisions. Except as provided in subdivisions four, six and seven of this section no employee shall be transferred to a position for which there is required by this chapter or the rules established hereunder an examination involving essential tests or qualifications different from or higher than those required for the

position held by such employee. The state and municipal commissions may adopt rules governing transfers between positions in their respective jurisdictions and may also adopt reciprocal rules providing for the transfer of employees from one governmental jurisdiction to another. No employee shall be transferred without his or her consent except as provided in subdivision six or seven of this section or upon the transfer of functions as provided in subdivision two of this section.

2. Transfer of personnel upon transfer of functions. Upon the transfer of a function (a) from one department or agency of the state to another department or agency of the state, or (b) from one department or agency of a civil division of the state to another department or agency of such civil division, or (c) from one civil division of the state to another civil division of the state, or (d) from a civil division of the state to the state, or vice versa, provision shall be made for the transfer of necessary officers and employees who are substantially engaged in the performance of the function to be transferred. As soon as practicable after the adoption of a law, rule, order or other action directing such a transfer of function, but not less than twenty days prior to the effective date of such transfer, the head of the department or agency from which such function is to be transferred shall certify to the head of the department or agency to which such function is to be transferred a list of the names and titles of those employees substantially engaged in the performance of the function to be transferred, and shall cause copies of such certified list to be publicly and conspicuously posted in the offices of the department or agency from which such function is to be transferred, along with copies of this subdivision. Any employee of the department or agency from which such function is to be transferred may, prior to the effective date of such transfer, protest his or her inclusion in or exclusion from such list by giving notice of such protest in writing addressed to the heads of the respective departments or agencies from which and to which transfer is to be made, which notice shall state the reasons for the protest. The head of the department or agency to which such function is to be transferred shall review the protest and after consultation with the head of the department or agency from which such function is to be transferred notify the protestor within ten days from the receipt of such protest of the determination

with respect to such protest. Such determination shall be a final administrative determination. Failure to make such protest shall be deemed to constitute consent to inclusion in or exclusion from, as the case may be, the certified list of employees engaged in the function to be transferred. Officers and employees so transferred shall be transferred without further examination or qualification, and shall retain their respective civil service classifications and status. For the purpose of determining the officers and employees holding permanent appointments in competitive class positions to be transferred, such officers and employees shall be selected within each grade of each class of positions in the order of their original appointment, with due regard to the right of preference in retention of disabled and non-disabled veterans. Any employee who fails to respond to or accept a written offer of transfer from the department or agency to which such function is to be transferred within ten days after receipt of such offer shall be deemed to have waived entitlement to such transfer. All officers and employees so transferred shall, thereafter, be subject to the rules of the civil service commission having jurisdiction over the agency to which transfer is made. Officers and employees holding permanent appointments in competitive class positions who are not so transferred shall have their names entered upon an appropriate preferred list for reinstatement to the same or similar positions in the service of the governmental jurisdiction from which transfer is made and in the office or agency to which such function is transferred. Officers and employees transferred to another governmental jurisdiction pursuant to the provisions of this subdivision shall be entitled to full seniority credit for all purposes for service rendered prior to such transfer in the governmental jurisdiction from which transfer is made. Except where such transferred officers and employees are entitled, pursuant to a special law or a rule adopted pursuant to law, to credit upon transfer for their unused vacation or annual leave and sick leave, the officer or body having authority to adopt provisions governing vacation or annual leave and sick leave applicable to the department or agency to which transfer is made may, after giving due consideration to the similarities and differences between the provisions governing vacation or annual leave and sick leave in the respective jurisdictions from which and to which transfer is made, allow employees transferred hereunder credit for

all or part of the unused vacation or annual leave and sick leave standing to their credit at the time of transfer, as may be determined equitable, but not in excess of the maximum accumulation permitted in the jurisdiction to which transfer is made. Unused vacation or annual leave not credited by the jurisdiction to which transfer is made may be compensated for to the extent, if any, such compensation is authorized by other law.

4. Transfer and change of title. Notwithstanding the provisions of subdivision one of this section or any other provision of law, any permanent employee in the competitive class who meets all of the requirements for a competitive examination, and is otherwise qualified as determined by the state civil service commission or the municipal civil service commission, as the case may be, shall be eligible for participation in a non-competitive examination in a different position classification, provided, however, that such employee is holding a position in a similar grade.

5. (a) Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, a police department of any county, city, town, village, district, commission, authority or public benefit corporation is dissolved or abolished and the functions of such department are assumed by another police agency by contractual agreement or payment or taxation therefor, the provisions of this section shall apply.

(b) For the purposes of this subdivision:

(1) The term "police agency" shall mean any agency or department of a county, city, town, village, district, commission, authority or public benefit corporation having responsibility for enforcing the criminal laws of the state.

(2) The term "police agency" or "police department" shall not be construed to include the police department of a city of one million or more persons, the police department of a housing authority of a city of one million or more persons, or the police department established pursuant to the provisions of section one thousand two hundred four of the public authorities law.

6. Transfer of personnel. Notwithstanding the provisions of subdivision one of this section or any other provision of law, any city having a population of one million or more may by agreement negotiated between such city and an employee organization pursuant to article fourteen of this chapter provide for the involuntary transfer of employees between city agencies. For purposes of this subdivision, the term "city agency" shall include any school district, public authority, commission or other instrumentality of government on whose behalf such city is authorized to negotiate collective bargaining agreements.

7. Transfer of Suffolk county park officers levels I-IV to the positions of Suffolk county police officers. Notwithstanding the provisions of subdivision one of this section or any other provision of law, the county of Suffolk may, by agreement negotiated between such county and an employee organization pursuant to article fourteen of this chapter, provide for the transfer of now existing Suffolk county parks police officers levels I-IV to positions of Suffolk county police officers. The transfer of now existing positions may be effectuated without regard to any eligible lists or preferred lists for reinstatement.

§ 71. Reinstatement after separation for disability. Where an employee has been separated from the service by reason of a disability resulting from occupational injury or disease as defined in the workmen's compensation law, he or she shall be entitled to a leave of absence for at least one year, unless his or her disability is of such a nature as to permanently incapacitate him or her for the performance of the duties of his or her position. Notwithstanding the foregoing, where an employee has been separated from the service by reason of a disability resulting from an assault sustained in the course of his or her employment, he or she shall be entitled to a leave of absence for at least two years, unless his or her disability is of such a nature as to permanently incapacitate him or her for the performance of the duties of his or her position. Such employee may, within one year after the termination of such disability, make application to the civil service department or municipal commission having jurisdiction over the position last held by

such employee for a medical examination to be conducted by a medical officer selected for that purpose by such department or commission. If, upon such medical examination, such medical officer shall certify that such person is physically and mentally fit to perform the duties of his or her former position, he or she shall be reinstated to his or her former position, if vacant, or to a vacancy in a similar position or a position in a lower grade in the same occupational field, or to a vacant position for which he or she was eligible for transfer. If no appropriate vacancy shall exist to which reinstatement may be made, or if the work load does not warrant the filling of such vacancy, the name of such person shall be placed upon a preferred list for his or her former position, and he or she shall be eligible for reinstatement from such preferred list for a period of four years. In the event that such person is reinstated to a position in a grade lower than that of his or her former position, his or her name shall be placed on the preferred eligible list for his or her former position or any similar position. This section shall not be deemed to modify or supersede any other provisions of law applicable to the re-employment of persons retired from the public service on account of disability.

§ 72. Leave for ordinary disability. 1. When in the judgment of an appointing authority an employee is unable to perform the duties of such employee's position by reason of a disability, other than a disability resulting from occupational injury or disease as defined in the workers' compensation law, the appointing authority may require such employee to undergo a medical examination to be conducted by a medical officer selected by the civil service department or municipal commission having jurisdiction. Written notice of the facts providing the basis for the judgment of the appointing authority that the employee is not fit to perform the duties of such employee's position, and copies of any written, electronic or other communication by the appointing authority to a medical officer or any other entity regarding the claim that such employee is unable to perform their duties pursuant to this section, shall be provided to the employee, the authorized representative of such employee and the civil service department or commission having jurisdiction prior to the conduct of the medical examination. If, upon

such medical examination, such medical officer shall certify that such employee is not physically or mentally fit to perform the duties of such employee's position, the appointing authority shall notify such employee that they may be placed on leave of absence. An employee placed on leave of absence pursuant to this section shall be given a written statement of the reasons therefor and complete copies of all of the documentation, reports and records relied upon by the medical officer during their examination, including any documents, reports and correspondence sent to the appointing authority at the conclusion of the examination. Such notice shall contain the reason for the proposed leave and the proposed date on which such leave is to commence, shall be made in writing and served in person or by first class, registered or certified mail, return receipt requested, upon the employee. Such notice shall also inform the employee of their rights under this procedure. An employee shall be allowed ten working days from service of the notice to object to the imposition of the proposed leave of absence and to request a hearing. The request for such hearing shall be filed by the employee personally or by first class, certified or registered mail, return receipt requested. Upon receipt of such request, the appointing authority shall supply to the employee, such employee's personal physician or authorized representative, copies of all diagnoses, test results, observations and other data supporting the certification, and imposition of the proposed leave of absence shall be held in abeyance until a final determination is made by the appointing authority as provided in this section. The appointing authority will afford the employee a hearing within thirty days of the date of a request by the employee to be held by an independent hearing officer agreed to by the appointing authority and the employee except that where the employer is a city of over one million in population such hearing may be held by a hearing officer employed by the office of administrative trials and hearings. If the parties are unable to agree upon a hearing officer, such hearing officer shall be selected by lot from a list of persons maintained by the state department of civil service. The hearing officer shall not be an employee of the same appointing authority as the employee alleged to be disabled. The hearing officer shall be vested with all of the powers of the appointing authority, and shall make a record of the hearing which shall, with such hearing officer's recommendation, be referred to the

appointing authority for review and decision and which shall be provided to the affected employee free of charge. A copy of the transcript of the hearing shall, upon request of the employee affected, be transmitted to such employee without charge. The employee may be represented at any hearing by counsel or a representative of a certified or recognized employee organization and may present medical experts and other witnesses or evidence. The employee shall be entitled to a reasonable period of time to obtain such representation. The burden of proving mental or physical unfitness shall be upon the person alleging it. Compliance with technical rules of evidence shall not be required. The appointing authority will render a final determination within ten working days of the date of receipt of the hearing officer's report and recommendation. The appointing authority may either uphold the original proposed notice of leave of absence, withdraw such notice or modify the notice as appropriate. In any event, a final determination of an employee's contest of a notice of leave shall be rendered within seventy-five days of the receipt of the request for review. An employee on such leave of absence shall be entitled to draw all accumulated, unused sick leave, vacation, overtime and other time allowances standing to such employee's credit. The appointing authority in the final determination shall notify the employee of such employee's right to appeal from such determination to the civil service commission having jurisdiction in accordance with subdivision three of this section.

2. An employee placed on leave pursuant to subdivision one of this section may, within one year after the date of commencement of such leave of absence, or thereafter at any time until his or her employment status is terminated, make application to the civil service department or municipal commission having jurisdiction over the position from which such employee is on leave, for a medical examination by a medical officer selected for that purpose by such department or commission. If, upon such medical examination, such medical officer shall certify that such employee is physically and mentally fit to perform the duties of his or her position, he or she shall be reinstated to his or her position.

3. An employee who is certified as not physically or mentally fit to

perform the duties of his or her position and who is placed on leave of absence pursuant to subdivision one of this section, or who is denied reinstatement after examination pursuant to subdivision two of this section, may appeal from such determination to the state or municipal civil service commission having jurisdiction over his or her position. Such employee and appointing officer or their representatives shall be afforded an opportunity to present facts and arguments in support of their positions including medical evidence at a time and place and in such manner as may be prescribed by the commission. Provided however, that in considering appeals pursuant to subdivision two of this section where a hearing has not been held within nine months from the date of notification pursuant to subdivision one of this section, the commission shall designate an independent hearing officer who shall hold a hearing and report thereon. The commission shall make its determination on the basis of the medical records and such facts and arguments as are presented to it. The final determination of the commission shall be binding on both the employee and the appointing authority; provided, however, that an employee or appointing authority may seek review of a final determination of a commission in accordance with the provisions of article seventy-eight of the civil practice law and rules.

4. If an employee placed on leave pursuant to this section is not reinstated within one year after the date of commencement of such leave, his or her employment status may be terminated in accordance with the provisions of section seventy-three of this article.

5. Notwithstanding any other provisions of this section, if the appointing authority determines that there is probable cause to believe that the continued presence of the employee on the job represents a potential danger to persons or property or would severely interfere with operations, it may place such employee on involuntary leave of absence immediately; provided, however, that the employee shall be entitled to draw all accumulated unused sick leave, vacation, overtime and other time allowances standing to his or her credit. If such an employee is finally determined not to be physically or mentally unfit to perform the duties of his or her position, he or she shall be restored to his or her position and shall have any leave credits or salary that he or she may

have lost because of such involuntary leave of absence restored to him or her less any compensation he or she may have earned in other employment or occupation and any unemployment benefits he or she may have received during such period.

§ 73. Separation for ordinary disability; reinstatement. When an employee has been continuously absent from and unable to perform the duties of his position for one year or more by reason of a disability, other than a disability resulting from occupational injury or disease as defined in the workmen's compensation law, his employment status may be terminated and his position may be filled by a permanent appointment. Such employee may, within one year after the termination of such disability, make application to the civil service department or municipal commission having jurisdiction over the position last held by such employee for a medical examination to be conducted by a medical officer selected for that purpose by such department or commission. If, upon such medical examination, such medical officer shall certify that such person is physically and mentally fit to perform the duties of his former position, he shall be reinstated to his former position, if vacant, or to a vacancy in a similar position or a position in a lower grade in the same occupational field in his former department or agency. If no appropriate vacancy shall exist to which such reinstatement may be made, or if the work load does not warrant the filling of such vacancy, the name of such person shall be placed on a preferred list for his former position in his former department or agency, and he shall be eligible for reinstatement in his former department or agency from such preferred list for a period of four years. In the event that such person is reinstated to a position in a grade lower than that of his former position, his name shall be placed on the preferred eligible list for his former position or any similar position in his former department or agency. This section shall not be deemed to modify or supersede any other provisions of law applicable to the re-employment of persons retired from the public service on account of disability.

TITLE B

REMOVAL AND OTHER DISCIPLINARY PROCEEDINGS

Section 75. Removal and other disciplinary action.
75-a. Civil service proceeding; commencement upon alleged violation of certain provisions of the labor law relating to police officers.
75-b. Retaliatory action by public employers.
76. Appeals from determinations in disciplinary proceedings.
77. Compensation of officers and employees reinstated by court order.
78. Transfer of personnel upon the abolition of positions in state civil service.
79. Establishment of redeployment lists in the state service; general provisions.

§ 75. Removal and other disciplinary action. 1. Removal and other disciplinary action. A person described in paragraph (a) or paragraph (b), or paragraph (c), or paragraph (d), or paragraph (e) of this subdivision shall not be removed or otherwise subjected to any disciplinary penalty provided in this section except for incompetency or misconduct shown after a hearing upon stated charges pursuant to this section.

(a) A person holding a position by permanent appointment in the competitive class of the classified civil service, or

(b) a person holding a position by permanent appointment or employment in the classified service of the state or in the several cities, counties, towns, or villages thereof, or in any other political or civil division of the state or of a municipality, or in the public school service, or in any public or special district, or in the service of any authority, commission or board, or in any other branch of public service, who was honorably discharged or released under honorable circumstances from the armed forces of the United States including (i) having a qualifying condition as defined in section one of the veterans' services law, and receiving a discharge other than bad conduct or dishonorable from such service, or (ii) being a discharged LGBT veteran, as defined in section one of the veterans' services law, and receiving a discharge other than bad conduct or dishonorable from such service,

having served therein as such member in time of war as defined in section eighty-five of this chapter, or who is an exempt volunteer firefighter as defined in the general municipal law, except when a person described in this paragraph holds the position of private secretary, cashier or deputy of any official or department, or

(c) an employee holding a position in the non-competitive or labor class other than a position designated in the rules of the state or municipal civil service commission as confidential or requiring the performance of functions influencing policy, who since his or her last entry into service has completed at least five years of continuous service in the non-competitive or labor class in a position or positions not so designated in the rules as confidential or requiring the performance of functions influencing policy, or

(d) an employee in the service of the City of New York holding a position as Homemaker or Home Aide in the non-competitive class, who since his last entry into city service has completed at least three years of continuous service in such position in the non-competitive class, or

(e) an employee in the service of a police department within the state of New York holding the position of detective for a period of three continuous years or more; provided, however, that a hearing shall not be required when reduction in rank from said position is based solely on reasons of the economy, consolidation or abolition of functions, curtailment of activities or otherwise.

2. Procedure. An employee who at the time of questioning appears to be a potential subject of disciplinary action shall have a right to representation by his or her certified or recognized employee organization under article fourteen of this chapter and shall be notified in advance, in writing, of such right. A state employee who is designated managerial or confidential under article fourteen of this chapter, shall, at the time of questioning, where it appears that such employee is a potential subject of disciplinary action, have a right to representation and shall be notified in advance, in writing, of such right. If representation is requested a reasonable period of time shall be afforded to obtain such representation. If the employee is unable to obtain representation within a reasonable period of time the employer

has the right to then question the employee. A hearing officer under this section shall have the power to find that a reasonable period of time was or was not afforded. In the event the hearing officer finds that a reasonable period of time was not afforded then any and all statements obtained from said questioning as well as any evidence or information obtained as a result of said questioning shall be excluded, provided, however, that this subdivision shall not modify or replace any written collective agreement between a public employer and employee organization negotiated pursuant to article fourteen of this chapter. A person against whom removal or other disciplinary action is proposed shall have written notice thereof and of the reasons therefor, shall be furnished a copy of the charges preferred against him and shall be allowed at least eight days for answering the same in writing. The hearing upon such charges shall be held by the officer or body having the power to remove the person against whom such charges are preferred, or by a deputy or other person designated by such officer or body in writing for that purpose. In case a deputy or other person is so designated, he shall, for the purpose of such hearing, be vested with all the powers of such officer or body and shall make a record of such hearing which shall, with his recommendations, be referred to such officer or body for review and decision. The person or persons holding such hearing shall, upon the request of the person against whom charges are preferred, permit him to be represented by counsel, or by a representative of a recognized or certified employee organization, and shall allow him to summon witnesses in his behalf. The burden of proving incompetency or misconduct shall be upon the person alleging the same. Compliance with technical rules of evidence shall not be required.

2-a. Independent hearing officer. (a) Notwithstanding any other provision of law to the contrary, including but not limited to subdivision four of section seventy-six of this title, any paid officer or member of an organized fire company or fire department of a city of less than one million population, or town, village or fire district who is represented by a certified or recognized employee organization pursuant to article fourteen of this chapter shall not be subjected to the penalty of dismissal from service or any other discipline if the hearing, upon such charge, has been conducted by someone other than an

independent hearing officer to be agreed to by the employer and the person against whom disciplinary action is proposed. If the parties are unable to agree upon a hearing officer, the hearing officer shall be selected from a list of seven names to be provided by the public employment relations board. The public employment relations board shall maintain a list of independent hearing officers for this purpose. The parties shall select the hearing officer by alternately striking names from the list of seven. The hearing officer shall be vested with all powers of the appointing authority, shall conduct and make a record of the hearing, and shall render a final decision. The cost incurred in obtaining such independent hearing officer shall be divided equally between the parties; provided that as may be determined upon the circumstances of the case, the hearing officer shall be authorized to allocate such cost on the basis of the frivolous nature of any claim made or any defense interposed. In order to find a claim or defense to be frivolous, the hearing officer must find at least one of the following:

(i) the claim or defense was commenced, used or continued in bad faith, solely to delay or prolong the resolution of the action or to harass or maliciously injure another; or

(ii) the claim or defense was commenced or continued in bad faith without any reasonable basis in law or fact. If the claim or defense was promptly discontinued when the party learned or should have learned that the claim or defense lacked such reasonable basis, the hearing officer may find that the party did not act in bad faith. A person served with charges may then, however, elect in writing to proceed with a hearing pursuant to the procedures established in subdivision two of this section in lieu of the procedures set forth in this subdivision.

(b) The rights set forth in paragraph (a) of this subdivision shall be in addition to, and shall not supplant, modify or replace any rights provided to an employee pursuant to agreements negotiated by a public employer and an employee organization pursuant to article fourteen of this chapter, or pursuant to any other provision of law, including but not limited to other provisions of this section.

3. Suspension pending determination of charges; penalties. Pending the hearing and determination of charges of incompetency or misconduct, the

officer or employee against whom such charges have been preferred may be suspended without pay for a period not exceeding thirty days. If such officer or employee is found guilty of the charges, the penalty or punishment may consist of a reprimand, a fine not to exceed one hundred dollars to be deducted from the salary or wages of such officer or employee, suspension without pay for a period not exceeding two months, demotion in grade and title, or dismissal from the service; provided, however, that the time during which an officer or employee is suspended without pay may be considered as part of the penalty. If he is acquitted, he shall be restored to his position with full pay for the period of suspension less the amount of any unemployment insurance benefits he may have received during such period. If such officer or employee is found guilty, a copy of the charges, his written answer thereto, a transcript of the hearing, and the determination shall be filed in the office of the department or agency in which he has been employed, and a copy thereof shall be filed with the civil service commission having jurisdiction over such position. A copy of the transcript of the hearing shall, upon request of the officer or employee affected, be furnished to him without charge.

3-a. Suspension pending determination of charges and penalties relating to police officers of the police department of the city of New York. Pending the hearing and determination of charges of incompetency or misconduct, a police officer employed by the police department of the city of New York may be suspended without pay for a period not exceeding thirty days. If such officer is found guilty of the charges, the police commissioner of such department may punish the police officer pursuant to the provisions of sections 14-115 and 14-123 of the administrative code of the city of New York.

4. Notwithstanding any other provision of law, no removal or disciplinary proceeding shall be commenced more than eighteen months after the occurrence of the alleged incompetency or misconduct complained of and described in the charges or, in the case of a state employee who is designated managerial or confidential under article fourteen of this chapter, more than one year after the occurrence of the alleged incompetency or misconduct complained of and described in the

charges, provided, however, that such limitations shall not apply where the incompetency or misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction, constitute a crime.

§ 75-a. Civil service proceeding; commencement upon alleged violation of certain provisions of the labor law relating to police officers. 1. Any police officer alleging a violation of section two hundred fifteen-a of the labor law may institute a proceeding pursuant to the provisions of his collective bargaining agreement. If no such agreement exists a complaint may be filed by a police officer with the state or a municipal civil service commission alleging a violation of section two hundred fifteen-a of the labor law; as a condition of entertaining such complaint the commission may require a police officer to exhaust all remedies available to such employee pursuant to the provisions of a collective bargaining agreement and the rules and regulations of the employer. Upon the filing of such complaint or upon its own initiative the commission having jurisdiction may investigate and upon finding an improper transfer or other penalty in violation of such section, enforce the provisions of such section. The commission may exercise any powers heretofore granted to it by provision of this chapter or by any other provision of law necessary for the enforcement of the provisions of section two hundred fifteen-a of the labor law.

2. Nothing in this section shall be construed to abrogate, impair, alter, or in any way modify any right of action in law that an employee, alleged to have been penalized, may have.

§ 75-b. Retaliatory action by public employers. 1. For the purposes of this section the term:

(a) "Public employer" or "employer" shall mean (i) the state of New York, (ii) a county, city, town, village or any other political subdivision or civil division of the state, (iii) a school district or any governmental entity operating a public school, college or university, (iv) a public improvement or special district, (v) a public

authority, commission or public benefit corporation, or (vi) any other public corporation, agency, instrumentality or unit of government which exercises governmental power under the laws of the state.

(b) "Public employee" or "employee" shall mean any person holding a position by appointment or employment in the service of a public employer except judges or justices of the unified court system and members of the legislature.

(c) "Governmental body" shall mean (i) an officer, employee, agency, department, division, bureau, board, commission, council, authority or other body of a public employer, (ii) employee, committee, member, or commission of the legislative branch of government, (iii) a representative, member or employee of a legislative body of a county, town, village or any other political subdivision or civil division of the state, (iv) a law enforcement agency or any member or employee of a law enforcement agency, or (v) the judiciary or any employee of the judiciary.

(d) "Personnel action" shall mean an action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

2. (a) A public employer shall not dismiss or take other disciplinary or other adverse personnel action against a public employee regarding the employee's employment because the employee discloses to a governmental body information: (i) regarding a violation of a law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety; or (ii) which the employee reasonably believes to be true and reasonably believes constitutes an improper governmental action. "Improper governmental action" shall mean any action by a public employer or employee, or an agent of such employer or employee, which is undertaken in the performance of such agent's official duties, whether or not such action is within the scope of his employment, and which is in violation of any federal, state or local law, rule or regulation.

3. (a) Where an employee is subject to dismissal or other disciplinary action under a final and binding arbitration provision, or other disciplinary procedure contained in a collectively negotiated agreement,

or under section seventy-five of this title or any other provision of state or local law and the employee reasonably believes dismissal or other disciplinary action would not have been taken but for the conduct protected under subdivision two of this section, he or she may assert such as a defense before the designated arbitrator or hearing officer. The merits of such defense shall be considered and determined as part of the arbitration award or hearing officer decision of the matter. If there is a finding that the dismissal or other disciplinary action is based solely on a violation by the employer of such subdivision, the arbitrator or hearing officer shall dismiss or recommend dismissal of the disciplinary proceeding, as appropriate, and, if appropriate, reinstate the employee with back pay, and, in the case of an arbitration procedure, may take other appropriate action as is permitted in the collectively negotiated agreement.

(b) Where an employee is subject to a collectively negotiated agreement which contains provisions preventing an employer from taking adverse personnel actions and which contains a final and binding arbitration provision to resolve alleged violations of such provisions of the agreement and the employee reasonably believes that such personnel action would not have been taken but for the conduct protected under subdivision two of this section, he or she may assert such as a claim before the arbitrator. The arbitrator shall consider such claim and determine its merits and shall, if a determination is made that such adverse personnel action is based on a violation by the employer of such subdivision, take such action to remedy the violation as is permitted by the collectively negotiated agreement.

(c) Where an employee is not subject to any of the provisions of paragraph (a) or (b) of this subdivision, the employee may commence an action in a court of competent jurisdiction under the same terms and conditions as set forth in article twenty-C of the labor law.

4. Nothing in this section shall be deemed to diminish or impair the rights of a public employee or employer under any law, rule, regulation or collectively negotiated agreement or to prohibit any personnel action which otherwise would have been taken regardless of any disclosure of information.

§ 76. Appeals from determinations in disciplinary proceedings. 1. Appeals. Any officer or employee believing himself aggrieved by a penalty or punishment of demotion in or dismissal from the service, or suspension without pay, or a fine, or an official reprimand, unaccompanied by a remittance of said officer or employee's prehearing suspension without pay, imposed pursuant to the provisions of section seventy-five of this chapter, may appeal from such determination either by an application to the state or municipal commission having jurisdiction, or by an application to the court in accordance with the provisions of article seventy-eight of the civil practice law and rules. If such person elects to appeal to such civil service commission, he shall file such appeal in writing within twenty days after service of written notice of the determination to be reviewed, such written notice to be delivered personally or by registered mail to the last known address of such person and when notice is given by registered mail, such person shall be allowed an additional three days in which to file such appeal.

2. Procedure on appeal. Where appeal is taken to the state or municipal commission having jurisdiction, such commission shall review the record of the disciplinary proceeding and the transcript of the hearing, and shall determine such appeal on the basis of such record and transcript and such oral or written argument as the commission may determine. The commission may direct that such appeal shall be heard by one or more members of the commission or by a person or persons designated by the commission to hear such appeal on its behalf, who shall report thereon with recommendations to the commission. Upon such appeal the commission shall permit the employee to be represented by counsel.

3. Determination on appeal. The determination appealed from may be affirmed, reversed, or modified, and the state or municipal commission having jurisdiction may, in its discretion, direct the reinstatement of the appellant or permit the transfer of such appellant to a vacancy in a similar position in another division or department, or direct that his name be placed upon a preferred list pursuant to section eighty-one of

this chapter. In the event that a transfer is not effected, the commission is empowered to direct the reinstatement of such officer or employee. An employee reinstated pursuant to this subdivision shall receive the salary or compensation he would have been entitled by law to have received in his position for the period of removal including any prior period of suspension without pay, less the amount of any unemployment insurance benefits he may have received during such period. The decision of such civil service commission shall be final and conclusive, and not subject to further review in any court.

4. Nothing contained in section seventy-five or seventy-six of this chapter shall be construed to repeal or modify any general, special or local law or charter provision relating to the removal or suspension of officers or employees in the competitive class of the civil service of the state or any civil division. Such sections may be supplemented, modified or replaced by agreements negotiated between the state and an employee organization pursuant to article fourteen of this chapter. Where such sections are so supplemented, modified or replaced, any employee against whom charges have been preferred prior to the effective date of such supplementation, modification or replacement shall continue to be subject to the provisions of such sections as in effect on the date such charges were preferred.

§ 77. Compensation of officers and employees reinstated by court order. Any officer or employee who is removed from a position in the service of the state or of any civil division thereof in violation of the provisions of this chapter, and who thereafter is restored to such position by order of the supreme court, shall be entitled to receive and shall receive from the state or such civil division, as the case may be, the salary or compensation which he would have been entitled by law to have received in such position but for such unlawful removal, from the date of such unlawful removal to the date of such restoration, less the amount of any unemployment insurance benefits he may have received during such period. Such officer or employee shall be entitled to a court order to enforce the payment of such salary or compensation. Such salary or compensation shall be subject to the provisions of sections

four hundred seventy-four and four hundred seventy-five of the judiciary law for services rendered, but otherwise shall be paid only directly to such officer or employee or his legal representatives.

§ 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.

§ 79. Establishment of redeployment lists in the state service; general provisions. 1. Primarily redeployment. a. Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides,

upon notification to the department that an employee in the state service is to be suspended or demoted in accordance with the provisions of section eighty or eighty-a of this article by reason of the state's exercise of its right to contract out for goods and services, and receipt of the information required pursuant to section eighty-one-a of this article for purposes of establishing reemployment rosters, at least ninety days prior to the suspension or demotion of an affected employee, the department shall place the name of the employee upon a redeployment list. Such redeployment list shall be certified for filling positions in the same title or in any comparable title, as determined by the department, before certification is made from any other eligible list, placement roster, reemployment roster or preferred list. The director of state operations is authorized to redeploy such employees to positions in appointing authorities of the executive branch. The department may extend the right to be placed on a redeployment list, in accordance with the provisions of this section, to employees not subject to the provisions of such agreement.

b. Orders of certification of names from a redeployment list. The names of persons on a redeployment list shall be certified therefrom for appointment in the order of their original appointments, in accordance with the provisions of subdivision three of section eighty and subdivision three of section eighty-a of this article.

c. Salary upon redeployment. A person appointed from a redeployment list shall receive at least the same salary such person was receiving in the position from which he or she is to be or has been suspended or demoted.

d. Probationary term. Probationers who are appointed from a redeployment list to a position in the same title will be required to complete their probationary term. Employees who are appointed from a redeployment list to a position in a comparable title shall be required to complete a probationary term in accordance with the rules promulgated by the commission pursuant to subdivision two of section sixty-three of this chapter.

e. Termination of eligibility for appointment. Eligibility for appointment of an employee whose name appears on a redeployment list shall terminate at such time as the employee is redeployed pursuant to the provisions of this section to a position in the same salary grade as the position from which he or she has been suspended or demoted, or has exercised his or her reemployment rights pursuant to the provisions of section eighty-one or eighty-one-a of this article, provided, however, that eligibility for appointment shall terminate no later than six months following the suspension or demotion of such employee in accordance with the provisions of section eighty or eighty-a of this article. Upon such employee's suspension or demotion, the department shall place the name of such employee upon a preferred list, and a reemployment roster, as appropriate, in accordance with the provisions of sections eighty-one and eight-one-a of this article.

f. Notwithstanding any other provision of this chapter, any employee may voluntarily remove his or her name from a redeployment list by application to the department.

2. Secondary redeployment. a. In the event the department determines, in accordance with the provisions of subdivision one of this section, that there are no positions in the same title or any comparable title to which an employee to be suspended or demoted by reason of the state's exercise of its right to contract out for goods and services can be redeployed, the department may place the name of such employee on a special reemployment roster, for filling positions in titles for which the employee meets the essential tests and qualifications. Such special reemployment roster may be certified immediately upon the employee's placement on the roster for filling a position before certification is made from any other eligible list, including a promotion eligible list, but not prior to a redeployment list or preferred list.

b. Termination of eligibility. Eligibility for appointment of an employee whose name appears on a special reemployment roster shall not continue for a period longer than four years from the date of suspension or demotion, provided, however, that eligibility for appointment of an employee whose name appears on any such special reemployment roster

shall terminate at such time as the employee is redeployed pursuant to the provisions of this section and, in no event, shall eligibility for appointment from a special reemployment roster continue once the employee is no longer eligible for reinstatement from a preferred list.

c. Employees placed on a special reemployment roster in accordance with the provisions of this section, shall have all the rights and privileges provided employees placed on reemployment rosters in accordance with section eighty-one-a of this article.

3. Rulemaking authority. The commission shall adopt rules for carrying into effect the provisions of this section, including rules providing for the relinquishment of eligibility for appointment upon appointment or upon failure or refusal to accept appointment from a redeployment list. Additionally, notwithstanding any inconsistent provision of law, rule, or regulation, an agreement between the state and an employee organization recognized or certified pursuant to article fourteen of this chapter can provide employment security rights and benefits where the state has exercised its right to contract out for goods and services. The commission upon receipt of a written request of the director of employee relations, is authorized to implement provisions of such agreement consistent with the terms thereof and, to the extent necessary, may adopt rules and regulations providing for the benefits to be thereunder provided. The commission, with the approval of the director of the budget, may extend such benefits in whole or in part, to state employees excluded from collective negotiating units.

TITLE C

ABOLITION OF POSITIONS; SUSPENSION; DEMOTION

Section 80. Suspension or demotion upon the abolition or reduction of positions.

81. Preferred lists; certification and reinstatement therefrom.

81-a. Reemployment rosters in the state service; certification and reinstatement therefrom.

81-b. Placement rosters in the state service; certification and

appointment therefrom.
82. Procedures relating to assaults on employees responsible for enforcement of certain regulations in the city of New York.

§ 80. Suspension or demotion upon the abolition or reduction of positions. 1. Suspension or demotion. Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive, noncompetitive or labor class are abolished or reduced in rank or salary grade, suspension or demotion, as the case may be, among incumbents holding the same or similar positions in the same jurisdictional class shall be made in the inverse order of original appointment on a permanent basis in the classified service in the service of the governmental jurisdiction in which such abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter; provided, however, that the date of original appointment of any such incumbent who was transferred to such governmental jurisdiction from another governmental jurisdiction upon the transfer of functions shall be the date of original appointment on a permanent basis in the classified service in the service of the governmental jurisdiction from which such transfer was made. Notwithstanding the provisions of this subdivision, however, upon the abolition or reduction of positions in the competitive, noncompetitive or labor class, incumbents holding the same or similar positions in the same jurisdictional class who have not completed their probationary service shall be suspended or demoted, as the case may be, before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

1-a. Notwithstanding the provisions of subdivision one of this section, the members of a police or paid fire department in the city of Buffalo shall be subject to the following procedure. Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive, noncompetitive or labor class are abolished or reduced in rank or salary grade, suspension

or demotion, as the case may be, among incumbents holding the same or similar positions in the same jurisdictional class shall be made in the inverse order of original appointment on a permanent basis in the grade or title in the service of the governmental jurisdiction in which such abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter. Notwithstanding the provisions of this subdivision, however, upon the abolition or reduction of positions in the competitive, noncompetitive or labor class, incumbents holding the same or similar positions in the same jurisdictional who have not completed their probationary service shall be suspended or demoted, as the case may be, before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

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

such permanent employment commenced prior to the said thirtieth day of December, nineteen hundred sixty-seven.

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

1-d. Notwithstanding the provisions of subdivision one of this section, the sworn members of the police force of the county of Nassau shall be subject to the following procedure. Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive, noncompetitive or labor class are abolished or reduced in rank or salary grade, suspension or demotion, as the case may be, among incumbents holding the same or similar positions in the same jurisdictional class shall be made in the inverse order of original appointment on a permanent basis in the grade or title in the service of the governmental jurisdiction in which such abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter. Notwithstanding the provisions of this subdivision, however, upon the abolition or reduction of positions, those employees who have not completed their probationary service shall be suspended or demoted, as

the case may be, before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

1-e. Notwithstanding the provisions of subdivision one of this section, the sworn members of the division of correction of the sheriff's department of the county of Nassau shall be subject to the following procedure. Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive class are abolished or reduced in rank or salary grade, suspension or demotion, as the case may be, among incumbents holding the same or similar positions shall be made in the inverse order of the time served in the grade or title in the service of the governmental jurisdiction in which such abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter. Provided, however, time in rank or grade for the purposes of this subdivision shall only accrue prospectively from the effective date of this subdivision, and where time in rank and grade for two or more individuals is identical, time in service shall be used for the purposes of this procedure. Notwithstanding the provisions of this subdivision, however, upon the abolition or reduction of positions, those employees who have not completed their probationary service shall be suspended or demoted, as the case may be, before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

1-f. Notwithstanding the provisions of subdivision one of this section, the sworn members of any police agency as defined in section eight hundred thirty-five of the executive law, other than police agencies referred to in subdivisions one-a through one-e of this section shall be subject to the following procedure. Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive class are abolished or reduced in rank or salary grade, suspension or demotion, as the case may be, among incumbents holding the same or similar positions shall be made in the inverse order of original appointment on a permanent basis in the

grade or title in the service of the governmental jurisdiction in which such abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter; provided, however, that the date of original appointment of any such incumbent who was transferred to such governmental jurisdiction from another governmental jurisdiction upon the transfer of functions shall be the date of original appointment on a permanent basis in the classified service in the service of the governmental jurisdiction from which such transfer was made.

Notwithstanding the provisions of this subdivision, however, upon the abolition or reduction of positions in the competitive class, incumbents holding the same or similar positions who have not completed their probationary services shall be suspended or demoted, as the case may be, before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

2. Continuous service. Except as otherwise provided herein, for the purposes of this section the original appointment of an incumbent shall mean the date of their first appointment on a permanent basis in the classified service followed by continuous service in the classified service on a permanent basis up to the time of the abolition or reduction of the competitive, noncompetitive or labor class positions. An employee who has resigned and who has been reinstated or reappointed in the service within one year thereafter shall, for the purposes of this section, be deemed to have continuous service. An employee who has been terminated because of a disability resulting from occupational injury or disease as defined in the workers' compensation law and who has been reinstated or reappointed in the service thereafter shall be deemed to have continuous service. A period of employment on a temporary or provisional basis, or in the unclassified service, immediately preceded and followed by permanent service in the classified service, shall not constitute an interruption of continuous service for the purposes of this section; nor shall a period of leave of absence without pay pursuant to law or the rules of the civil service commission having jurisdiction, or any period during which an employee is suspended from

their position pursuant to this section, constitute an interruption of continuous service for the purposes of this section.

3. Interrupted service. A state employee who has resigned and who has been reinstated or reappointed in the service more than one year thereafter shall be credited with any previous state service rendered prior to his or her resignation to which he or she would have been entitled for the purposes of this section but for such resignation; provided, however, that any time out of the service exceeding three years shall be subtracted from the employee's previous state service. In such instances, continuous service shall be deemed to have begun on the date which precedes the otherwise applicable date for the commencement of continuous service by the period of actual creditable service provided by this subdivision.

4. Units for suspension or demotion in civil divisions. Upon the abolition or reduction of positions in the service of a civil division, suspension or demotion shall be made from among employees holding the same or similar positions in the same jurisdictional class in the entire department or agency within which such abolition or reduction of positions occurs. In a city having a population of one million or more, the municipal civil service commission may, by rule, designate as separate units for suspension and demotion under the provisions of this section any hospital or institution or any division of any department or agency under its jurisdiction. Upon the abolition or reduction of positions in such service, suspension or demotion, as the case may be, shall be made from among employees holding the same or similar positions in the same jurisdictional class in the department wherein such abolition or reduction occurs, except that where such abolition or reduction occurs in such hospital or institution or division of a department designated as a separate unit for suspension or demotion, suspension or demotion shall be made from among incumbents holding the same or similar positions in the same jurisdictional class in such separate unit.

4-a. For purposes of determining units for suspension or demotion in the city of Niagara Falls, the following three units shall be deemed to

constitute departments within the meaning of subdivision three above: (i) members of the police department employed as auxiliary policewomen, police officers, police dispatchers or communications technicians, police lieutenants, chief communications officer, or police captains; (ii) members of the fire department employed as firefighters, fire alarm operators, fire captains, battalion fire chiefs or master mechanic-chief of apparatus; and (iii) all other employees of the city of Niagara Falls, in the competitive class.

5. Units for suspension or demotion in the state service. The president may, by regulation, designate as separate units for suspension or demotion under the provisions of this section any state hospital, institution or facility or any division of any state department or agency or specified hospitals, institutions and facilities of a single state department or agency within a particular geographic area as determined by the president. Upon the abolition or reduction of positions in the same jurisdictional class in the state service, suspension or demotion, as the case may be, shall be made from among employees holding the same or similar positions in the department wherein such abolition or reduction occurs, except that where such abolition or reduction occurs in a separate unit for suspension or demotion designated by regulation of the president, suspension or demotion shall be made from among incumbents holding the same or similar positions in such separate unit.

6. Displacement in civil divisions. A permanent incumbent of a position in a civil division in a specific title to which there is a direct line of promotion who is suspended or displaced pursuant to this section, together with all other such incumbents suspended or displaced at the same time, shall displace, in the inverse order of the order of suspension or demotion prescribed in subdivisions one and two of this section, incumbents serving in positions in the same layoff unit in the next lower occupied title in direct line of promotion who shall be displaced in the order of suspension or demotion prescribed in subdivisions one and two of this section; provided, however, that no incumbent shall displace any other incumbent having greater retention standing in the same jurisdictional class. If a permanent incumbent of a

position in a civil division is suspended or displaced from a position in a title for which there are no lower level occupied positions in direct line of promotion, they shall displace the incumbent with the least retention right pursuant to subdivisions one and two of this section who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in one or more positions in the title from which they are suspended or displaced, if: (1) the service of the displacing incumbent while in such former title was satisfactory and (2) the position of the junior incumbent is in (a) the competitive, noncompetitive or labor class, (b) the layoff unit from which the displacing incumbent was suspended or displaced, and (c) a lower salary grade than the position from which the displacing incumbent is suspended or displaced; provided, however, that no incumbent shall displace any other incumbent having greater retention standing in the same jurisdictional class. Refusal of appointment to a position afforded by this subdivision constitutes waiver of rights under this subdivision with respect to the suspension or displacement on account of which the refused appointment is afforded. The municipal civil service commission shall promulgate rules to implement this subdivision including rules which may provide adjunctive opportunities for displacement either to positions in direct line of promotion or to formerly held positions; provided, however, that no such rule shall permit an incumbent to displace any other incumbent having greater retention standing in the same jurisdictional class. For the purpose of acquiring preferred list rights, displacement pursuant to this subdivision is the equivalent of suspension or demotion pursuant to subdivision one of this section.

7. Displacement in the state service. A permanent incumbent of a position in the state service in a specific title to which there is a direct line of promotion who is suspended or displaced pursuant to this section, together with all other such incumbents suspended or displaced at the same time, shall displace, in the inverse order of the order of suspension or demotion prescribed in subdivisions one and two of this section, incumbents serving in positions in the same layoff unit in the next lower occupied title in direct line of promotion who shall be displaced in the order of suspension or demotion prescribed in

subdivisions one and two of this section; provided, however, that no incumbent shall displace any other incumbent having greater retention standing in the same jurisdictional class. If a permanent incumbent of a position in the state service is suspended or displaced from a position in a title for which there are no lower level occupied positions in direct line of promotion, they shall displace the incumbent with the least retention right pursuant to subdivisions one and two of this section who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in one or more positions in the title from which they are suspended or displaced, if: (1) the service of the displacing incumbent while in such former title was satisfactory and (2) the position of the junior incumbent is in (a) the competitive, noncompetitive or labor class, (b) the layoff unit from which the displacing incumbent was suspended or displaced, and (c) a lower salary grade than the position from which the displacing incumbent is suspended or displaced; provided, however, that no incumbent shall displace any other incumbent having greater retention standing in the same jurisdictional class. Refusal of appointment to a position afforded by this subdivision constitutes waiver of rights under this subdivision with respect to the suspension or displacement on account of which the refused appointment is afforded. The state civil service commission shall promulgate rules to implement this subdivision including rules which may provide adjunctive opportunities for displacement either to positions in direct line of promotion or to formerly held positions; provided, however, that no such rule shall permit an incumbent to displace any other incumbent having greater retention standing in the same jurisdictional class. For the purpose of acquiring preferred list rights, displacement pursuant to this subdivision is the equivalent of suspension or demotion pursuant to subdivision one of this section.

7-a. Certain suspensions in cities of one million or more for reasons of economy. (a) Notwithstanding the provisions of any other general or local law, administrative code or ordinance to the contrary, in cities having a population of one million or more, any of the uniformed force of the department of sanitation of such city who was suspended on or after July first, nineteen hundred ninety, because of economy measures

taken by such city and who returns to such service, shall be deemed to have been in continuous service in determining length of service for retirement purposes if the duration of such suspension did not exceed thirty-three months; provided, however, that for retirement purposes, a member receiving such service credit shall pay, by deductions from his or her compensation for each and every payroll period, subject to the member contributions prescribed by subparagraph two of paragraph (b) of this subdivision.

(b) (1) Pursuant to such method of payment, such member shall pay, as additional member contributions payable besides the ordinary member contributions due for their current service:

(A) the ordinary member contributions which would have been done for such period of suspension if they had actually been in service during such period; and

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

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

(2) The deduction for the additional contribution referred to in items (A) and (B) of subparagraph one of this paragraph shall be made in accordance with such equitable method and over such equitable period of time as shall be prescribed by the executive director of the affected retirement system with the approval of its board of trustees.

(3) The additional member contributions referred to in item (A) of subparagraph one of this paragraph shall be paid into the retirement system's member contributions accumulation fund which is required to receive the ordinary member contributions of such member. The additional member contributions referred to in item (B) of such subparagraph shall

be paid into the contingent reserve fund of such retirement system and shall be subject to the provisions of such section six hundred four-a of the retirement and social security law governing additional member contributions. The additional member contributions referred to in item (C) of such subparagraph shall be paid into the contingent reserve fund of such retirement system and shall not be subject to any retirement system right or privilege of such member, unless such right or privilege is granted by other provisions of law which specifically refer to additional member contributions made pursuant to this subdivision.

(4) At any time prior to completion of the deduction for the additional contributions referred to in items (A) and (B) of subparagraph one of this paragraph, payment of the remainder of the total of such additional contribution due may be made in a lump sum, provided further that such member shall pay into the contingent reserve fund of the retirement system two percent of his or her earnings in each year until the earlier of his or her date of retirement or his or her completion of thirty years of service. In addition, if such member elected to be covered by the provisions of section six hundred four-a of the retirement and social security law, he or she shall also pay into such contingent reserve fund the contributions that would have been required had he or she made such election as of the starting of the twenty-year retirement program.

7-b. Certain suspensions in cities of one million or more for reasons of economy. (a) Notwithstanding the provisions of any other general or local law, administrative code or ordinance to the contrary, in cities having a population of one million or more, any member of the uniformed force of the department of correction of such city who was suspended on or after May first, two thousand three, because of economy measures taken by such city and who returns to such service prior to July first, two thousand four, shall be deemed to have been in continuous service in determining length of service for retirement purposes if the duration of such suspension did not exceed thirteen months; provided, however, that for retirement purposes, a member receiving such service credit shall pay, by deductions from his or her compensation, subject to the method prescribed by subparagraph two of paragraph (b) of this subdivision.

(b)(1) Pursuant to such method of payment, such member shall pay, as

additional member contributions payable besides the ordinary member contributions due for his or her current service:

(A) the ordinary member contributions which would have been paid for such period of suspension if he or she had actually been in service during such period; and

(B) if such member is covered by the twenty-year retirement program provided for by section five hundred four-a of the retirement and social security law, the additional member contributions which he or she would have been required to make under the provisions of that section for such period of suspension if he or she had actually been in service during such period.

(2) The deduction for the additional contributions referred to in clauses (A) and (B) of subparagraph one of this paragraph shall be paid in accordance with such equitable method and over such equitable period of time as shall be prescribed by the executive director of the affected retirement system with the approval of its board of trustees.

(3) The additional member contributions referred to in clause (A) of subparagraph one of this paragraph shall be paid into the retirement system's member contributions accumulation fund which is required to receive the ordinary member contributions of such member. The additional member contributions referred to in clause (B) of such subparagraph shall be paid into the contingent reserve fund of such retirement system and shall be subject to the provisions of such section five hundred four-a of the retirement and social security law governing additional member contributions.

(4) At any time prior to completion of the deduction for the additional contributions referred to in clauses (A) and (B) of subparagraph one of this paragraph, payment of the remainder of the total of such additional contributions due may be made in a lump sum. In addition, if such member is covered by the provisions of section five hundred four-a of the retirement and social security law, he or she shall also pay into the contingent reserve fund of the retirement system the contributions required to be made pursuant to such section.

7-c. Certain suspensions in cities of one million or more for reasons of economy. (a) Notwithstanding the provisions of any other general or local law, administrative code or ordinance to the contrary, in cities

having a population of one million or more, any employee in the title of carpenter or supervisory carpenter of such city who was suspended on or after June first, nineteen hundred ninety-one because of economy measures taken by such city and who returns to such service prior to July first, nineteen hundred ninety-three, shall be deemed to have been in continuous service in determining length of service for retirement purposes if the duration of such suspension did not exceed twenty-five months; provided, however, that for retirement purposes, a member receiving such service credit shall pay, by deductions from his or her compensation, subject to the method prescribed by subparagraph two of paragraph (b) of this subdivision.

(b)(1) Pursuant to such method of payment, such member shall pay the ordinary member contributions due for his or her current service which would have been paid for such period of suspension if he or she had actually been in service during such period.

(2) The deduction for the additional contributions referred to in subparagraph one of this paragraph shall be paid in accordance with such equitable method and over such equitable period of time as shall be prescribed by the executive director of the affected retirement system with the approval of its board of trustees.

(3) The additional member contributions referred to in subparagraph one of this paragraph shall be paid into the retirement system's member contributions accumulation fund which is required to receive the ordinary member contributions of such member.

(4) At any time prior to completion of the deduction for the additional contributions referred to in subparagraph one of this paragraph, payment of the remainder of the total of such additional contributions due may be made in a lump sum.

7-d. Certain suspensions in cities of one million or more for reasons of economy. (a) Notwithstanding the provisions of any other general or local law, administrative code or ordinance to the contrary, in cities having a population of one million or more, any employee of the department of parks of such city who had been employed as a climber and pruner who was suspended on or after July first, nineteen hundred ninety-one, because of economy measures taken by such city and who returned to such service prior to July first, nineteen hundred

ninety-five, shall be deemed to have been in continuous service in determining length of service for retirement purposes if the duration of such suspension did not exceed twenty-five months; provided, however, that for retirement purposes, a member receiving such service credit shall pay, by deductions from his or her compensation for each and every payroll period, subject to the member contributions prescribed by subparagraph two of paragraph (b) of this subdivision.

(b) (1) Pursuant to such method of payment, such member shall pay, as additional member contributions payable besides the ordinary member contributions due for his or her current service:

(A) the ordinary member contributions which would have been paid for such period of suspension if he or she had actually been in service during such period; and

(B) if such member is covered by the optional twenty-five year early retirement program for certain New York city members provided by section six hundred four-c of the retirement and social security law, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, the additional member contributions which he or she would have been required to make under the provisions of that section for such period of suspension if he or she had actually been in service during such period.

(2) The deduction for the additional contribution referred to in items (A) and (B) of subparagraph one of this paragraph shall be paid in accordance with such equitable method and over such equitable period of time as shall be prescribed by the executive director of the affected retirement system with the approval of its board of trustees.

(3) The additional member contributions referred to in item (A) of subparagraph one of this paragraph shall be paid into the retirement system's member contributions accumulation fund which is required to receive the ordinary member contributions of such member. The additional member contributions referred to in item (B) of such subparagraph shall be paid into the contingent reserve fund of such retirement system and shall be subject to the provisions of section six hundred four-c of the retirement and social security law, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, governing additional member contributions.

(4) At any time prior to completion of the deduction for the additional contributions referred to in items (A) and (B) of

subparagraph one of this paragraph, payment of the remainder of the total of such additional contribution due may be made in a lump sum. In addition, if such member is covered by the provisions of section six hundred four-c of the retirement and social security law, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, he or she shall also pay into such contingent reserve fund the contributions required to be made pursuant to this section.

8. Certain suspensions in cities of one million or more for reasons of economy. Notwithstanding the provisions of any other general or local law, administrative code or ordinance, in cities having a population of one million or more, any member employed in the uniformed or non-uniformed services of such city who was suspended on or after July first, nineteen hundred seventy-five, because of economy measures taken by such city, and who returns to such service, shall be deemed to have been in continuous service in determining seniority and length of service regardless of the duration of such suspension; provided, however, that for retirement purposes, a member receiving such service credit shall pay into the annuity savings fund of the retirement system the amount of the employee contributions required to have been paid into the retirement system for such service, within one year after this subdivision shall have taken effect. For the purposes of this subdivision "uniformed services" shall mean and include any uniformed force or service the members of which are paid in whole or part by such city.

9. Certain suspensions or demotions in the city of Niagara Falls. Notwithstanding the provisions of subdivision one of this section, the members of a paid fire department in the city of Niagara Falls shall be subject to the following procedure. Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive class are, noncompetitive or labor abolished or reduced in rank or salary grade, suspension or demotion, as the case may be, among incumbents holding the same or similar positions in the same jurisdictional class shall be made in the inverse order of original appointment on a permanent basis in the grade or title in the service of the governmental jurisdiction in which such

abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter. Notwithstanding the provisions of this subdivision, however, upon the abolition or reduction of positions in the competitive, noncompetitive or labor class, incumbents holding the same or similar positions in the same jurisdictional class who have not completed their probationary service shall be suspended or demoted, as the case may be, before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

* 10. (a) The use of artificial intelligence systems as defined by section one hundred three-e of the state technology law shall not affect (i) the existing rights of employees pursuant to an existing collective bargaining agreement, or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or

(ii) transfer of existing duties and functions currently performed by employees of the state or any agency or public authority thereof, or county, city, town, village, public improvement district, special district, school district, board of cooperative educational services or county vocational education and extension board to an artificial intelligence system.

(c) The use of an artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership status of all existing employees of the state or any agency or public authority thereof, or county, city, town, village, public improvement district, special district, school district, board of cooperative educational services or county vocational education and extension board shall be preserved and protected.

* NB Repealed July 1, 2028

* NB There are 2 sb 10's

* 10. Effect of collective bargaining agreements. Nothing contained in this section shall modify, replace or supersede any provision of a collective bargaining agreement that provides for greater rights than required by this section.

* NB There are 2 sb 10's

§ 81. Preferred lists; certification and reinstatement therefrom. 1. Establishment of preferred lists; general provisions. The head of any department, office or institution in which an employee is suspended or demoted in accordance with the provisions of section eighty of this title shall, upon such suspension or demotion, furnish the state civil service department or appropriate municipal commission, as the case may be, a statement showing his name, title or position, date of appointment, and the date of and reason for suspension or demotion. It shall be the duty of such civil service department or commission, as the case may be, forthwith to place the name of such employee upon a preferred list, together with others who may have been suspended or demoted from the same or similar positions in the same jurisdictional class, and to certify such list, as hereinafter provided, for filling vacancies in the same jurisdictional class; first, in the same or similar position; second, in any position in a lower grade in line of promotion; and third, in any comparable position. Such preferred list shall be certified for filling a vacancy in any such position before certification is made from any other list, including a promotion eligible list, notwithstanding the fact that none of the persons on such preferred list was suspended from or demoted in the department or suspension and demotion unit in which such vacancy exists. No other name shall be certified from any other list for any such position until such preferred list is exhausted. The eligibility for reinstatement of a person whose name appears on any such preferred list shall not continue for a period longer than four years from the date of separation or demotion. An employee whose name was placed on the preferred list and at the time of such placement was on active duty with the armed forces of the United States, as pursuant to title ten, fourteen or thirty-two of the United States code, shall not be eligible for employment reinstatement for a period longer than four years after the date of

termination of military duty.

2. Order of certification of names from preferred lists. Except as hereinafter provided, the names of persons on a preferred list shall be certified therefrom for reinstatement to a vacancy in an appropriate position in the order of their original appointments.

(a) Upon the occurrence of a vacancy in an appropriate position in the service of a civil division, except in a city having a population of one million or more, the names of persons on the preferred list shall be certified to fill such vacancy in the following order: (1) persons suspended from or demoted in the department or agency within which such vacancy occurs; and (2) persons suspended from or demoted in other departments and agencies in such civil division.

(b) Upon the occurrence of a vacancy in an appropriate position in the state service, or in the service of a city having a population of one million or more, the names of persons on the preferred list shall be certified to fill such vacancy in the following order: (1) persons suspended from or demoted in the department in which such vacancy exists, except that where such vacancy exists in a separate suspension and demotion unit, the names of persons suspended from or demoted in such unit, and not those suspended from or demoted in the entire department, shall be certified first; and (2) all other persons on such preferred list.

3. Eligibility and order of certification for reinstatement of persons suspended from or demoted in the service of a county in a city wholly including within its limits two or more counties. Any person suspended or demoted from a position in the service of a county in a city wholly including within its limits two or more counties, where the compensation of such position is paid directly from the treasury of such city, shall be eligible for certification and reinstatement from the preferred list to the same or similar position, or a similar position in a lower grade in the same occupational field, in the service of any county within such city. Upon the occurrence of a vacancy in an appropriate position in the service of any such county, the names of persons on the preferred list shall be certified to fill such vacancy in the following order: (a) persons suspended from or demoted in the particular county office in

which such vacancy occurs; (b) persons suspended from or demoted in other county offices in the same county in which such vacancy occurs; (c) persons suspended from or demoted in county offices in other counties within such city.

4. Certification of probationers from preferred list. Notwithstanding the provisions of subdivisions two and three of this section, no person suspended or demoted prior to the completion of his probationary term shall be certified for reinstatement until the exhaustion of the preferred list of all other eligibles thereon. Upon reinstatement, such probationer shall be required to complete his probationary term.

5. Effect of failure or refusal to accept reinstatement. The state and municipal civil service commissions shall adopt rules providing for the relinquishment of eligibility for reinstatement upon failure or refusal to accept reinstatement from a preferred list.

6. Salary upon reinstatement. A person reinstated from a preferred list to his former position or a similar position in the same grade shall receive at least the same salary such person was receiving at the time of suspension or demotion.

7. Notwithstanding any other provisions of this chapter, the civil service department or appropriate municipal commission may disqualify for reinstatement and remove from a preferred list the name of any eligible who is physically or mentally disabled for the performance of the duties of the position for which such list is established, or who has been guilty of such misconduct as would warrant his dismissal from the public service, except that a partially physically handicapped person, who is suspended pursuant to section eighty of this chapter because of lack of work, but who, within six months of the date of his suspension, is certified for reinstatement to any job item having the same physical requirements as the job item from which the person was suspended shall not be disqualified because of his physical handicap unless a medical examination discloses that because his handicap has become greater he would not be able to satisfactorily perform in such job item. No person shall be disqualified pursuant to this subdivision

unless he is first given a written statement of the reasons therefor and an opportunity for a hearing at which such reasons shall be established by appropriate evidence, and at which such person may be represented by counsel and present evidence. The civil service department or municipal commission may designate a person to hold such hearing and report thereon.

8. Notwithstanding any other provisions of this chapter, any person may voluntarily remove his or her name from a preferred list by application to the civil service department or appropriate municipal commission.

9. An employee who is eligible to be placed on a preferred list pursuant to this section and who elects, as a member of a public employee retirement system, to retire upon a suspension or demotion, shall be placed on a preferred list and shall be eligible for reinstatement from such list.

§ 81-a. Reemployment rosters in the state service; certification and reinstatement therefrom. 1. Establishment of reemployment rosters in the state service; general provisions. The head of any department, office or institution from which an employee in the state service is to be suspended or demoted in accordance with the provisions of section eighty of this article, shall, at least twenty days prior to such suspension or demotion, furnish the state civil service department with a statement showing such employee's name, title or position, date of appointment, and the date of and reason for suspension or demotion. Upon such employee's suspension or demotion, it shall be the duty of the department to place the name of such employee upon a reemployment roster for filling vacancies in any comparable position as determined by the department, except that employees suspended or demoted from positions in the non-competitive and labor classes may not be certified to fill vacancies in the competitive class. Such reemployment roster shall be certified for filling a vacancy in any such position before certification is made from any other list, including a promotion eligible list, but not prior to a preferred list. Eligibility for

reinstatement of a person whose name appears on any such reemployment roster shall not continue for a period longer than four years from the date of suspension or demotion provided, however, in no event shall eligibility for reinstatement from a reemployment roster continue once the person is no longer eligible for reinstatement from a preferred list.

2. Order of certification of names from a reemployment roster. The names of persons on a reemployment roster shall be certified therefrom with equal ranking for reinstatement.

3. Probationary term. All reinstatements from a reemployment roster shall require completion of a probationary term in accordance with rules promulgated by the commission pursuant to subdivision two of section sixty-three of this chapter.

4. Effect of reinstatement or failure or refusal to accept reinstatement. The commission shall adopt rules providing for the relinquishment of eligibility for reinstatement upon reinstatement or upon failure or refusal to accept reinstatement from a preferred list or a reemployment roster.

5. Notwithstanding any other provision of this chapter, the department may disqualify for reinstatement and remove from a reemployment roster the name of any otherwise eligible person who, by reason of physical or mental incapacity, is found to be unable to satisfactorily perform the duties of the position for which such roster has been established, or who has engaged in such misconduct as would warrant their dismissal from public employment, except that a person who is not completely physically incapacitated and who is suspended or demoted pursuant to section eighty of this article because their position has been abolished or reduced, but who is certified for reinstatement to any position having the same physical requirements as the position from which such person was suspended or demoted, shall not be disqualified because of their incapacity, unless upon medical examination their incapacity has worsened to a degree that they would not be able to satisfactorily perform in such position. No person shall be disqualified pursuant to

this subdivision unless they are first given a written statement of the reasons therefor and an opportunity to be heard at a hearing at which satisfactory proof of such reasons must be established by appropriate evidence, and at which such person may present independent evidence and be entitled to representation by counsel. The department shall designate a person to hold such hearing and report thereon.

6. Notwithstanding any other provision of this chapter, any person may voluntarily remove his or her name from a reemployment roster by application to the department.

§ 81-b. Placement rosters in the state service; certification and appointment therefrom. 1. Establishment of placement rosters in the state service; general provisions. The head of any department, office or institution from which an employee in the state service is to be suspended or demoted in accordance with the provisions of section eighty of this article, shall, no later than the date on which they furnish the state civil service department with the employee information required pursuant to section eighty-one-a of this article for purposes of establishing reemployment rosters, furnish the state civil service department with a statement showing such employee's name, title or position, date of appointment, and the anticipated date of and reason for suspension or demotion. Upon receiving such information, it shall be the duty of the department forthwith to place the name of such employee upon a placement roster for filling vacancies in the same title or in any comparable position as determined by the department, except that employees suspended or demoted from positions in the noncompetitive and labor classes may not be certified to fill vacancies in the competitive class. Such placement roster shall be certified for filling a vacancy in any such position before certification is made from any other list, including a promotion eligible list, but not prior to a preferred list or a reemployment roster. Eligibility for appointment of an employee whose name appears on any such placement roster shall terminate at such time as the employee is suspended or demoted in accordance with the provisions of section eighty of this article. Upon such employee's suspension or demotion, the department shall place the name of such

employee upon a preferred list, and a reemployment roster as appropriate, in accordance with the provisions of sections eighty-one and eighty-one-a of this article.

2. Order of certification of names from a placement roster. The names of employees on a placement roster shall be certified therefrom with equal ranking for appointment.

3. Probationary term. All appointments from a placement roster shall require completion of a probationary term in accordance with rules promulgated by the commission pursuant to subdivision two of section sixty-three of this chapter.

4. Effect of appointment or failure or refusal to accept appointment. The commission shall adopt rules providing for the relinquishment of eligibility for appointment upon appointment or upon failure or refusal to accept appointment from a placement roster.

5. Notwithstanding any other provision of this chapter, any employee may voluntarily remove his or her name from a placement roster by application to the department.

§ 82. Procedures relating to assaults on employees responsible for enforcement of certain regulations in the city of New York. 1. The mayor of the city of New York shall establish a procedure for determining whether an employee of such city enforcing certain regulations in such city suffered an injury in performance of his or her duties as a result of the commission of any of the following offenses: assault as defined in article one hundred twenty of the penal law, menacing as defined in section 120.15 of such law or harassment as defined in subdivision one of section 240.25 of such law. Provided, however, that such procedure shall not be heard in the first instance or reviewed subsequently thereto by an officer, employee or agent of the department in which such employee is employed.

2. For the purposes of this section, an employee of the city of New

York responsible for enforcing certain regulations in such city shall mean a traffic enforcement agent or an employee of the department of sanitation who is authorized to issue notices of violation, summons or appearance tickets.

TITLE D
LEAVES OF ABSENCE

Section 82-a. Authorized absence.
82-b. Emergency service volunteers; paid leave.
82-c. Civil air patrol volunteers; paid leave.

§ 82-a. Authorized absence. 1. During the time that a state emergency exists following a declaration of such emergency pursuant to section twenty-eight of the executive law, every public officer or employee of this state may request an authorized absence from his or her duties or service as such public officer or employee while engaged in the actual performance of his or her duties as, (a) a volunteer firefighter, or (b) an enrolled member of a volunteer ambulance service pursuant to article thirty of the public health law.

2. Requests for such authorized absence shall be approved by the appropriate supervisor to the extent that such absence would not interfere with proper conduct of governmental functions.

3. As used in this section, the term public officer or employee shall not include officers or employees of municipalities or other political subdivisions of the state.

4. The entire period of the authorized absence granted pursuant to this section shall be excused leave and shall not be charged against any other leave such public officer or employee is otherwise entitled to, and such authorized absence shall include travel both to and from such duties performed in his or her capacity as a volunteer.

5. As used in this section, the term agency shall mean any department,

board, bureau, commission, division, office, council, committee or office of the state, a public benefit corporation or public authority at least one of whose members is appointed by the governor.

§ 82-b. Emergency service volunteers; paid leave. Notwithstanding any other provisions of law to the contrary, public officers and employees of the state who are certified by the American Red Cross as disaster volunteers shall be granted leave from work with pay to participate in specialized disaster relief operations upon written request for such services by the American Red Cross and upon the approval of the chief administrative officer of the state agency, department or bureau for which the public officer or employee serves. The public officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the public officer or employee is absent from work while participating in authorized specialized disaster relief operations. Such leave shall be provided without loss of seniority, compensation, sick leave, vacation leave or other overtime compensation to which the volunteer is otherwise entitled and shall not exceed twenty days in any calendar year.

§ 82-c. Civil air patrol volunteers; paid leave. Notwithstanding any other provisions of law to the contrary, public officers and employees of the state who are members of the United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary Pilots shall be granted leave from work with pay to participate in emergency services during a declared state of emergency upon a written request from a unit commander and the approval of the chief administrative officer of the state agency, department or bureau for which the public officer or employee serves. The public officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the public officer or employee is absent from work while participating in emergency services missions during a declared state of emergency. Such leave shall be provided without loss of seniority, compensation, sick leave, vacation leave or other overtime compensation to which the volunteer is otherwise entitled and shall not exceed twenty days in any

calendar year.

TITLE E
POLICE ADVISORY BOARD

Section 83. Legislative intent.
83-a. Creation of a police advisory board.
83-b. Membership of board.
83-c. Additional members on board.
83-d. Police advisory board meetings.
83-e. Duties of police advisory board.
83-f. Procedures.
83-g. Compensation of board members.

§ 83. Legislative intent. In the event that municipalities propose a merger of all or part of existing police agencies within counties in establishing a countywide, a part-county or combinations of municipal police agencies, orderly transitional procedures will be required. In such consolidations of the police functions within a county it is necessary to provide a uniform and equitable method for transferring the members of existing police departments into the combined agency structure. Such methods should protect the rights held by present employees in their existing organization.

§ 83-a. Creation of a police advisory board. Notwithstanding the provisions of section seventy of the civil service law or any other general, special or local law, rule or regulation, in any county, not wholly contained in a city, where the police agencies in such county will be consolidated, the local legislative body of such county, if the new or existing agency is a county police agency, or the local legislative body of the new agency if it be other than a county police agency, shall notify the state civil service commission who shall create a police advisory board. The purposes of such board will be to recommend to the state civil service commission the rank to which present employees would be assigned in the consolidated agency.

§ 83-b. Membership of board. The advisory board shall consist of:

(a) A representative of the New York state department of civil service who will serve as secretary to the board. This member will have no vote in the proceedings but shall transmit to findings of the board to the state civil service commission.

(b) The chief executive officer of the civil service agency responsible for the administration of civil service law for the newly organized or enlarged police organization.

(c) The chief executive of the municipality of the newly created or enlarged police organization or his duly designated representative.

(d) 1. Three chiefs of police nominated by the president of the New York state association of chiefs of police, none of whom are involved in the transfer, merger, or creation of the combined agency either directly or indirectly. These members shall have no votes upon matters pertaining to the ranks below that of lieutenant.

2. In matters pertaining to the ranks below that of lieutenant, votes shall be cast by three members of the police conference of the state of New York nominated by the president of the police conference of New York.

§ 83-c. Additional members on board. In addition to the foregoing, the following additional members shall be added to the board depending upon the type of merger involved:

(a) Consolidation of two police agencies. The chief of police of both agencies involved in the consolidation and the chief executive officer of both municipalities involved in the consolidation.

(b) Consolidation of all or a combination of more than two existing police departments in the county. In cases where all or a combination of existing police departments in the county are being merged into a uniform county or part-county police department, then the chiefs of police of the departments involved in the merger shall select from among themselves one member to represent the group. Similarly all the chief executives of the municipalities involved in the merger shall select one

of their members to represent the group.

(c) Consolidation of all or a combination of more than two existing police departments in the county and the criminal division of the sheriff's department. In addition to the members of the board previously indicated, there shall be added to the board, the sheriff.

(d) For the purposes of this section, the chief of police means that person who is employed by a municipality on a full-time salaried basis for the express purpose of administering a police department and who has successfully passed a civil service examination for chief of police, and has received such appointment.

§ 83-d. Police advisory board meetings. The board will be convened by the president of the state civil service department, who will indicate the date, time and place of the first meeting. Subsequent meetings will be held in accordance with the majority determination of the board.

§ 83-e. Duties of police advisory board. The board will establish appropriate procedures and policies for the conduct of its affairs and will make its recommendations to the president of the state civil service commission.

§ 83-f. Procedures. a. In making recommendations for the appropriate rank to which present police officers will be assigned to the consolidated department, consideration will be given to the examination from which the present incumbents received their permanent civil service status, the length of time served in their present position and other related factors which will be established and promulgated by the board.

b. Where there may not be sufficient vacancies in the organization of the consolidated police department for all persons to be assigned to their rank as determined by the board, the board will determine the persons to be selected for existing vacancies in accordance with criteria established by the board. Those persons not selected to the rank to which their previous position has been declared equivalent will

be placed on a preferred list for that specific rank. Such persons will have priority in appointment for the next lower rank position in the organization. Such appointment will not affect their status on the preferred list in the higher rank when subsequent vacancies develop.

§ 83-g. Compensation of board members. No member of the board shall receive any additional compensation from the state of New York or any of its political subdivisions for any services rendered to the board nor any expenses incurred in attendance at board meetings.

ARTICLE VI

SPECIAL RIGHTS FOR VETERANS AND EXEMPT VOLUNTEER FIREFIGHTERS

Section 85. Additional credit allowed veterans in competitive examinations; preference in retention upon abolition of positions.

85-a. Additional credits allowed children and siblings of firefighters, police officers, emergency medical technicians and paramedics killed in the line of duty.

85-b. Additional credits allowed children and siblings of firefighters and police officers killed in the line of duty.

85-c. Additional credits allowed the children and siblings of emergency medical technicians and paramedics killed in the line of duty.

85-d. Additional credits allowed the children and siblings of New York city sanitation members killed in the line of duty.

86. Transfer of veterans or exempt volunteer firefighters upon abolition of positions.

87. Prohibition against disqualification on account of age or disability.

88. Prohibition against discrimination against public employees serving in the armed forces.

§ 85. Additional credit allowed veterans in competitive examinations; preference in retention upon abolition of positions. 1. Definitions. (a) The terms "veteran" and "non-disabled veteran" mean a member of the armed forces of the United States who was honorably discharged or released under honorable circumstances from such service including (i) having a qualifying condition as defined in section one of the veterans' services law, and receiving a discharge other than bad conduct or dishonorable from such service, or (ii) being a discharged LGBT veteran, as defined in section one of the veterans' services law, and receiving a discharge other than bad conduct or dishonorable from such service, who is a citizen of the United States or a noncitizen 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.

(b) The term "disabled veteran" means a veteran who is certified by the United States veterans' administration or a military department as entitled to receive disability payments upon the certification of such veterans' administration or a military department for a disability incurred by him or her in the course of his or her service and in existence at the time of application for appointment or promotion or at the time of retention, as the case may be. Such disability shall be deemed to be in existence at the time of application for appointment or promotion or at the time of retention, as the case may be, if the certificate of such veterans' administration shall state affirmatively that such veteran has been examined by a medical officer of such veterans' administration on a date within one year of either the date of filing application for competitive examination for original appointment or promotion or the date of the establishment of the resulting eligible list or within one year of the time of retention, as the case may be; that at the time of such examination the disability described in such certificate was found to exist; and that such disability is rated at ten per centum or more. Such disability shall also be deemed to be in existence at such time if the certificate of such veterans' administration shall state affirmatively that a permanent stabilized condition of disability exists to an extent of ten per centum or more, notwithstanding the fact that such veteran has not been examined by a medical officer of such veterans' administration within one year of

either the time of application for appointment or promotion or the date of filing application for competitive examination for original appointment or promotion, or within one year of the time of retention, as the case may be.

(c) The term "time of application for original appointment or promotion" shall mean the date of the establishment of an eligible list resulting from a competitive examination for original appointment or promotion, as the case may be, which date shall be the date on which the term of such eligible list commences.

(d) The term "time of retention" shall mean the time of abolition or elimination of positions.

2. Additional credits in competitive examinations for original appointment or promotion.

(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 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.

(b) Such additional credit shall be added to the final earned rating of such disabled veteran or non-disabled veteran, 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 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, shall thereafter be entitled to any additional credit under this section either as a veteran or a disabled veteran.

(b) Where, at the time of establishment of an eligible list, the position of a veteran or disabled veteran 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, 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 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 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 has received the additional credit granted by this section, such veteran or disabled veteran 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, 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 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 as a result of additional credits shall be void if such veteran or disabled veteran, prior to such appointment or promotion, had been appointed or promoted as a result of additional credits granted by this section.

7. Preference in retention upon the abolition of positions. In the event of the abolition or elimination of any position in the civil

service, any suspension, demotion or displacement shall be made in the inverse order of the date of original appointment in the service subject to the following conditions: (1) blind employees shall be granted absolute preference in retention; (2) the date of such original appointment for disabled veterans shall be deemed to be sixty months earlier than the actual date, determined in accordance with section thirty of the general construction law; (3) the date of such original appointment for non-disabled veterans shall be deemed to be thirty months earlier than the actual date, determined in accordance with section thirty of the general construction law; (4) no permanent competitive class employee subject to the jurisdiction of the civil service commission of the city of New York who receives an injury in the line of duty, as defined in this paragraph, which requires immediate hospitalization, and which is not compensable through workers' compensation may be suspended, demoted or displaced pursuant to section eighty of this chapter within three months of the date of their confinement, provided that medical authorities approved by such commission shall certify that the employee is not able to perform the duties of their position; provided further, that such three-month period may be extended by such commission for additional periods not to exceed one year each upon the certification of medical authorities selected by such commission that the employee is, as a result of their injury, still not able to perform the duties of their position. An injury in the line of duty, as used herein, shall be construed to mean an injury which is incurred as a direct result of the lawful performance of the duties of the position. In determining whether an injury was received in the line of duty, such commission shall require the head of the agency by which the employee is employed to certify that the injury was received as a direct result of the lawful performance of the employee's duties; and (5) the spouse of a veteran with one hundred percent service connected disability shall be deemed to be sixty months earlier than the actual date, determined in accordance with section thirty of the general construction law, provided, the spouse is domiciled with the veteran-spouse and is the head of the household. This section shall not be construed as conferring any additional benefit upon such employee other than a preference in retention. Such employee shall be subject to transfer upon the abolition of their function within their agency or

department.

7-a. For the purpose of subdivision seven of this section, the terms "date of original appointment" and "date of original appointment in the service" shall mean, for persons subject to subdivisions one-a and one-c of section eighty of this chapter, the date of original appointment on a permanent basis in the grade or title in the service of the governmental jurisdiction in which such abolition or reduction occurs.

8. Penalty for denial of preference in retention. A refusal to allow the preference in retention provided for in this section to any veteran or disabled veteran, or a reduction of his compensation intended to bring about his resignation shall be deemed a misdemeanor, and any such veteran or disabled veteran shall have a right of action therefor in any court of competent jurisdiction for damages and for righting the wrong.

§ 85-a. Additional credits allowed children and siblings of firefighters, police officers, emergency medical technicians and paramedics killed in the line of duty. 1. Additional credit authorized. Additional credits shall be allowed children and siblings of firefighters, police officers, emergency medical technicians and paramedics killed in the line of duty, as "child" and "sibling" in this section in competitive examinations for original appointment. (a) On all eligible lists resulting from competitive examinations, the names of eligible persons shall be entered in the order of their respective final earned ratings on examinations, with the name of the eligible person with the highest final earned ratings at the head of such list, provided, however, that for the purpose of determining final earned ratings, children and siblings of firefighters, police officers, emergency medical technicians and paramedics killed in the line of duty shall be entitled to receive an additional ten points in a competitive examination for original appointment in the same municipality in which his or her parent or sibling has served. For the purposes of this paragraph, a police officer or firefighter shall be deemed to have "served" in a municipality if he or she was employed by, or worked primarily in, that municipality.

(b) Such additional credit shall be added to the final earned rating of such child or sibling, 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.

2. Application for additional credit; proof of eligibility; establishment of eligible list. Any candidate, believing himself or herself entitled to additional credit in a competitive examination as provided in this section, may make application for such additional credit at any time between the date of his or her 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 or her application for examination in which to establish by appropriate documentary proof his or her 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, the eligible list resulting from such examination may be established, notwithstanding the fact that a child or sibling who has applied for additional credit has failed to establish his or her eligibility to receive such additional credit. A candidate who fails to establish, by appropriate documentary proof, his or her eligibility to receive additional credit by the time an eligible list is established shall not thereafter be granted additional credit on such eligible list.

3. Use of additional credit. (a) Except as otherwise provided in this subdivision, no person who has received a permanent original appointment in the civil service of the state or of any city or civil division thereof from an eligible list on which he or she was allowed the additional credit granted by this section as a child or sibling, shall thereafter be entitled to any additional credit under this section as a child or sibling.

(b) Where, at the time of establishment of an eligible list, the position of a child or sibling on such list has not been affected by the addition of credits granted under this section, the appointment of such child or sibling from such eligible list shall not be deemed to have been made from an eligible list on which he or she was allowed the

additional credit granted by this section.

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

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

4. 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 child or sibling has received the additional credit granted by this section, such child or sibling may elect, prior to permanent original appointment, to relinquish the additional credit theretofore granted to him or her and accept the lower position on such eligible list to which he or she would otherwise have been entitled; provided, however, that such election shall thereafter be irrevocable. Such election shall be in writing and signed by the child or sibling, and transmitted to the department or the appropriate municipal civil service commission.

5. Roster. The department and each municipal commission shall establish and maintain in its office a roster of all such children or siblings appointed as a result of additional credits granted by this section to positions under its jurisdiction. The appointment of a child or sibling as a result of additional credits shall be void if such child

or sibling, prior to such appointment, had been appointed as a result of additional credits granted by this section.

§ 85-b. Additional credits allowed children and siblings of firefighters and police officers killed in the line of duty. 1. Definition. As used in this section, "killed in the line of duty" shall mean having died in the performance of duty as the natural and proximate result of the World Trade Center attack on September eleventh, two thousand one or as the natural and proximate result of participation in the rescue effort that was conducted in response to such attack.

2. Additional credit authorized. Additional credits shall be allowed children and siblings of firefighters and police officers killed in the line of duty in competitive examinations for original appointment. (a) On all eligible lists resulting from competitive examinations, the names of eligible persons shall be entered in the order of their respective final earned ratings on examinations, with the name of the eligible person with the highest final earned ratings at the head of such list, provided, however, that for the purpose of determining final earned ratings, children and siblings of firefighters and police officers killed in the line of duty shall be entitled to receive an additional ten points in a competitive examination for original appointment in the same municipality in which his or her parent or sibling has served.

(b) Such additional credit shall be added to the final earned rating of such child or sibling, 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 or herself entitled to additional credit in a competitive examination as provided in this section, may make application for such additional credit at any time between the date of his or her 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 or her application for

examination in which to establish by appropriate documentary proof his or her 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, the eligible list resulting from such examination may be established, notwithstanding the fact that a child or sibling who has applied for additional credit has failed to establish his or her eligibility to receive such additional credit. A candidate who fails to establish, by appropriate documentary proof, his or her 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 otherwise provided in this subdivision, no person who has received a permanent original appointment in the civil service of the state or of any city or civil division thereof from an eligible list on which he or she was allowed the additional credit granted by this section as a child or sibling, shall thereafter be entitled to any additional credit under this section as a child or sibling.

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

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

(d) Where a child or sibling has been originally appointed from an eligible list on which he or she was allowed such additional credit, but such appointment is thereafter terminated either at the end of the probationary term or by resignation at or before the end of the probationary term, he or she shall not be deemed to have been appointed,

as the case may be, from an eligible list on which he or she is allowed additional credit, and such appointment shall not affect his or her 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 child or sibling has received the additional credit granted by this section, such child or sibling may elect, prior to permanent original appointment, to relinquish the additional credit theretofore granted to him or her and accept the lower position on such eligible list to which he or she would otherwise have been entitled; provided, however, that such election shall thereafter be irrevocable. Such election shall be in writing and signed by the child or sibling, and transmitted to the department or the appropriate municipal civil service commission.

6. Roster. The department and each municipal commission shall establish and maintain in its office a roster of all such children and siblings appointed as a result of additional credits granted by this section to positions under its jurisdiction. The appointment of a child or sibling as a result of additional credits shall be void if such child or sibling, prior to such appointment, had been appointed as a result of additional credits granted by this section.

§ 85-c. Additional credits allowed the children and siblings of emergency medical technicians and paramedics killed in the line of duty. 1. Definitions. (a) As used in this section, "killed in the line of duty" shall mean having died in the performance of duty as the natural and proximate result of the World Trade Center attack on September eleventh, two thousand one or as the natural and proximate result of participation in the rescue effort that was conducted in response to such attack.

(b) As used in this section "emergency medical technician" shall mean

a person who was employed by the city of New York or by the New York city health and hospitals corporation in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or in a title whose duties require the supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law).

2. Additional credit authorized. Additional credits shall be allowed children and siblings of emergency medical technicians killed in the line of duty in competitive examinations for original appointment.

(a) On all eligible lists resulting from competitive examinations, the names of eligible persons shall be entered in the order of their respective final earned ratings on examinations, with the name of the eligible person with the highest final earned ratings at the head of such list; provided, however, that for the purpose of determining final earned ratings, children and siblings of emergency medical technicians killed in the line of duty shall be entitled to receive an additional ten points in a competitive examination for original appointment in the same municipality in which his or her parent or sibling has served.

(b) Such additional credit shall be added to the final earned rating of such child or sibling, 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 or herself entitled to additional credit in a competitive examination as provided in this section, may make application for such additional credit at any time between the date of his or her 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 or her application for examination in which to establish by appropriate documentary proof his or her 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, the eligible list resulting from such examination may be established, notwithstanding the fact that a child or sibling who has applied for additional credit has failed to establish his or her eligibility to receive such additional credit. A candidate who fails to establish, by appropriate documentary proof, his or her 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 otherwise provided in this subdivision, no person who has received a permanent original appointment in the civil service of the state or of any city or civil division thereof from an eligible list on which he or she was allowed the additional credit granted by this section as a child or sibling, shall thereafter be entitled to any additional credit under this section as a child or sibling.

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

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

(d) Where a child or sibling has been originally appointed from an eligible list on which he or she was allowed such additional credit, but such appointment is thereafter terminated either at the end of the probationary term or by resignation at or before the end of the probationary term, he or she shall not be deemed to have been appointed, as the case may be, from an eligible list on which he or she is allowed additional credit, and such appointment shall not affect his or her 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 child or sibling has received the additional credit granted by this section, such child or sibling may elect, prior to permanent original appointment, to relinquish the additional credit theretofore granted to him or her and accept the lower position on such eligible list to which he or she would otherwise have been entitled; provided, however, that such election shall thereafter be irrevocable. Such election shall be in writing and signed by the child or sibling, and transmitted to the department or the appropriate municipal civil service commission.

6. Roster. The department and each municipal commission shall establish and maintain in its office a roster of all such children and siblings appointed as a result of additional credits granted by this section to positions under its jurisdiction. The appointment of a child or sibling as a result of additional credits shall be void if such child or sibling, prior to such appointment, had been appointed as a result of additional credits granted by this section.

§ 85-d. Additional credits allowed the children and siblings of New York city sanitation members killed in the line of duty. 1. Definitions. (a) As used in this section, "killed in the line of duty" shall mean having died in the performance of duty as the natural and proximate result of the World Trade Center attack on September eleventh, two thousand one or as the natural and proximate result of participation in the rescue effort that was conducted in response to such attack.

(b) As used in this section "New York city sanitation member" shall mean a sanitation member as defined in subdivision sixty-four of section 13-101 of the administrative code of the city of New York.

2. Additional credit authorized. Additional credits shall be allowed

to children and siblings of New York city sanitation members killed in the line of duty in competitive examinations for original appointment.

(a) On all eligible lists resulting from competitive examinations, the names of eligible persons shall be entered in the order of their respective final earned ratings on examinations, with the name of the eligible person with the highest final earned ratings at the head of such list; provided, however, that for the purpose of determining final earned ratings, children and siblings of New York city sanitation members killed in the line of duty shall be entitled to receive an additional ten points in a competitive examination for original appointment in the same municipality in which such child or sibling's parent or sibling has served.

(b) Such additional credit shall be added to the final earned rating of such child or sibling, as the case may be, after such child or sibling 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 that such candidate is entitled to additional credit in a competitive examination as provided in this section, may make application for such additional credit at any time between the date of such candidate's 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 their application for examination in which to establish by appropriate documentary proof such candidate's 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, the eligible list resulting from such examination may be established, notwithstanding the fact that a child or sibling who has applied for additional credit has failed to establish such child or sibling's eligibility to receive such additional credit. A candidate who fails to establish, by appropriate documentary proof, such candidate's 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 otherwise provided in this subdivision, no person who has received a permanent original appointment in the civil service of the state or of any city or civil division thereof from an eligible list on which such person was allowed the additional credit granted by this section as a child or sibling, shall thereafter be entitled to any additional credit under this section as a child or sibling.

(b) Where, at the time of establishment of an eligible list, the position of a child or sibling on such list has not been affected by the addition of credits granted under this section, the appointment of such child or sibling from such eligible list shall not be deemed to have been made from an eligible list on which such child or sibling was allowed the additional credit granted by this section.

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

(d) Where a child or sibling has been originally appointed from an eligible list on which such child or sibling was allowed such additional credit, but such appointment is thereafter terminated either at the end of the probationary term or by resignation at or before the end of the probationary term, such child or sibling shall not be deemed to have been appointed, as the case may be, from an eligible list on which such child or sibling is allowed additional credit, and such appointment shall not affect such child or sibling's 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 child or sibling has received the additional credit granted by this section, such child or sibling may elect, prior to permanent original appointment, to relinquish the additional credit theretofore granted to such child or sibling and accept the lower position on such eligible list to which such child or sibling would otherwise have been entitled; provided, however, that such election shall thereafter be irrevocable. Such election shall be in writing and signed by the child or sibling, and transmitted to the department or the appropriate municipal civil service commission.

6. Roster. The department and each municipal commission shall establish and maintain in its office a roster of all such children and siblings appointed as a result of additional credits granted by this section to positions under its jurisdiction. The appointment of a child or sibling as a result of additional credits shall be void if such child or sibling, prior to such appointment, had been appointed as a result of additional credits granted by this section.

§ 86. Transfer of veterans or exempt volunteer firefighters upon abolition of positions. If the position in the non-competitive or in the labor class held by any honorably discharged veteran of the armed forces of the United States or by any veteran of the armed forces of the United States released under honorable circumstances from such service including (i) having a qualifying condition as defined in section one of the veterans' services law, and receiving a discharge other than bad conduct or dishonorable from such service, or (ii) being a discharged LGBT veteran, as defined in section one of the veterans' services law, and receiving a discharge other than bad conduct or dishonorable from such service, who served therein in time of war as defined in section eighty-five of this chapter, or by an exempt volunteer firefighter as defined in the general municipal law, shall become unnecessary or be abolished for reasons of economy or otherwise, the honorably discharged veteran or exempt volunteer firefighter holding such position shall not be discharged from the public service but shall be transferred to a similar position wherein a vacancy exists, and shall receive the same compensation therein. It is hereby made the duty of all persons clothed

with the power of appointment to make such transfer effective. The right to transfer herein conferred shall continue for a period of one year following the date of abolition of the position, and may be exercised only where a vacancy exists in an appropriate position to which transfer may be made at the time of demand for transfer. Where the positions of more than one such veteran or exempt volunteer firefighter are abolished and a lesser number of vacancies in similar positions exist to which transfer may be made, the veterans or exempt volunteer firefighters whose positions are abolished shall be entitled to transfer to such vacancies in the order of their original appointment in the service. Nothing in this section shall be construed to apply to the position of private secretary, cashier or deputy of any official or department. This section shall have no application to persons encompassed by section eighty-a of this chapter.

§ 87. Prohibition against disqualification on account of age or disability. A veteran or disabled veteran shall not be disqualified from holding any position in the civil service on account of age, except for positions for which age limitations are specifically authorized or prescribed by law, provided such age does not render him incompetent to perform the duties of the position applied for. A disabled veteran shall not be disqualified from holding any position in the civil service by reason of a war-incurred disability, provided such disability does not render him incompetent to perform the duties of the position applied for.

§ 88. Prohibition against discrimination against public employees serving in the armed forces. No public employer, as defined in subdivision six of section two hundred one of this chapter, shall deny employment, re-employment or any benefit of employment to any person or employee based on prospective, current or past enlistment, appointment or commission with the armed forces of the United States. Such person or employee shall be afforded full enforcement rights under the laws of this state and of the United States, including the Federal Uniformed Services Employment and Reemployment Rights Act of 1994.

ARTICLE VII

ENFORCEMENT; PROHIBITIONS; PENALTIES

Title A. Duties of public officers; waiver of rights (Secs. 95-97).
B. Certification of payrolls; court actions (Secs. 100-102).
C. Prohibition against certain activities by officers and employees; penalties (Secs. 105-107).

TITLE A

DUTIES OF PUBLIC OFFICERS; WAIVERS OF RIGHTS

Section 95. Duties of public officers.
96. Waiver of rights.
97. Reports of appointing officers; official roster.

§ 95. Duties of public officers. It shall be the duty of all officers of the state of New York or of any civil division or city thereof to conform to and comply with and to aid in all proper ways in carrying into effect the provisions of this chapter, and the rules and regulations prescribed thereunder. No officer or officers having the power of appointment or employment shall appoint or select any person for appointment, employment, promotion or reinstatement except in accordance with the provisions of this chapter and the rules and regulations established thereunder. Any person employed or appointed contrary to the provisions of this chapter or of the rules and regulations established thereunder shall be paid by the officer or officers so employing or appointing, or attempting to employ or appoint him, the compensation agreed upon for any services performed under such appointment or employment or, in case no compensation is agreed upon, the actual value of such services and any necessary expenses incurred in connection therewith, and shall have a cause of action against such officer or officers for such sum and for the costs of the action. No public officer shall be reimbursed by the state or any of its civil divisions for any sums so paid or recovered in any such action.

§ 96. Waiver of rights. No public officer nor any employee acting for a public officer shall require a candidate for employment to sign any document whereby such candidate for employment waives any right or rights accruing to him under this chapter.

§ 97. Reports of appointing officers; official roster. 1. No person shall be appointed to or be employed in any position in the classified service of the state or of any civil division thereof, for which rules have been established pursuant to the provisions of this chapter, until he has passed an examination or is exempted from such examination in conformity with the provisions of this chapter or the rules established thereunder. It shall be the duty of each appointing officer of the state or of any civil division thereof to report to the state civil service department or municipal commission having jurisdiction, forthwith upon such appointment or employment, the name of such appointee or employee, the title and character of his office or employment, the date of the commencement of service by virtue thereof and the salary or compensation thereof, and to report from time to time and upon the date of official action in or knowledge of each case, any separation of a person from the service, or other change therein, and such other information as such civil service department or municipal commission may require in order to keep the roster hereinafter mentioned.

2. The civil service department and each municipal commission shall maintain an official roster of the classified service under its jurisdiction. Such roster shall contain in detail the employment history of each employee, showing each change of status or compensation from the time he enters service until he separates from service, except that it shall not be necessary to enter in such roster the compensation or changes in compensation of an employee holding a position classified pursuant to article eight of this chapter or classified by a municipal commission and listed in a salary grade plan containing titles and specific ranges of salary for each title duly adopted by a municipality or agency under the jurisdiction of such municipal commission.

3. The department shall maintain records documenting the employment of persons pursuant to contracts for consulting services issued by state agencies as defined in subdivision seventeen of section eight of the state finance law. No later than one hundred eighty days after the end of each fiscal year, the department shall submit to the governor, the senate finance committee, the assembly ways and means committee and the department of audit and control a report summarizing the following information for each state agency:

a. the number of contract employees performing such consulting services; and

b. the types of services provided by such contract employees.

TITLE B

CERTIFICATION OF PAYROLLS; COURT ACTIONS

Section 100. Certification of payrolls.
101. Misdemeanor to pay salary or compensation for which certification has been refused.
102. Court proceedings.

§ 100. Certification of payrolls. 1. Payroll certification required. (a) Except as otherwise provided in this section, no disbursing or auditing officer of the state or of any civil division thereof shall approve or pay or take any part in approving or paying any salary or compensation for personal service to any person holding an office or position in the classified service unless the voucher or payroll therefor bears the certificate of the civil service department or municipal commission having jurisdiction that the persons named therein are employed in their respective positions in accordance with law and rules made pursuant to law. The certificate of municipal commissions shall also include a statement of membership in an appropriate retirement system where such membership is mandatory. Such certificate may be executed for and on behalf of such department or commission, as the case may be, by an officer or employee thereof duly designated in

writing for that purpose. Such certificate may, for cause, be withheld from an entire payroll or from any item or items therein. If the department or municipal commission finds that any person has been promoted, transferred, assigned, reinstated or otherwise employed in violation of this chapter or rules made pursuant thereto, it shall so notify the appropriate disbursing and auditing officers who thereafter shall not pay or approve the payment of any salary or compensation to such person; and nothing contained in this section shall be construed to authorize any officer to approve or pay salary or compensation to any person contrary to such a notice. If, however, permission is granted by the department to a state agency or state department to certify directly to the department of audit and control that the persons named in the certification are employed in their respective positions in accordance with law and rules made pursuant to law, the department need not certify any voucher or payroll but may at any time thereafter examine such payroll or voucher and revoke any previous certification not made in accordance with such law and rules. Revocation of any such certification shall, in any action against the appointing officer under section one hundred two of this chapter, be presumptive evidence that such certification was improper in the respects not held to be proper by the department.

(b) The certificate of the civil service department or appropriate municipal commission shall not be required in advance of the audit and payment of salary or compensation to temporary laborers if the appointing officer certifies that the temporary laborers named in the payroll or account therefor have been appointed or employed in accordance with law and rules made pursuant thereto, but in such case such payroll or account shall be submitted within two calendar months after certification by the appointing officer for further certification by the department or appropriate municipal commission that the appointing officer's certification was in whole or in part proper. Refusal of the department or municipal commission to certify, within thirty days of receipt of such payroll or account, that the certification by the appointing officer was in all respects proper shall, in any action against such appointing officer under section one hundred two of this chapter, be presumptive evidence that such certification was improper in the respects not certified as proper by

the department or municipal commission. The department may include temporary laborers employed by a state agency or state department within permission granted pursuant to paragraph (a) of this subdivision for direct certification to the department of audit and control, subject to the terms for investigation and revocation of such certification contained in such paragraph. The term "temporary laborers", as used herein, means persons in the labor class and skilled laborers in the non-competitive class who are employed temporarily on work of repairs, maintenance and construction, and who do not constitute part of the regular force of a department or institution.

(c) Any person entitled to be certified as provided herein and refused such certificate, or from whom salary or compensation is otherwise unlawfully withheld, may maintain a proceeding under article seventy-eight of the civil practice law and rules to compel the issuance of such certificate or the payment of such salary, or both, as the case may be.

(d) Nothing contained in this section shall be construed to prevent the award of a money remedy for the violation of a provision of a collective bargaining agreement prohibiting the assignment of employees to duties substantially different from those appropriate to the title to which the employees are certified. This subdivision may be supplemented, modified or replaced by provisions of collective bargaining agreements negotiated between the state and an employee organization pursuant to article fourteen of this chapter.

(e) Nothing contained in this section shall be construed to prevent the payment of a money remedy, which shall be for a period no longer than forty-five days prior to the filing of a grievance, pursuant to executive order forty-two, dated October fourteenth, nineteen hundred seventy, and title nine, part five hundred sixty, official compilation of codes, rules and regulations of the state of New York in resolution of the assignment of employees to duties substantially different from those appropriate to the title to which the employees are certified. The issuance of such a money remedy shall also contain a cease and desist order from continuation of the assignment of such substantially different duties to the employee involved.

(f) Notwithstanding the provisions of paragraph (a) of this subdivision, in cities with a population of one million or more, the

municipal civil service commission may grant permission to a city agency or department to certify directly to the disbursing or auditing officer of such city that the persons named in the certification are employed in their respective positions in accordance with applicable law and rules. In such cases, the municipal civil service commission need not certify any voucher or payroll but may at any time thereafter examine such payroll or voucher and revoke any previous certification not made in accordance with such law and rules. Revocation of such certification shall, in any action against the appointing officer pursuant to section one hundred two of this title, be presumptive evidence that such certification was improper in the respects not held to be proper by the municipal civil service commission.

2. Extended certifications. (a) The state civil service commission or any municipal commission may, by rule, provide that certification of payrolls of employees of any agency, authority or civil division under its jurisdiction may be made annually or semi-annually as of the date or dates specified in such rules provided, however, that on and after July first, nineteen hundred sixty-one, each such commission shall be deemed to have adopted a rule providing for annual certification as of the first full payroll period of the fiscal year of such agency, authority or civil division, except for such periods after such date during which a rule or requirement of such commission shall be operative which provides for other certifications, or dates therefor, consistent with the provisions of this section. Any such certification shall remain in effect until the next certification required by such rules, except as to officers or employees appointed or reinstated after such certification was made, or officers or employees whose status or salary or compensation is changed after the last certification of a payroll containing their names. In such cases the names of such officers and employees shall be submitted for certification on the first payroll on which they appear under such appointment, reinstatement, or other new status or salary or compensation; provided, however, that in the case of school districts other than city school districts, pending such certification by the department or commission as to persons not so previously certified, audit and payment of salary or compensation may be made for a period not exceeding two calendar months after the

appointment, reinstatement or other change of status or salary or compensation of such persons if notice thereof in writing is forwarded to the civil service department within fifteen calendar days after such appointment, reinstatement or other change of status or salary or compensation occurs.

(b) In lieu of the procedure authorized by paragraph (a) of this subdivision the civil service department, with respect to the officers and employees of any department or agency of the state or any public authority, may issue certificates hereunder on an extended basis without time limitation or, in the case of employments subject to a time limitation, for such limited period as may be applicable. No further certification shall be necessary for the payment of compensation to any such person so long as his status remains unchanged and during the stated limited period, if any, of his employment. The civil service department, however, may at any time examine the payroll of such department, agency or authority for any pay period, and shall examine such a payroll at least once each year to determine that all persons employed in such department, agency or authority are employed in accordance with law and rules.

(c) Notwithstanding the provisions of this subdivision or of any rules adopted hereunder, the civil service department or a municipal commission may, at any time, require any such agency, authority or civil division under its jurisdiction to submit payrolls or accounts for certification in accordance with the provisions of subdivision one of this section.

3. Certifications for certain positions in state service. Notwithstanding the provisions of this section, the civil service department, in any certificate issued pursuant to this section with respect to the employment of a person in a position classified pursuant to article eight of this chapter, shall not be required or deemed to attest that the salary or rate of compensation indicated for such person is that to which he is eligible or entitled pursuant to law. When an extended certification has been made with respect to the employment of a person in such a position, a new certification shall not be required solely because of a change in the salary or rate of compensation of such person.

4. Waiver of certification requirement for certain special or emergency employments. The president of the state civil service commission may except from the application of this section persons employed by a state agency or public authority for a period not exceeding ten days to render special or emergency service not customarily performed by the regular employees of such agency or public authority.

5. Limitation upon the certification of payrolls. Solely for the purposes of this section and in the absence of fraud, an employee having completed the applicable probationary period and holding a position in the classified service of a civil service division by appointment or promotion for at least three years shall be presumed to have been duly appointed or promoted. After such time, neither the state civil service commission nor a municipal commission shall withhold certification of such employee on a payroll or voucher by reason of a violation of this chapter or rules made pursuant thereto. The provisions of this subdivision shall not apply in cities with a population of one million or more.

§ 101. Misdemeanor to pay salary or compensation for which certification has been refused. Any officer who shall wilfully pay or authorize the payment of salary or compensation to any person in the classified service with knowledge that the state civil service department or appropriate municipal civil service commission has refused to certify the payroll, estimate or account of such person, or after due notice from such department or commission that such person has been appointed, employed, transferred, assigned to perform duties or reinstated in violation of any of the provisions of this chapter or the rules established thereunder, shall be guilty of a misdemeanor.

§ 102. Court proceedings. 1. Action to restrain illegal payment of salary or compensation. Any taxpayer as defined in subdivision two hereof shall have the right to bring an action in the supreme court to

declare illegal or restrain payment of salary or compensation to any person appointed to or holding any office, place or employment in violation of any of the constitutions or provisions of this chapter, and such right shall not be limited or denied by reason of the fact that said office, place or employment shall have been classified as, or determined to be, not subject to competitive examination; provided, however, that any judgment or injunction granted or made in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the proper disbursing officers in accordance with the civil service rules in force at the time of such payments.

2. Action to recover sums illegally paid from appointing and fiscal officers. Any sums paid contrary to the provisions of section one hundred of this chapter may be recovered from any officer or officers by whom the person or persons receiving the same were appointed in violation of the provisions of law and of the rules made in pursuance of law, or any officer signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of the same, and from the sureties on the official bond of such officer or officers in an action in the supreme court maintained by a citizen resident of the state, who is assessed for and is liable to pay, or within one year before the commencement of the action has paid a tax therein, or by the state civil service commission or the municipal civil service commission having jurisdiction. It shall be the duty of the attorney general or of the appropriate law officer of the civil division wherein such sums were illegally paid, to prosecute such action upon the request of the state civil service commission or department or the municipal civil service commission having jurisdiction as the case may be. All moneys recovered in any such action shall, when collected, be paid into the treasury of the state or the civil division, as the case may be, except that if such action is maintained by a taxpayer, he shall be entitled to receive for his own use the taxable costs of such action.

3. Action to enjoin violation of the civil service law. The state civil service commission or the municipal civil service commission having jurisdiction, as the case may be, may maintain an action in the

supreme court to enjoin any violation of the civil service law or the rules established thereunder, and for such incidental relief as may be necessary. It shall be the duty of the attorney general, or of the appropriate law officer of the civil division wherein such violation occurs, as the case may be, to commence and maintain such action upon the request of the state civil service commission or the municipal civil service commission having jurisdiction, as the case may be.

TITLE C

PROHIBITION AGAINST CERTAIN ACTIVITIES BY OFFICERS AND EMPLOYEES; PENALTIES

Section 105. Subversive activities; disqualification.
106. Misdemeanor to obstruct civil service rights; false representation; impersonation.
107. Prohibition against certain political activities; improper influence.

§ 105. Subversive activities; disqualification. 1. Ineligibility of persons advocating overthrow of government by force or unlawful means. No person shall be appointed to any office or position in the service of the state or of any civil division thereof, nor shall any person employed in any such office or position be continued in such employment, nor shall any person be employed in the public service as superintendent, principal or teacher in a public school or academy or in a state college or any other state educational institution who:

(a) by word of mouth or writing wilfully and deliberately advocates, advises or teaches the doctrine that the government of the United States or of any state or of any political subdivision thereof should be overthrown or overturned by force, violence or any unlawful means; or

(b) prints, publishes, edits, issues or sells, any book, paper, document or written or printed matter in any form, containing or advocating, advising or teaching the doctrine that the government of the United States or of any state or of any political subdivision thereof should be overthrown by force, violence or any unlawful means, and who advocates, advises, teaches, or embraces the duty, necessity or

propriety of adopting the doctrine contained therein; or

(c) organizes or helps to organize or becomes a member of any society or group of persons which teaches or advocates that the government of the United States or of any state or of any political subdivision thereof shall be overthrown by force or violence, or by any unlawful means.

For the purposes of this section, membership in the communist party of the United States of America or the communist party of the state of New York shall constitute prima facie evidence of disqualification for appointment to or retention in any office or position in the service of the state or of any city or civil division thereof.

2. A person dismissed or declared ineligible pursuant to this section may within four months of such dismissal or declaration of ineligibility be entitled to petition for an order to show cause signed by a justice of the supreme court, why a hearing on such charges should not be had. Until the final judgment on said hearing is entered, the order to show cause shall stay the effect of any order of dismissal or ineligibility based on the provisions of this section; provided, however, that during such stay a person so dismissed shall be suspended without pay, and if the final determination shall be in his favor he shall be restored to his position with pay for the period of such suspension less the amount of compensation which he may have earned in any other employment or occupation and any unemployment insurance benefits he may have received during such period. The hearing shall consist of the taking of testimony in open court with opportunity for cross examination. The burden of sustaining the validity of the order of dismissal or ineligibility by a fair preponderance of the credible evidence shall be upon the person making such dismissal or order of ineligibility.

3. Removal for treasonable or seditious acts or utterances. A person in the civil service of the state or of any civil division thereof shall be removable therefrom for the utterance of any treasonable or seditious word or words or the doing of any treasonable or seditious act or acts while holding such position. For the purpose of this subdivision, a treasonable word or act shall mean "treason", as defined in the penal

law; a seditious word or act shall mean "criminal anarchy" as defined in the penal law.

§ 106. Misdemeanor to obstruct civil service rights; false representation; impersonation. Any commissioner, or examiner, or any other person who shall wilfully, alone or in cooperation with other persons, defeat, deceive or obstruct any person in respect of his or her right of examination, registration, certification, appointment, promotion or reinstatement, pursuant to the provisions of this chapter or the rules or regulations established thereunder or who shall wilfully and falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or who shall wilfully make any false representations concerning the same, or concerning the person examined, or who shall wilfully furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified, or who shall impersonate any other person, or permit or aid in any manner any other person to impersonate him, in connection with any registration or application or request to be registered, shall for each offense be deemed guilty of a misdemeanor.

§ 107. Prohibition against certain political activities; improper influence. 1. Recommendations based on political affiliations. No recommendation or question under the authority of this chapter shall relate to the political opinions or affiliations of any person whatever; and no appointment or selection to or removal from an office or employment within the scope of this chapter or the rules established thereunder, shall be in any manner affected or influenced by such opinions or affiliations. No person in the civil service of the state or of any civil division thereof is for that reason under any obligation to contribute to any political fund or to render any political service, and no person shall be removed or otherwise prejudiced for refusing so to do. No person in the said civil service shall discharge or promote or

reduce, or in any manner change the official rank or compensation of any other person in said service, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose. No person in said service shall use his official authority or influences to coerce the political action of any person or body or to interfere with any election.

2. Inquiry concerning political affiliations. No person shall directly or indirectly ask, indicate or transmit orally or in writing the political affiliations of any employee in the civil service of the state or of any civil division thereof or of any person dependent upon or related to such an employee, as a test of fitness for holding office. A violation of this subdivision shall be deemed a misdemeanor and conviction thereof shall subject the person convicted to a fine of not less than one hundred dollars nor more than five hundred dollars or to imprisonment for not less than thirty days nor more than six months, or to both such fine and imprisonment. Nothing herein contained shall be construed to prevent or prohibit inquiry concerning the activities, affiliation or membership of any applicant or employee in any group or organization which advocates that the government of the United States or of any state or of any political subdivision thereof should be overturned by force, violence or any unlawful means.

3. Political assessments. No officer or employee of the state or any civil division thereof shall, directly or indirectly, use his authority or official influence to compel or induce any other officer or employee of the state or any civil division thereof, to pay or promise to pay any political assessment, subscription or contribution. Every officer or employee who may have charge or control in any building, office or room occupied for any governmental purpose is hereby authorized to prohibit the entry of any person, and he shall not knowingly permit any person to enter the same for the purpose of making, collecting, receiving or giving notice therein, of any political assessment, subscription or contribution; and no person shall enter or remain in any such office, building or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding or collecting a political

assessment; nor shall any person therein give notice of, demand, collect or receive any such assessment, subscription or contribution. No person shall prepare or take any part in preparing any political assessment, subscription or contribution with the intent that the same shall be sent or presented to or collected of any officer or employee subject to the provisions of this chapter, and no person shall knowingly send or present any political assessment, subscription or contribution to or request its payment of any said officer or employee. Any person violating any provision of this subdivision shall be guilty of a misdemeanor.

4. Prohibition against promise of influence. Any person, who while holding any public office, or in nomination for, or while seeking a nomination or appointment for any public office, shall corruptly use or promise to use, whether directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon the consideration that the vote or political influence or action of the last-named person, or any other, shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery or an attempt at bribery. Any public officer, or any person having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer, who shall corruptly use, or promise, or threaten to use any such authority or influence, directly or indirectly in order to coerce or persuade the vote or political action of any citizen or the removal, discharge or promotion of any officer or public employee, or upon any other corrupt consideration, shall also be guilty of bribery or of an attempt at bribery. Every person found guilty of such bribery, or an attempt to commit the same, as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than one hundred dollars nor more than three thousand dollars, or to imprisonment for not less than ten days nor more than two years, or to both such fine and imprisonment in the discretion of the court.

5. Violation of this section. Complaints alleging a violation of this section by a statewide elected official or a state officer or employee, as defined in section seventy-three of the public officers law, may be directed to the commission on public integrity.

ARTICLE VIII

CLASSIFICATION AND COMPENSATION OF STATE EMPLOYEES

Title A. Classification and allocation of positions. (Secs. 115-123).
B. Salary grades; determination of salaries (Secs. 130-136).
C. Performance ratings (Sec. 140).

TITLE A

CLASSIFICATION AND ALLOCATION OF POSITIONS

Section 115. Policy of the state.
116. Classification defined.
117. Classification and compensation division.
118. Powers and duties of the director of classification and compensation.
120. Applications and appeals.
121. General provisions relating to classification and allocation.
122. Eligibility of incumbents of positions not heretofore classified.
123. Prohibition against transfer of employees to competitive class.

§ 115. Policy of the state. 1. In order to attract unusual merit and ability to the service of the state of New York and all its political subdivisions, to stimulate higher efficiency among the personnel, to provide skilled leadership in administrative departments, to reward merit and to insure to the people and the taxpayers of the state of New York the highest return in services for the necessary costs of government, it is hereby declared to be the policy of the state and all

its political subdivisions thereof, consistent with the federal Equal Pay Act of 1963 (29 U.S.C. § 206), the federal Civil Rights Act (42 U.S.C. § 2000e-2), article fifteen of the executive law, and section forty-c of the civil rights law, to ensure a fair, non-biased compensation structure for all employees in which status within one or more protected class or classes is not considered in determining the proper compensation for a title or in determining the pay for any individual or group of employees, to ensure that no employee with status within one or more protected class or classes shall be paid a wage at a rate less than the rate at which an employee without status within the same protected class or classes in the same establishment is paid for similar work or substantially similar work and to provide regular increases in pay in proper proportion to increase of ability, increase of output and increase of quality of work demonstrated in service.

2. For the purpose of this section:

(a) the term "protected class" includes age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status, and any employee protected from discrimination pursuant to paragraphs a, b, and c of subdivision one of section two hundred ninety-six of the executive law, and any intern protected from discrimination pursuant to section two hundred ninety-six-c of the executive law.

(b) the term "compensation" shall include but not be limited to: all earnings of an employee for labor or services rendered, regardless of whether the amount of earnings is paid on an annual salary, hourly, biweekly or per diem basis; reimbursement for expenses; health, welfare and retirement benefits; and vacation pay, sick pay, separation or holiday pay, or any other form of remuneration.

(c) employees shall be deemed to work in the same establishment if the employees work for the same employer at workplaces located in the same geographical region, no larger than a county, taking into account population distribution, economic activity, and/or the presence of municipalities.

3. (a) It shall not be a violation of this section for an employer to

pay different compensation to employees, where such payments are made pursuant to:

(1) a bona fide seniority or merit system;

(2) a bona fide system that measures earnings by quantity or quality of production;

(3) a bona fide system based on geographic differentials;

(4) any other bona fide factor other than status within one or more protected class or classes, such as education, training, or experience. Such factor: (A) shall not be based upon or derived from a differential in compensation based on status within one or more protected class or classes; and (B) shall be job-related with respect to the position in question and shall be consistent with business necessity. Such exception under this paragraph shall not apply when the employee demonstrates (i) that an employer uses a particular employment practice that causes a disparate impact on the basis of status within one or more protected class or classes, (ii) that an alternative employment practice exists that would serve the same purpose and not produce such differential, and (iii) that the employer has refused to adopt such alternative practice; or

(5) a collective bargaining agreement.

(b) For the purpose of paragraph (a) of this subdivision, "business necessity" shall be defined as a factor that bears a manifest relationship to the employment in question.

(c) Nothing set forth in this section shall be construed to impede, infringe or diminish the rights and benefits which accrue to employees through collective bargaining agreements, or otherwise diminish the integrity of the existing collective bargaining relationship.

§ 116. Classification defined. The terms "classification", "reclassification", "classify", and "reclassify" where used in this article refer to position classification as defined in section two of this chapter, unless otherwise expressly stated or unless the context requires a different meaning.

§ 117. Classification and compensation division. There shall be a

classification and compensation division in the department of civil service. The head of such division shall be a director who shall be in the competitive class of the classified civil service. The director and employees of such division shall be appointed by the president of the civil service commission.

§ 118. Powers and duties of the director of classification and compensation. 1. General powers and duties. (a) The director of the classification and compensation division shall be charged generally with the duty and shall have the power

(1) to classify and reclassify all positions in the classified civil service of the state;

(2) to allocate and reallocate to an appropriate salary grade specified in section one hundred thirty of this article all positions in the competitive and non-competitive classes of the classified civil service of the state, except temporary, part-time or seasonal positions, and positions the salaries of which are otherwise specifically set forth in a statute.

(b) The director may allocate and reallocate to an appropriate salary grade specified in section one hundred thirty of this article, part-time, temporary and seasonal positions and positions in the labor class.

(c) The principle of fair and equal pay for similar work or substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, and without discrimination based on status within a protected class, shall be followed in the classification and reclassification and the allocation and reallocation of positions pursuant to this article and all positions having the same title shall be allocated to the same salary grade. For the purposes of this section, the term "protected class" includes age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status, and any employee protected from discrimination pursuant to paragraphs (a), (b) and (c) of subdivision one of section two hundred ninety-six of the executive law,

and any intern protected from discrimination pursuant to section two hundred ninety-six-c of the executive law.

2. Specific powers and duties. In addition to those elsewhere prescribed, the director shall have the following powers and duties:

(a) To ascertain and record the duties and responsibilities of all positions in the classified civil service of the state, establish adequate specifications showing the qualifications for and the nature and extent and scope of the duties and responsibilities of such positions, and assign uniform titles to positions that are so substantially similar in the essential character and scope of their duties and responsibilities and in the qualification requirements thereof that the same descriptive title may be used to designate them; that the same qualifications for appointment thereto may be reasonably required; that the same tests of fitness may be established, and that the same rate of compensation may be reasonably applied.

(b) To investigate all matters affecting the classification and compensation of positions, to hear and determine all complaints and grievances with respect to the classification and compensation of positions, and from time to time review the duties, responsibilities, qualification requirements and compensation of positions and to make such revisions in the classification or compensation of positions as changes in the state service may require.

(c) To ensure that no employee with status within one or more protected class or classes shall be paid a wage at a rate less than the rate at which an employee without status within the same protected class or classes in the same title and same establishment is paid for similar work or substantially similar work. For the purposes of this paragraph, employees shall be deemed to work in the same establishment if the employees work for the same employer at workplaces located in the same geographical region, no larger than a county, taking into account population distribution, economic activity, and/or the presence of municipalities.

3. Departmental cooperation. The director, and the state civil service commission may request from any state department or agency such assistance as either may require, and each such department or agency

shall make available, upon such request, any of its personnel and facilities.

§ 120. Applications and appeals. 1. Applications to director. Any employee occupying a position, the title or salary grade of which is subject to the jurisdiction of the director of the classification and compensation division, and any appointing officer, with respect to any such position or positions in his department or agency, may apply to the director, on a form prescribed and furnished by him, for a review and change of the classification or allocation of such positions. Such employee or appointing officer or their representatives shall be afforded a reasonable opportunity to present facts in support of or in relation to such application at a time and in such manner as may be specified by the director. The director shall examine and review any such application and may make such changes in classification or allocation as may be just and equitable. The director shall have the power to designate an officer or employee of the division to conduct a hearing with relation to any application for such reclassification or reallocation and to report to the director thereon.

2. Appeals to the state civil service commission. Any employee or appointing officer aggrieved by a determination of the director may appeal from such determination to the state civil service commission. Such appeal must be made within sixty days after receipt of written notice of such determination. Such employee or appointing officer or their representatives shall be afforded an opportunity to present facts and arguments in support of or in relation to such appeal at a time and place and in such manner as may be prescribed by the commission. The commission shall examine and review such appeal and make such changes in classification or allocation as may be just and equitable. Determinations of the commission shall be transmitted to the director of the budget, the director of the classification and compensation division, and the employees and department heads affected thereby.

3. Reporting on appeals. In addition to the requirements of subdivision two of this section, the commission shall, on or before

January thirty-first of each year, submit a report to the governor and the legislature which shall include, but not be limited to, information detailing the total number of appeals received from determinations made based upon written and oral examinations, performance tests and ratings of training and experience, during the preceding twelve months, and shall report the final disposition or dispositions of each appeal.

§ 121. General provisions relating to classification and allocation. 1. Effective date of classification and allocation. Any classification or reclassification of a position and any allocation or reallocation of a position to a salary grade made by the director of the classification and compensation division or the state civil service commission pursuant to the provisions of this article shall become effective on the first day of the fiscal year following approval by the director of the budget and the appropriation of funds therefor, except that the director of the budget may, in his discretion, authorize an effective date prior to the first day of the ensuing fiscal year.

2. Salary rights and limitations. (a) Notwithstanding the provisions of paragraph (b) of this subdivision, the annual salary of any position, compensable on an annual basis, which is classified or reclassified, or which is allocated or reallocated to a salary grade pursuant to the provisions of this article shall not be reduced for the then incumbent by reason of any provision of this article.

(b) When a position is allocated pursuant to the provisions of this chapter to a salary grade in section one hundred thirty of this chapter, the incumbent thereof, whether employed on a permanent or temporary basis, shall be paid in accordance with the provisions of title B of this article.

(c) No employee whose salary would be increased by such classification, reclassification, allocation or reallocation shall have any claim against the state for the difference, if any, between his former salary and that which he should receive as a result of such classification, reclassification, allocation or reallocation for the period prior to the date such change in title or salary grade becomes effective.

3. Status of employees. No employee whose position is reclassified shall be promoted, demoted, transferred, suspended or reinstated except in accordance with the provisions of this chapter.

4. Limitations of use of preferred list. A preferred list established pursuant to section eighty-one of this chapter shall have no priority with reference to a new position created by the reclassification of an existing position pursuant to this article whenever the use of a preferred list for filling such new position would result in the suspension of an employee pursuant to the provisions of section eighty of this chapter.

5. Career ladders. The director of the classification and compensation division may, in order to implement a plan for the progressive advancement of employees in an occupational group, based on their acquiring, as prescribed by such director, of either training or experience or both, reclassify the positions of the incumbents who meet the prescribed qualifications to titles allocated to higher salary grades. The advancement of an incumbent pursuant to this subdivision is not, and is not to be deemed, a reallocation.

§ 122. Eligibility of incumbents of positions not heretofore classified. A position to which the provisions of this article are hereafter extended shall be classified under an appropriate title. For the purpose of continuing the essential activities of the state without interruption, and notwithstanding any inconsistent provisions of this chapter, the president of the state civil service commission is empowered, without requiring an examination, to approve the continued employment of the permanent incumbent of such position under its classified title upon the certification of the director of the classification and compensation division that such incumbent has been satisfactorily performing the duties of such position for a period of at least one year immediately prior to such extension. After such classification becomes effective, such incumbent shall be entitled to the same salary, status, rights, privileges and benefits as if he had

been originally appointed under this chapter to the position designated by the classified title. No such incumbent, by reason of any change in title, shall be deprived of any rights he might previously have acquired under this chapter for appointment, transfer, reinstatement or promotion.

§ 123. Prohibition against transfer of employees to competitive class. Nothing in title A of this article shall be construed to effect a transfer to the competitive class of the civil service of any employee not heretofore included in such service.

TITLE B
SALARY GRADES; DETERMINATION OF SALARIES

Section 130. Salary grades; minimum and maximum salaries.
131. Determination of salaries.
132. Reallocations; adjustment of salaries.
134. Work week of state officers and employees for basic annual salaries; overtime compensation.
135. Extra salary or compensation prohibited.
136. Compensation of teachers in state institutions.

§ 130. Salary grades; minimum and maximum salaries. 1. a. Effective on the dates indicated, salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit and the division of military and naval affairs unit established pursuant to article fourteen of this chapter shall be as follows:

(1) Effective March twenty-sixth, two thousand twenty-six for officers and employees on the administrative payroll and effective April second, two thousand twenty-six for officers and employees on the institutional payroll:

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	INCR

1	30079	31093	32107	33121	34135	35149	36163	37177	1014
2	31227	32293	33359	34425	35491	36557	37623	38689	1066
3	32787	33899	35011	36123	37235	38347	39459	40571	1112
4	34220	35398	36576	37754	38932	40110	41288	42466	1178
5	35856	37088	38320	39552	40784	42016	43248	44480	1232
6	37862	39145	40428	41711	42994	44277	45560	46843	1283
7	39956	41300	42644	43988	45332	46676	48020	49364	1344
8	42209	43605	45001	46397	47793	49189	50585	51981	1396
9	44560	46019	47478	48937	50396	51855	53314	54773	1459
10	47110	48639	50168	51697	53226	54755	56284	57813	1529
11	49841	51446	53051	54656	56261	57866	59471	61076	1605
12	52694	54355	56016	57677	59338	60999	62660	64321	1661
13	55817	57556	59295	61034	62773	64512	66251	67990	1739
14	59049	60859	62669	64479	66289	68099	69909	71719	1810
15	62477	64364	66251	68138	70025	71912	73799	75686	1887
16	65977	67951	69925	71899	73873	75847	77821	79795	1974
17	69691	71776	73861	75946	78031	80116	82201	84286	2085
18	73717	75896	78075	80254	82433	84612	86791	88970	2179
19	77666	79954	82242	84530	86818	89106	91394	93682	2288
20	81729	84104	86479	88854	91229	93604	95979	98354	2375
21	86111	88597	91083	93569	96055	98541	101027	103513	2486
22	90728	93327	95926	98525	101124	103723	106322	108921	2599
23	95580	98295	101010	103725	106440	109155	111870	114585	2715
24	100783	103591	106399	109207	112015	114823	117631	120439	2808
25	106351	109283	112215	115147	118079	121011	123943	126875	2932

(2) Effective March twenty-fifth, two thousand twenty-seven for officers and employees on the administrative payroll and effective April first, two thousand twenty-seven for officers and employees on the institutional payroll:

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	INCR
1	31282	32337	33392	34447	35502	36557	37612	38667	1055
2	32476	33585	34694	35803	36912	38021	39130	40239	1109
3	34098	35255	36412	37569	38726	39883	41040	42197	1157
4	35589	36814	38039	39264	40489	41714	42939	44164	1225
5	37290	38571	39852	41133	42414	43695	44976	46257	1281
6	39376	40710	42044	43378	44712	46046	47380	48714	1334
7	41554	42952	44350	45748	47146	48544	49942	51340	1398

8	43897	45349	46801	48253	49705	51157	52609	54061	1452
9	46342	47859	49376	50893	52410	53927	55444	56961	1517
10	48994	50584	52174	53764	55354	56944	58534	60124	1590
11	51835	53504	55173	56842	58511	60180	61849	63518	1669
12	54802	56529	58256	59983	61710	63437	65164	66891	1727
13	58050	59859	61668	63477	65286	67095	68904	70713	1809
14	61411	63293	65175	67057	68939	70821	72703	74585	1882
15	64976	66938	68900	70862	72824	74786	76748	78710	1962
16	68616	70669	72722	74775	76828	78881	80934	82987	2053
17	72479	74647	76815	78983	81151	83319	85487	87655	2168
18	76666	78932	81198	83464	85730	87996	90262	92528	2266
19	80773	83152	85531	87910	90289	92668	95047	97426	2379
20	84998	87468	89938	92408	94878	97348	99818	102288	2470
21	89555	92141	94727	97313	99899	102485	105071	107657	2586
22	94357	97060	99763	102466	105169	107872	110575	113278	2703
23	99403	102227	105051	107875	110699	113523	116347	119171	2824
24	104814	107734	110654	113574	116494	119414	122334	125254	2920
25	110605	113654	116703	119752	122801	125850	128899	131948	3049

(3) Effective April sixth, two thousand twenty-eight for officers and employees on the administrative payroll and effective March thirtieth, two thousand twenty-eight for officers and employees on the institutional payroll:

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	INCR
1	32377	33469	34561	35653	36745	37837	38929	40021	1092
2	33613	34761	35909	37057	38205	39353	40501	41649	1148
3	35291	36489	37687	38885	40083	41281	42479	43677	1198
4	36835	38103	39371	40639	41907	43175	44443	45711	1268
5	38595	39921	41247	42573	43899	45225	46551	47877	1326
6	40754	42135	43516	44897	46278	47659	49040	50421	1381
7	43008	44455	45902	47349	48796	50243	51690	53137	1447
8	45433	46936	48439	49942	51445	52948	54451	55954	1503
9	47964	49534	51104	52674	54244	55814	57384	58954	1570
10	50709	52355	54001	55647	57293	58939	60585	62231	1646
11	53649	55376	57103	58830	60557	62284	64011	65738	1727
12	56720	58507	60294	62081	63868	65655	67442	69229	1787
13	60082	61954	63826	65698	67570	69442	71314	73186	1872
14	63560	65508	67456	69404	71352	73300	75248	77196	1948

15	67250	69281	71312	73343	75374	77405	79436	81467	2031
16	71018	73143	75268	77393	79518	81643	83768	85893	2125
17	75016	77260	79504	81748	83992	86236	88480	90724	2244
18	79349	81694	84039	86384	88729	91074	93419	95764	2345
19	83600	86062	88524	90986	93448	95910	98372	100834	2462
20	87973	90529	93085	95641	98197	100753	103309	105865	2556
21	92689	95366	98043	100720	103397	106074	108751	111428	2677
22	97659	100457	103255	106053	108851	111649	114447	117245	2798
23	102882	105805	108728	111651	114574	117497	120420	123343	2923
24	108482	111504	114526	117548	120570	123592	126614	129636	3022
25	114476	117632	120788	123944	127100	130256	133412	136568	3156

(4) Effective April fifth, two thousand twenty-nine for officers and employees on the administrative payroll and effective March twenty-ninth, two thousand twenty-nine for officers and employees on the institutional payroll:

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	INCR
1	33348	34473	35598	36723	37848	38973	40098	41223	1125
2	34621	35803	36985	38167	39349	40531	41713	42895	1182
3	36350	37584	38818	40052	41286	42520	43754	44988	1234
4	37940	39246	40552	41858	43164	44470	45776	47082	1306
5	39753	41119	42485	43851	45217	46583	47949	49315	1366
6	41977	43399	44821	46243	47665	49087	50509	51931	1422
7	44298	45788	47278	48768	50258	51748	53238	54728	1490
8	46796	48344	49892	51440	52988	54536	56084	57632	1548
9	49403	51020	52637	54254	55871	57488	59105	60722	1617
10	52230	53925	55620	57315	59010	60705	62400	64095	1695
11	55258	57037	58816	60595	62374	64153	65932	67711	1779
12	58422	60263	62104	63945	65786	67627	69468	71309	1841
13	61884	63812	65740	67668	69596	71524	73452	75380	1928
14	65467	67473	69479	71485	73491	75497	77503	79509	2006
15	69268	71360	73452	75544	77636	79728	81820	83912	2092
16	73149	75338	77527	79716	81905	84094	86283	88472	2189
17	77266	79577	81888	84199	86510	88821	91132	93443	2311
18	81729	84144	86559	88974	91389	93804	96219	98634	2415
19	86108	88644	91180	93716	96252	98788	101324	103860	2536
20	90612	93245	95878	98511	101144	103777	106410	109043	2633

21	95470	98227	100984	103741	106498	109255	112012	114769	2757
22	100589	103471	106353	109235	112117	114999	117881	120763	2882
23	105968	108979	111990	115001	118012	121023	124034	127045	3011
24	111736	114849	117962	121075	124188	127301	130414	133527	3113
25	117910	121161	124412	127663	130914	134165	137416	140667	3251

(5) Effective April fourth, two thousand thirty for officers and employees on the administrative payroll and effective March twenty-eighth, two thousand thirty for officers and employees on the institutional payroll:

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	INCR
1	34348	35507	36666	37825	38984	40143	41302	42461	1159
2	35660	36877	38094	39311	40528	41745	42962	44179	1217
3	37441	38712	39983	41254	42525	43796	45067	46338	1271
4	39078	40423	41768	43113	44458	45803	47148	48493	1345
5	40946	42353	43760	45167	46574	47981	49388	50795	1407
6	43236	44701	46166	47631	49096	50561	52026	53491	1465
7	45627	47162	48697	50232	51767	53302	54837	56372	1535
8	48200	49794	51388	52982	54576	56170	57764	59358	1594
9	50885	52551	54217	55883	57549	59215	60881	62547	1666
10	53797	55543	57289	59035	60781	62527	64273	66019	1746
11	56916	58748	60580	62412	64244	66076	67908	69740	1832
12	60175	62071	63967	65863	67759	69655	71551	73447	1896
13	63741	65727	67713	69699	71685	73671	75657	77643	1986
14	67431	69497	71563	73629	75695	77761	79827	81893	2066
15	71346	73501	75656	77811	79966	82121	84276	86431	2155
16	75343	77598	79853	82108	84363	86618	88873	91128	2255
17	79584	81964	84344	86724	89104	91484	93864	96244	2380
18	84181	86668	89155	91642	94129	96616	99103	101590	2487
19	88691	91303	93915	96527	99139	101751	104363	106975	2612
20	93330	96042	98754	101466	104178	106890	109602	112314	2712
21	98334	101174	104014	106854	109694	112534	115374	118214	2840
22	103607	106575	109543	112511	115479	118447	121415	124383	2968
23	109147	112248	115349	118450	121551	124652	127753	130854	3101
24	115088	118294	121500	124706	127912	131118	134324	137530	3206
25	121447	124796	128145	131494	134843	138192	141541	144890	3349

b. Pursuant to the terms of an agreement between the state and an

employee organization entered into pursuant to article fourteen of this chapter covering members of the collective negotiating unit designated as security supervisors, effective on the dates indicated, salary grades for positions in the competitive, non-competitive and labor classes shall be as follows:

(1) Effective March thirtieth, two thousand twenty-three for officers and employees on the administrative payroll and effective April sixth, two thousand twenty-three for officers and employees on the institutional payroll:

SG	Hiring Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Job Rate	Incr
1	31273	32466	33659	34852	36045	37238	38431	1193
2	32310	33569	34828	36087	37346	38605	39864	1259
3	33762	35074	36386	37698	39010	40322	41634	1312
4	35152	36533	37914	39295	40676	42057	43438	1381
5	36683	38139	39595	41051	42507	43963	45419	1456
6	38459	39988	41517	43046	44575	46104	47633	1529
7	40478	42071	43664	45257	46850	48443	50036	1593
8	42600	44254	45908	47562	49216	50870	52524	1654
9	44824	46548	48272	49996	51720	53444	55168	1724
10	47208	49023	50838	52653	54468	56283	58098	1815
11	49834	51721	53608	55495	57382	59269	61156	1887
12	52450	54419	56388	58357	60326	62295	64264	1969
13	55413	57472	59531	61590	63649	65708	67767	2059
14	58436	60592	62748	64904	67060	69216	71372	2156
15	61638	63883	66128	68373	70618	72863	75108	2245
16	64958	67301	69644	71987	74330	76673	79016	2343
17	68448	70916	73384	75852	78320	80788	83256	2468
18	72179	74771	77363	79955	82547	85139	87731	2592
19	75963	78673	81383	84093	86803	89513	92223	2710
20	79719	82548	85377	88206	91035	93864	96693	2829
21	83850	86799	89748	92697	95646	98595	101544	2949
22	88180	91305	94430	97555	100680	103805	106930	3125
23	92797	96011	99225	102439	105653	108867	112081	3214
24	97663	100997	104331	107665	110999	114333	117667	3334
25	102951	106428	109905	113382	116859	120336	123813	3477

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	Max 25 Yr. Long Step
1	40210	41993	45448	47755
2	41744	43629	47185	49600
3	43596	45561	49200	51694
4	45513	47582	51324	53916
5	47585	49761	53610	56312
6	49925	52215	56184	59001
7	52417	54799	58855	61766
8	54994	57475	61618	64623
9	57758	60345	64607	67721
10	60805	63515	67899	71140
11	63975	66802	71298	74648
12	67219	70178	74803	78283
13	70835	73913	78666	82270
14	74594	77824	82718	86472
15	78458	81821	86848	90733
16	82526	86039	91219	95253
17	86952	90645	96012	100232
18	91609	95499	101052	105465
19	96260	100315	106041	110621
20	100929	105172	111087	115856
21	105966	110386	116482	121431
22	111607	116285	122632	127835
23	116897	121718	128206	133551
24	122653	127650	134320	139839
25	129025	134229	141113	146846

(2) Effective March twenty-eighth, two thousand twenty-four for officers and employees on the administrative payroll and effective April fourth, two thousand twenty-four for officers and employees on the institutional payroll:

SG	Hiring Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Job Rate	Incr
1	32211	33440	34669	35898	37127	38356	39585	1229

2	33279	34576	35873	37170	38467	39764	41061	1297
3	34775	36126	37477	38828	40179	41530	42881	1351
4	36207	37629	39051	40473	41895	43317	44739	1422
5	37783	39283	40783	42283	43783	45283	46783	1500
6	39613	41188	42763	44338	45913	47488	49063	1575
7	41692	43333	44974	46615	48256	49897	51538	1641
8	43878	45582	47286	48990	50694	52398	54102	1704
9	46169	47945	49721	51497	53273	55049	56825	1776
10	48624	50494	52364	54234	56104	57974	59844	1870
11	51329	53273	55217	57161	59105	61049	62993	1944
12	54024	56052	58080	60108	62136	64164	66192	2028
13	57075	59196	61317	63438	65559	67680	69801	2121
14	60189	62410	64631	66852	69073	71294	73515	2221
15	63487	65799	68111	70423	72735	75047	77359	2312
16	66907	69320	71733	74146	76559	78972	81385	2413
17	70501	73043	75585	78127	80669	83211	85753	2542
18	74344	77014	79684	82354	85024	87694	90364	2670
19	78242	81033	83824	86615	89406	92197	94988	2791
20	82111	85025	87939	90853	93767	96681	99595	2914
21	86366	89403	92440	95477	98514	101551	104588	3037
22	90825	94044	97263	100482	103701	106920	110139	3219
23	95581	98891	102201	105511	108821	112131	115441	3310
24	100593	104027	107461	110895	114329	117763	121197	3434
25	106040	109621	113202	116783	120364	123945	127526	3581

Max

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	25 Yr. Long Step
1	41416	43253	46811	49188
2	42996	44938	48601	51088
3	44904	46928	50676	53245
4	46878	49009	52864	55533
5	49013	51254	55218	58001
6	51423	53781	57870	60771
7	53990	56443	60621	63619
8	56644	59199	63467	66562
9	59491	62155	66545	69753

10	62629	65420	69936	73274
11	65894	68806	73437	76887
12	69236	72283	77047	80631
13	72960	76130	81026	84738
14	76832	80159	85200	89066
15	80812	84276	89453	93455
16	85002	88620	93956	98111
17	89561	93364	98892	103239
18	94357	98364	104084	108629
19	99148	103324	109222	113940
20	103957	108327	114420	119332
21	109145	113698	119976	125074
22	114955	119774	126311	131670
23	120404	125370	132052	137558
24	126333	131480	138350	144034
25	132896	138256	145346	151251

(3) Effective March twenty-seventh, two thousand twenty-five for officers and employees on the administrative payroll and effective April third, two thousand twenty-five for officers and employees on the institutional payroll:

	Hiring						Job	
SG	Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Rate	Incr
1	33177	34443	35709	36975	38241	39507	40773	1266
2	34277	35613	36949	38285	39621	40957	42293	1336
3	35818	37210	38602	39994	41386	42778	44170	1392
4	37293	38758	40223	41688	43153	44618	46083	1465
5	38916	40461	42006	43551	45096	46641	48186	1545
6	40801	42423	44045	45667	47289	48911	50533	1622
7	42943	44633	46323	48013	49703	51393	53083	1690
8	45194	46949	48704	50459	52214	53969	55724	1755
9	47554	49383	51212	53041	54870	56699	58528	1829
10	50083	52009	53935	55861	57787	59713	61639	1926
11	52869	54871	56873	58875	60877	62879	64881	2002
12	55645	57734	59823	61912	64001	66090	68179	2089
13	58787	60972	63157	65342	67527	69712	71897	2185
14	61995	64283	66571	68859	71147	73435	75723	2288
15	65392	67773	70154	72535	74916	77297	79678	2381

16	68914	71400	73886	76372	78858	81344	83830	2486
17	72616	75234	77852	80470	83088	85706	88324	2618
18	76574	79324	82074	84824	87574	90324	93074	2750
19	80589	83464	86339	89214	92089	94964	97839	2875
20	84574	87576	90578	93580	96582	99584	102586	3002
21	88957	92085	95213	98341	101469	104597	107725	3128
22	93550	96866	100182	103498	106814	110130	113446	3316
23	98448	101857	105266	108675	112084	115493	118902	3409
24	103611	107148	110685	114222	117759	121296	124833	3537
25	109221	112910	116599	120288	123977	127666	131355	3689

				Max
	10 Yr. Long	15 Yr. Long	20 Yr. Long	25 Yr. Long
SG	Step	Step	Step	Step
1	42658	44551	48215	50664
2	44286	46286	50059	52621
3	46251	48336	52196	54842
4	48284	50479	54450	57199
5	50483	52792	56875	59741
6	52966	55394	59606	62594
7	55610	58136	62440	65528
8	58343	60975	65371	68559
9	61276	64020	68541	71846
10	64508	67383	72034	75472
11	67871	70870	75640	79194
12	71313	74451	79358	83050
13	75149	78414	83457	87280
14	79137	82564	87756	91738
15	83236	86804	92137	96259
16	87552	91279	96775	101054
17	92248	96165	101859	106336
18	97188	101315	107207	111888
19	102122	106424	112499	117358
20	107076	111577	117853	122912
21	112419	117109	123575	128826
22	118404	123367	130100	135620
23	124016	129131	136014	141685

24	130123	135424	142501	148355
25	136883	142404	149706	155789

c. Effective on the dates indicated, salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York in the collective negotiating unit designated as the professional, scientific and technical services unit established pursuant to article fourteen of this chapter shall be as follows:

(1) Effective March twenty-sixth, two thousand twenty-six for officers and employees on the administrative payroll and effective April second, two thousand twenty-six for officers and employees on the institutional payroll:

PS&T SALARY SCHEDULE
EFFECTIVE March 26, 2026 (ADMIN)
EFFECTIVE April 2, 2026 (INST)

SG	HIRING RATE	JOB RATE	ADVANCE AMOUNT	JOB RATE ADVANCE
1	$28,815	$37,177	$1,196	$1,186
2	$29,908	$38,689	$1,254	$1,257
3	$31,372	$40,571	$1,315	$1,309
4	$32,780	$42,466	$1,379	$1,412
5	$34,333	$44,480	$1,452	$1,435
6	$36,173	$46,843	$1,523	$1,532
7	$38,204	$49,364	$1,585	$1,650
8	$40,307	$51,981	$1,642	$1,822
9	$42,552	$54,773	$1,701	$2,015
10	$44,965	$57,813	$1,777	$2,186
11	$47,541	$61,076	$1,892	$2,183
12	$50,209	$64,321	$1,957	$2,370
13	$53,132	$67,990	$2,035	$2,648
14	$56,183	$71,719	$2,174	$2,492
15	$59,363	$75,686	$2,254	$2,799
16	$62,694	$79,795	$2,341	$3,055
17	$66,212	$84,286	$2,452	$3,362
18	$69,964	$88,970	$2,403	$4,588
19	$73,755	$93,682	$2,502	$4,915

20	$77,532	$98,354	$2,607	$5,180
21	$81,642	$103,513	$2,721	$5,545
22	$86,031	$108,921	$2,835	$5,880
23	$90,582	$114,585	$2,953	$6,285
24	$95,406	$120,439	$3,066	$6,637
25	$100,671	$126,875	$3,197	$7,022
26	$105,973	$130,626	$3,327	$4,691
27	$111,708	$137,590	$3,503	$4,864
28	$117,592	$144,422	$3,638	$5,002
29	$123,754	$151,566	$3,778	$5,144
30	$130,222	$159,005	$3,918	$5,275
31	$137,163	$166,974	$4,064	$5,427
32	$144,455	$175,226	$4,201	$5,565
33	$152,313	$184,049	$4,340	$5,696
34	$160,426	$193,216	$4,490	$5,850
35	$168,742	$202,545	$4,634	$5,999
36	$177,224	$212,141	$4,794	$6,153
37	$186,525	$222,485	$4,943	$6,302
38	$174,020			

(2) Effective March twenty-fifth, two thousand twenty-seven for officers and employees on the administrative payroll and effective April first, two thousand twenty-seven for officers and employees on the institutional payroll:

PS&T SALARY SCHEDULE

EFFECTIVE March 25, 2027 (ADMIN)

EFFECTIVE April 1, 2027 (INST)

SG	HIRING RATE	JOB RATE	ADVANCE AMOUNT	JOB RATE ADVANCE
1	$29,968	$38,667	$1,244	$1,235
2	$31,104	$40,239	$1,304	$1,311
3	$32,627	$42,197	$1,368	$1,362
4	$34,091	$44,164	$1,434	$1,469
5	$35,706	$46,257	$1,510	$1,491
6	$37,620	$48,714	$1,584	$1,590
7	$39,732	$51,340	$1,649	$1,714
8	$41,919	$54,061	$1,707	$1,900
9	$44,254	$56,961	$1,769	$2,093

10	$46,764	$60,124	$1,848	$2,272
11	$49,443	$63,518	$1,968	$2,267
12	$52,217	$66,891	$2,035	$2,464
13	$55,257	$70,713	$2,116	$2,760
14	$58,430	$74,585	$2,261	$2,589
15	$61,738	$78,710	$2,345	$2,902
16	$65,202	$82,987	$2,434	$3,181
17	$68,860	$87,655	$2,550	$3,495
18	$72,763	$92,528	$2,499	$4,771
19	$76,705	$97,426	$2,602	$5,109
20	$80,633	$102,288	$2,711	$5,389
21	$84,908	$107,657	$2,830	$5,769
22	$89,472	$113,278	$2,949	$6,112
23	$94,205	$119,171	$3,071	$6,540
24	$99,222	$125,254	$3,189	$6,898
25	$104,698	$131,948	$3,325	$7,300
26	$110,212	$135,851	$3,460	$4,879
27	$116,176	$143,094	$3,643	$5,060
28	$122,296	$150,199	$3,784	$5,199
29	$128,704	$157,629	$3,930	$5,345
30	$135,431	$165,365	$4,075	$5,484
31	$142,650	$173,653	$4,227	$5,641
32	$150,233	$182,235	$4,369	$5,788
33	$158,406	$191,411	$4,513	$5,927
34	$166,843	$200,945	$4,669	$6,088
35	$175,492	$210,647	$4,820	$6,235
36	$184,313	$220,627	$4,986	$6,398
37	$193,986	$231,384	$5,141	$6,552
38	$180,981			

(3) Effective April sixth, two thousand twenty-eight for officers and employees on the administrative payroll and effective March thirtieth, two thousand twenty-eight for officers and employees on the institutional payroll:

PS&T SALARY SCHEDULE

EFFECTIVE April 6, 2028 (ADMIN)

EFFECTIVE March 30, 2028 (INST)

HIRING	JOB	ADVANCE	JOB RATE

SG	RATE	RATE	AMOUNT	ADVANCE
1	$31,017	$40,021	$1,288	$1,276
2	$32,193	$41,649	$1,349	$1,362
3	$33,769	$43,677	$1,416	$1,412
4	$35,284	$45,711	$1,485	$1,517
5	$36,956	$47,877	$1,562	$1,549
6	$38,937	$50,421	$1,639	$1,650
7	$41,123	$53,137	$1,706	$1,778
8	$43,386	$55,954	$1,767	$1,966
9	$45,803	$58,954	$1,831	$2,165
10	$48,401	$62,231	$1,912	$2,358
11	$51,174	$65,738	$2,037	$2,342
12	$54,045	$69,229	$2,106	$2,548
13	$57,191	$73,186	$2,190	$2,855
14	$60,475	$77,196	$2,341	$2,675
15	$63,899	$81,467	$2,427	$3,006
16	$67,484	$85,893	$2,520	$3,289
17	$71,270	$90,724	$2,640	$3,614
18	$75,310	$95,764	$2,586	$4,938
19	$79,390	$100,834	$2,693	$5,286
20	$83,455	$105,865	$2,806	$5,574
21	$87,880	$111,428	$2,929	$5,974
22	$92,604	$117,245	$3,052	$6,329
23	$97,502	$123,343	$3,178	$6,773
24	$102,695	$129,636	$3,301	$7,135
25	$108,362	$136,568	$3,442	$7,554
26	$114,069	$140,606	$3,581	$5,051
27	$120,242	$148,102	$3,770	$5,240
28	$126,576	$155,456	$3,916	$5,384
29	$133,209	$163,146	$4,067	$5,535
30	$140,171	$171,153	$4,217	$5,680
31	$147,643	$179,731	$4,375	$5,838
32	$155,491	$188,613	$4,522	$5,990
33	$163,950	$198,110	$4,671	$6,134
34	$172,683	$207,978	$4,833	$6,297
35	$181,634	$218,020	$4,988	$6,458
36	$190,764	$228,349	$5,160	$6,625

37	$200,776	$239,482	$5,321	$6,780
38	$187,315			

(4) Effective April fifth, two thousand twenty-nine for officers and employees on the administrative payroll and effective March twenty-ninth, two thousand twenty-nine for officers and employees on the institutional payroll:

PS&T SALARY SCHEDULE

EFFECTIVE April 5, 2029 (ADMIN)

EFFECTIVE March 29, 2029 (INST)

SG	HIRING RATE	JOB RATE	ADVANCE AMOUNT	JOB RATE ADVANCE
1	$31,948	$41,223	$1,326	$1,319
2	$33,159	$42,895	$1,390	$1,396
3	$34,782	$44,988	$1,458	$1,458
4	$36,343	$47,082	$1,529	$1,565
5	$38,065	$49,315	$1,609	$1,596
6	$40,105	$51,931	$1,688	$1,698
7	$42,357	$54,728	$1,757	$1,829
8	$44,688	$57,632	$1,820	$2,024
9	$47,177	$60,722	$1,886	$2,229
10	$49,853	$64,095	$1,970	$2,422
11	$52,709	$67,711	$2,098	$2,414
12	$55,666	$71,309	$2,170	$2,623
13	$58,907	$75,380	$2,256	$2,937
14	$62,289	$79,509	$2,411	$2,754
15	$65,816	$83,912	$2,499	$3,102
16	$69,509	$88,472	$2,595	$3,393
17	$73,408	$93,443	$2,719	$3,721
18	$77,569	$98,634	$2,664	$5,081
19	$81,772	$103,860	$2,774	$5,444
20	$85,959	$109,043	$2,890	$5,744
21	$90,516	$114,769	$3,017	$6,151
22	$95,382	$120,763	$3,143	$6,523
23	$100,427	$127,045	$3,273	$6,980
24	$105,776	$133,527	$3,400	$7,351
25	$111,613	$140,667	$3,545	$7,784
26	$117,491	$144,824	$3,689	$5,199

27	$123,849	$152,545	$3,883	$5,398
28	$130,373	$160,120	$4,034	$5,543
29	$137,205	$168,040	$4,189	$5,701
30	$144,376	$176,288	$4,344	$5,848
31	$152,072	$185,123	$4,506	$6,015
32	$160,156	$194,271	$4,658	$6,167
33	$168,869	$204,053	$4,811	$6,318
34	$177,863	$214,217	$4,978	$6,486
35	$187,083	$224,561	$5,138	$6,650
36	$196,487	$235,199	$5,315	$6,822
37	$206,799	$246,666	$5,480	$6,987
38	$192,934			

(5) Effective April fourth, two thousand thirty for officers and employees on the administrative payroll and effective March twenty-eighth, two thousand thirty for officers and employees on the institutional payroll:

PS&T SALARY SCHEDULE

EFFECTIVE April 4, 2030 (ADMIN)

EFFECTIVE March 28, 2030 (INST)

SG	HIRING RATE	JOB RATE	ADVANCE AMOUNT	JOB RATE ADVANCE
1	$32,906	$42,461	$1,366	$1,359
2	$34,154	$44,179	$1,431	$1,439
3	$35,825	$46,338	$1,502	$1,501
4	$37,433	$48,493	$1,575	$1,610
5	$39,207	$50,795	$1,658	$1,640
6	$41,308	$53,491	$1,739	$1,749
7	$43,628	$56,372	$1,810	$1,884
8	$46,029	$59,358	$1,875	$2,079
9	$48,592	$62,547	$1,943	$2,297
10	$51,349	$66,019	$2,029	$2,496
11	$54,290	$69,740	$2,161	$2,484
12	$57,336	$73,447	$2,235	$2,701
13	$60,674	$77,643	$2,324	$3,025
14	$64,158	$81,893	$2,483	$2,837
15	$67,790	$86,431	$2,574	$3,197
16	$71,594	$91,128	$2,673	$3,496

17	$75,610	$96,244	$2,800	$3,834
18	$79,896	$101,590	$2,743	$5,236
19	$84,225	$106,975	$2,857	$5,608
20	$88,538	$112,314	$2,977	$5,914
21	$93,231	$118,214	$3,108	$6,335
22	$98,243	$124,383	$3,238	$6,712
23	$103,440	$130,854	$3,372	$7,182
24	$108,949	$137,530	$3,502	$7,569
25	$114,961	$144,890	$3,651	$8,023
26	$121,016	$149,169	$3,799	$5,359
27	$127,564	$157,121	$4,000	$5,557
28	$134,284	$164,924	$4,155	$5,710
29	$141,321	$173,081	$4,315	$5,870
30	$148,707	$181,577	$4,474	$6,026
31	$156,634	$190,677	$4,641	$6,197
32	$164,961	$200,099	$4,797	$6,356
33	$173,935	$210,175	$4,955	$6,510
34	$183,199	$220,644	$5,127	$6,683
35	$192,695	$231,298	$5,292	$6,851
36	$202,382	$242,255	$5,474	$7,029
37	$213,003	$254,066	$5,645	$7,193
38	$198,722			

d. Salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York designated managerial or confidential pursuant to article fourteen of this chapter, civilian state employees of the division of military and naval affairs of the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit, and those excluded from representation rights under article fourteen of this chapter pursuant to rules or regulations of the public employment relations board shall be as follows on the effective dates indicated:

(1) Effective April first, two thousand twenty-six:

GRADE	HIRING RATE	JOB RATE
M/C 3	$32,978	$42,162
M/C 4	$34,436	$44,074

M/C 5	$36,501	$46,214
M/C 6	$38,051	$48,583
M/C 7	$40,243	$51,212
M/C 8	$42,453	$53,852
M/C 9	$44,879	$56,718
M/C 10	$47,297	$59,867
M/C 11	$50,166	$63,188
M/C 12	$52,814	$66,504
M/C 13	$55,885	$70,199
M/C 14	$59,204	$74,058
M/C 15	$62,499	$78,056
M/C 16	$66,023	$82,221
M/C 17	$69,770	$86,757
M/C 18	$70,139	$87,034
M/C 19	$73,902	$91,561
M/C 20	$77,670	$96,153
M/C 21	$81,858	$101,118
M/C 22	$86,256	$106,431
M/C 23	$90,678	$113,292
M 1	$97,874	$123,715
M 2	$108,544	$137,206
M 3	$120,471	$152,238
M 4	$133,245	$168,152
M 5	$147,952	$186,923
M 6	$163,811	$206,043
M 7	$180,562	$223,625
M 8	$152,241	+

(2) Effective April first, two thousand twenty-seven:

GRADE	HIRING RATE	JOB RATE
M/C 3	$34,297	$43,848
M/C 4	$35,813	$45,837
M/C 5	$37,961	$48,063
M/C 6	$39,573	$50,526
M/C 7	$41,853	$53,260
M/C 8	$44,151	$56,006
M/C 9	$46,674	$58,987
M/C 10	$49,189	$62,262

M/C 11	$52,173	$65,716
M/C 12	$54,927	$69,164
M/C 13	$58,120	$73,007
M/C 14	$61,572	$77,020
M/C 15	$64,999	$81,178
M/C 16	$68,664	$85,510
M/C 17	$72,561	$90,227
M/C 18	$72,945	$90,515
M/C 19	$76,858	$95,223
M/C 20	$80,777	$99,999
M/C 21	$85,132	$105,163
M/C 22	$89,706	$110,688
M/C 23	$94,305	$117,824
M 1	$101,789	$128,664
M 2	$112,886	$142,694
M 3	$125,290	$158,328
M 4	$138,575	$174,878
M 5	$153,870	$194,400
M 6	$170,363	$214,285
M 7	$187,784	$232,570
M 8	$158,331	+

(3) Effective April first, two thousand twenty-eight:

GRADE	HIRING RATE	JOB RATE
M/C 3	$35,497	$45,383
M/C 4	$37,066	$47,441
M/C 5	$39,290	$49,745
M/C 6	$40,958	$52,294
M/C 7	$43,318	$55,124
M/C 8	$45,696	$57,966
M/C 9	$48,308	$61,052
M/C 10	$50,911	$64,441
M/C 11	$53,999	$68,016
M/C 12	$56,849	$71,585
M/C 13	$60,154	$75,562
M/C 14	$63,727	$79,716
M/C 15	$67,274	$84,019
M/C 16	$71,067	$88,503

M/C 17	$75,101	$93,385
M/C 18	$75,498	$93,683
M/C 19	$79,548	$98,556
M/C 20	$83,604	$103,499
M/C 21	$88,112	$108,844
M/C 22	$92,846	$114,562
M/C 23	$97,606	$121,948
M 1	$105,352	$133,167
M 2	$116,837	$147,688
M 3	$129,675	$163,869
M 4	$143,425	$180,999
M 5	$159,255	$201,204
M 6	$176,326	$221,785
M 7	$194,356	$240,710
M 8	$163,873	+

(4) Effective April first, two thousand twenty-nine:

GRADE	HIRING RATE	JOB RATE
M/C 3	$36,562	$46,744
M/C 4	$38,178	$48,864
M/C 5	$40,469	$51,237
M/C 6	$42,187	$53,863
M/C 7	$44,618	$56,778
M/C 8	$47,067	$59,705
M/C 9	$49,757	$62,884
M/C 10	$52,438	$66,374
M/C 11	$55,619	$70,056
M/C 12	$58,554	$73,733
M/C 13	$61,959	$77,829
M/C 14	$65,639	$82,107
M/C 15	$69,292	$86,540
M/C 16	$73,199	$91,158
M/C 17	$77,354	$96,187
M/C 18	$77,763	$96,493
M/C 19	$81,934	$101,513
M/C 20	$86,112	$106,604
M/C 21	$90,755	$112,109
M/C 22	$95,631	$117,999

M/C 23	$100,534	$125,606
M 1	$108,513	$137,162
M 2	$120,342	$152,119
M 3	$133,565	$168,785
M 4	$147,728	$186,429
M 5	$164,033	$207,240
M 6	$181,616	$228,439
M 7	$200,187	$247,931
M 8	$168,789	+

(5) Effective April first, two thousand thirty:

GRADE	HIRING RATE	JOB RATE
M/C 3	$37,659	$48,146
M/C 4	$39,323	$50,330
M/C 5	$41,683	$52,774
M/C 6	$43,453	$55,479
M/C 7	$45,957	$58,481
M/C 8	$48,479	$61,496
M/C 9	$51,250	$64,771
M/C 10	$54,011	$68,365
M/C 11	$57,288	$72,158
M/C 12	$60,311	$75,945
M/C 13	$63,818	$80,164
M/C 14	$67,608	$84,570
M/C 15	$71,371	$89,136
M/C 16	$75,395	$93,893
M/C 17	$79,675	$99,073
M/C 18	$80,096	$99,388
M/C 19	$84,392	$104,558
M/C 20	$88,695	$109,802
M/C 21	$93,478	$115,472
M/C 22	$98,500	$121,539
M/C 23	$103,550	$129,374
M 1	$111,768	$141,277
M 2	$123,952	$156,683
M 3	$137,572	$173,849
M 4	$152,160	$192,022
M 5	$168,954	$213,457

M 6	$187,064	$235,292
M 7	$206,193	$255,369
M 8	$173,853	+

e. Effective on the dates indicated, salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York in the collective negotiating unit created by chapter four hundred three of the laws of nineteen hundred eighty-three, hereinafter referred to as the rent regulation services negotiating unit, established pursuant to article fourteen of this chapter shall be as follows:

(1) Effective March thirtieth, two thousand twenty-three:

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	JR INCR	INCR
1	27132	28047	28962	29877	30792	31707	32622	33537	915	915
2	28167	29127	30087	31047	32007	32967	33927	34894	960	967
3	29574	30578	31582	32586	33590	34594	35598	36595	1004	997
4	30866	31928	32990	34052	35114	36176	37238	38300	1062	1062
5	32343	33455	34567	35679	36791	37903	39015	40127	1112	1112
6	34152	35308	36464	37620	38776	39932	41088	42251	1156	1163
7	36040	37252	38464	39676	40888	42100	43312	44531	1212	1219
8	38073	39332	40591	41850	43109	44368	45627	46886	1259	1259
9	40193	41509	42825	44141	45457	46773	48089	49405	1316	1316
10	42493	43873	45253	46633	48013	49393	50773	52146	1380	1373
11	44957	46406	47855	49304	50753	52202	53651	55093	1449	1442
12	47530	49029	50528	52027	53526	55025	56524	58016	1499	1492
13	50347	51915	53483	55051	56619	58187	59755	61330	1568	1575
14	53262	54894	56526	58158	59790	61422	63054	64693	1632	1639
15	56355	58056	59757	61458	63159	64860	66561	68269	1701	1708
16	59512	61292	63072	64852	66632	68412	70192	71979	1780	1787
17	62862	64742	66622	68502	70382	72262	74142	76029	1880	1887
18	63108	65273	67438	69603	71768	73933	76098	80248	2165	4150
19	66530	68785	71040	73295	75550	77805	80060	84496	2255	4436
20	69934	72289	74644	76999	79354	81709	84064	88721	2355	4657
21	73641	76095	78549	81003	83457	85911	88365	93374	2454	5009
22	77600	80158	82716	85274	87832	90390	92948	98252	2558	5304
23	81706	84367	87028	89689	92350	95011	97672	103350	2661	5678

24	86057	88825	91593	94361	97129	99897	102665	108638	2768	5973
25	90806	93690	96574	99458	102342	105226	108110	114444	2884	6334
26	95588	98587	101586	104585	107584	110583	113582	117825	2999	4243
27	100763	103922	107081	110240	113399	116558	119717	124107	3159	4390
28	106067	109350	112633	115916	119199	122482	125765	130270	3283	4505
29	111628	115035	118442	121849	125256	128663	132070	136714	3407	4644
30	117460	120994	124528	128062	131596	135130	138664	143423	3534	4759
31	123721	127388	131055	134722	138389	142056	145723	150612	3667	4889
32	130301	134089	137877	141665	145453	149241	153029	158054	3788	5025

(2) Effective March twenty-eighth, two thousand twenty-four:

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	JR INCR	INCR
1	27946	28889	29832	30775	31718	32661	33604	34540	943	936
2	29012	30001	30990	31979	32968	33957	34946	35942	989	996
3	30461	31495	32529	33563	34597	35631	36665	37692	1034	1027
4	31792	32886	33980	35074	36168	37262	38356	39450	1094	1094
5	33313	34459	35605	36751	37897	39043	40189	41328	1146	1139
6	35177	36367	37557	38747	39937	41127	42317	43521	1190	1204
7	37121	38370	39619	40868	42117	43366	44615	45864	1249	1249
8	39215	40512	41809	43106	44403	45700	46997	48294	1297	1297
9	41399	42755	44111	45467	46823	48179	49535	50884	1356	1349
10	43768	45189	46610	48031	49452	50873	52294	53708	1421	1414
11	46306	47798	49290	50782	52274	53766	55258	56743	1492	1485
12	48956	50500	52044	53588	55132	56676	58220	59757	1544	1537
13	51857	53473	55089	56705	58321	59937	61553	63169	1616	1616
14	54860	56541	58222	59903	61584	63265	64946	66634	1681	1688
15	58046	59798	61550	63302	65054	66806	68558	70317	1752	1759
16	61297	63130	64963	66796	68629	70462	72295	74135	1833	1840
17	64748	66685	68622	70559	72496	74433	76370	78307	1937	1937
18	65001	67231	69461	71691	73921	76151	78381	82656	2230	4275
19	68526	70849	73172	75495	77818	80141	82464	87032	2323	4568
20	72032	74458	76884	79310	81736	84162	86588	91381	2426	4793
21	75850	78378	80906	83434	85962	88490	91018	96173	2528	5155
22	79928	82563	85198	87833	90468	93103	95738	101197	2635	5459
23	84157	86898	89639	92380	95121	97862	100603	106454	2741	5851
24	88639	91490	94341	97192	100043	102894	105745	111897	2851	6152
25	93530	96501	99472	102443	105414	108385	111356	117875	2971	6519

26	98456	101545	104634	107723	110812	113901	116990	121360	3089	4370
27	103786	107040	110294	113548	116802	120056	123310	127830	3254	4520
28	109249	112630	116011	119392	122773	126154	129535	134178	3381	4643
29	114977	118486	121995	125504	129013	132522	136031	140815	3509	4784
30	120984	124624	128264	131904	135544	139184	142824	147726	3640	4902
31	127433	131210	134987	138764	142541	146318	150095	155130	3777	5035
32	134210	138112	142014	145916	149818	153720	157622	162796	3902	5174

(3) Effective March twenty-seventh, two thousand twenty-five:

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	JR INCR	JR INCR
1	28784	29755	30726	31697	32668	33639	34610	35574	971	964
2	29882	30901	31920	32939	33958	34977	35996	37022	1019	1026
3	31375	32440	33505	34570	35635	36700	37765	38823	1065	1058
4	32746	33873	35000	36127	37254	38381	39508	40635	1127	1127
5	34312	35492	36672	37852	39032	40212	41392	42565	1180	1173
6	36232	37458	38684	39910	41136	42362	43588	44828	1226	1240
7	38235	39521	40807	42093	43379	44665	45951	47237	1286	1286
8	40391	41727	43063	44399	45735	47071	48407	49743	1336	1336
9	42641	44037	45433	46829	48225	49621	51017	52413	1396	1396
10	45081	46545	48009	49473	50937	52401	53865	55322	1464	1457
11	47695	49232	50769	52306	53843	55380	56917	58447	1537	1530
12	50425	52015	53605	55195	56785	58375	59965	61548	1590	1583
13	53413	55077	56741	58405	60069	61733	63397	65061	1664	1664
14	56506	58238	59970	61702	63434	65166	66898	68630	1732	1732
15	59787	61592	63397	65202	67007	68812	70617	72429	1805	1812
16	63136	65024	66912	68800	70688	72576	74464	76359	1888	1895
17	66690	68685	70680	72675	74670	76665	78660	80655	1995	1995
18	66951	69248	71545	73842	76139	78436	80733	85138	2297	4405
19	70582	72975	75368	77761	80154	82547	84940	89645	2393	4705
20	74193	76692	79191	81690	84189	86688	89187	94121	2499	4934
21	78126	80730	83334	85938	88542	91146	93750	99056	2604	5306
22	82326	85040	87754	90468	93182	95896	98610	104230	2714	5620
23	86682	89505	92328	95151	97974	100797	103620	109650	2823	6030
24	91298	94234	97170	100106	103042	105978	108914	115252	2936	6338
25	96336	99396	102456	105516	108576	111636	114696	121413	3060	6717
26	101410	104592	107774	110956	114138	117320	120502	125001	3182	4499
27	106900	110252	113604	116956	120308	123660	127012	131665	3352	4653

28	112526	116008	119490	122972	126454	129936	133418	138203	3482	4785
29	118426	122040	125654	129268	132882	136496	140110	145039	3614	4929
30	124614	128363	132112	135861	139610	143359	147108	152158	3749	5050
31	131256	135146	139036	142926	146816	150706	154596	159784	3890	5188
32	138236	142255	146274	150293	154312	158331	162350	167680	4019	5330

f. Effective on the dates indicated, salary grades for all positions in the competitive, non-competitive, and labor classes of the classified service of the state of New York in the collective negotiating unit designated as the security services collective negotiating unit established pursuant to article fourteen of this chapter shall be as follows:

(1) Effective April sixth, two thousand twenty-three for those officers and employees on the institution payroll and effective March thirtieth, two thousand twenty-three, for those officers and employees on the administration payroll.

SG	Hiring Rate	Perf. Advance Step 1	Perf. Advance Step 2	Perf. Advance Step 3	Perf. Advance Step 4	Perf. Advance Step 5	Job Rate	Perf. Adv.
1	30679	31874	33069	34264	35459	36654	37849	1195
2	31717	32976	34235	35494	36753	38012	39271	1259
3	33167	34480	35793	37106	38419	39732	41045	1313
4	34558	35942	37326	38710	40094	41478	42862	1384
5	36089	37542	38995	40448	41901	43354	44807	1453
6	37863	39395	40927	42459	43991	45523	47055	1532
7	39881	41471	43061	44651	46241	47831	49421	1590
8	42005	43657	45309	46961	48613	50265	51917	1652
9	44227	45952	47677	49402	51127	52852	54577	1725
10	46616	48431	50246	52061	53876	55691	57506	1815
11	49239	51127	53015	54903	56791	58679	60567	1888
12	51854	53826	55798	57770	59742	61714	63686	1972
13	54820	56876	58932	60988	63044	65100	67156	2056
14	57843	59999	62155	64311	66467	68623	70779	2156
15	61045	63286	65527	67768	70009	72250	74491	2241
16	64365	66708	69051	71394	73737	76080	78423	2343

17	67851	70321	72791	75261	77731	80201	82671	2470
18	71585	74176	76767	79358	81949	84540	87131	2591
19	75370	78080	80790	83500	86210	88920	91630	2710
20	79122	81953	84784	87615	90446	93277	96108	2831
21	83256	86205	89154	92103	95052	98001	100950	2949
22	87586	90710	93834	96958	100082	103206	106330	3124
23	92205	95416	98627	101838	105049	108260	111471	3211
24	97068	100398	103728	107058	110388	113718	117048	3330
25	102355	105831	109307	112783	116259	119735	123211	3476

				Max
	10 Yr. Long	15 Yr. Long	20 Yr. Long	25 Yr. Long
SG	Step	Step	Step	Step
1	39957	41812	45161	47542
2	41500	43463	46907	49394
3	43371	45416	48929	51502
4	45473	47462	51065	53578
5	47380	49644	53347	56139
6	49768	52150	55963	58873
7	52242	54719	58608	61610
8	54850	57422	61395	64501
9	57640	60327	64409	67628
10	60712	63535	67721	71069
11	63904	66845	71135	74600
12	67181	70254	74662	78258
13	70796	73996	78519	82241
14	74591	77946	82597	86476
15	78463	81955	86727	90746
16	82572	86225	91135	95310
17	87036	90880	95957	100324
18	91722	95764	101012	105576
19	96423	100639	106039	110784
20	101122	105538	111108	116046
21	106178	110778	116510	121638
22	111858	116722	122684	128075
23	117166	122180	128267	133804
24	122950	128144	134396	140116

25 129365 134787 141227 147169

(2) Effective April fourth, two thousand twenty-four for those officers and employees on the institution payroll and effective March twenty-seventh, two thousand twenty-four, for those officers and employees on the administration payroll.

SG	Hiring Rate	Perf. Advance Step 1	Perf. Advance Step 2	Perf. Advance Step 3	Perf. Advance Step 4	Perf. Advance Step 5	Job Rate	Perf. Adv.
1	31599	32830	34061	35292	36523	37754	38985	1231
2	32669	33966	35263	36560	37857	39154	40451	1297
3	34162	35514	36866	38218	39570	40922	42274	1352
4	35595	37021	38447	39873	41299	42725	44151	1426
5	37172	38669	40166	41663	43160	44657	46154	1497
6	38999	40577	42155	43733	45311	46889	48467	1578
7	41077	42715	44353	45991	47629	49267	50905	1638
8	43265	44967	46669	48371	50073	51775	53477	1702
9	45554	47331	49108	50885	52662	54439	56216	1777
10	48014	49884	51754	53624	55494	57364	59234	1870
11	50716	52661	54606	56551	58496	60441	62386	1945
12	53410	55441	57472	59503	61534	63565	65596	2031
13	56465	58583	60701	62819	64937	67055	69173	2118
14	59578	61799	64020	66241	68462	70683	72904	2221
15	62876	65184	67492	69800	72108	74416	76724	2308
16	66296	68709	71122	73535	75948	78361	80774	2413
17	69887	72431	74975	77519	80063	82607	85151	2544
18	73733	76402	79071	81740	84409	87078	89747	2669
19	77631	80422	83213	86004	88795	91586	94377	2791
20	81496	84412	87328	90244	93160	96076	98992	2916
21	85754	88792	91830	94868	97906	100944	103982	3038
22	90214	93432	96650	99868	103086	106304	109522	3218
23	94971	98278	101585	104892	108199	111506	114813	3307
24	99980	103410	106840	110270	113700	117130	120560	3430
25	105426	109006	112586	116166	119746	123326	126906	3580

10 Yr.	15 Yr.	20 Yr.	Max 25 Yr.

SG	Long Step	Long Step	Long Step	Long Step
1	41156	43067	46516	48969
2	42747	44769	48316	50878
3	44670	46776	50395	53045
4	46840	48889	52600	55188
5	48804	51136	54950	57826
6	51261	53715	57642	60640
7	53811	56362	60368	63460
8	56498	59147	63239	66439
9	59371	62139	66343	69659
10	62536	65444	69755	73204
11	65823	68852	73271	76840
12	69196	72361	76901	80605
13	72922	76218	80877	84711
14	76830	80286	85077	89072
15	80815	84412	89327	93467
16	85047	88810	93867	98168
17	89647	93606	98836	103334
18	94476	98639	104044	108745
19	99314	103656	109218	114106
20	104156	108705	114442	119528
21	109367	114105	120009	125291
22	115216	120226	126367	131919
23	120679	125843	132113	137816
24	126639	131989	138428	144320
25	133245	138829	145462	151583

(3) Effective April third, two thousand twenty-five for those officers and employees on the institution payroll and effective March twenty-eighth, two thousand twenty-five, for those officers and employees on the administration payroll.

SG	Hiring Rate	Perf. Advance Step 1	Perf. Advance Step 2	Perf. Advance Step 3	Perf. Advance Step 4	Perf. Advance Step 5	Job Rate	Perf. Adv.
1	32547	33815	35083	36351	37619	38887	40155	1268

2	33649	34985	36321	37657	38993	40329	41665	1336
3	35187	36580	37973	39366	40759	42152	43545	1393
4	36663	38132	39601	41070	42539	44008	45477	1469
5	38287	39829	41371	42913	44455	45997	47539	1542
6	40169	41794	43419	45044	46669	48294	49919	1625
7	42309	43996	45683	47370	49057	50744	52431	1687
8	44563	46316	48069	49822	51575	53328	55081	1753
9	46921	48751	50581	52411	54241	56071	57901	1830
10	49454	51380	53306	55232	57158	59084	61010	1926
11	52237	54241	56245	58249	60253	62257	64261	2004
12	55012	57104	59196	61288	63380	65472	67564	2092
13	58159	60341	62523	64705	66887	69069	71251	2182
14	61365	63653	65941	68229	70517	72805	75093	2288
15	64762	67139	69516	71893	74270	76647	79024	2377
16	68285	70770	73255	75740	78225	80710	83195	2485
17	71984	74604	77224	79844	82464	85084	87704	2620
18	75945	78694	81443	84192	86941	89690	92439	2749
19	79960	82835	85710	88585	91460	94335	97210	2875
20	83941	86945	89949	92953	95957	98961	101965	3004
21	88327	91456	94585	97714	100843	103972	107101	3129
22	92920	96235	99550	102865	106180	109495	112810	3315
23	97820	101226	104632	108038	111444	114850	118256	3406
24	102979	106512	110045	113578	117111	120644	124177	3533
25	108589	112276	115963	119650	123337	127024	130711	3687

				Max
	10 Yr.	15 Yr.	20 Yr.	25 Yr.
	Long	Long	Long	Long
SG	Step	Step	Step	Step
1	42391	44359	47912	50439
2	44030	46113	49766	52405
3	46013	48182	51910	54639
4	48247	50357	54179	56845
5	50269	52670	56599	59561
6	52797	55324	59369	62457
7	55424	58052	62178	65363
8	58193	60921	65136	68432
9	61151	64002	68332	71747

10	64411	67406	71847	75399
11	67801	70921	75473	79149
12	71272	74532	79208	83023
13	75112	78507	83306	87255
14	79137	82696	87631	91746
15	83238	86943	92005	96269
16	87596	91472	96681	101111
17	92335	96413	101800	106432
18	97310	101598	107165	112007
19	102295	106767	112496	117531
20	107284	111969	117879	123117
21	112648	117528	123609	129049
22	118675	123835	130160	135879
23	124298	129617	136075	141949
24	130438	135949	142581	148650
25	137240	142992	149824	156128

h. Pursuant to the terms of an agreement entered into pursuant to article fourteen of this chapter between the state and an employee organization covering members of the collective negotiating unit designated as the agency police services unit, effective on the dates indicated, salary grades for such unit members shall be as follows:

(1) Effective April first, two thousand twenty-three:

SG	Hiring Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Job Rate	Incr
1	33913	35107	36301	37495	38689	39883	41077	1194
2	34951	36209	37467	38725	39983	41241	42499	1258
3	36398	37710	39022	40334	41646	42958	44270	1312
4	37790	39173	40556	41939	43322	44705	46088	1383
5	39325	40780	42235	43690	45145	46600	48055	1455
6	41098	42627	44156	45685	47214	48743	50272	1529
7	43116	44708	46300	47892	49484	51076	52668	1592
8	45242	46896	48550	50204	51858	53512	55166	1654
9	47461	49185	50909	52633	54357	56081	57805	1724
10	49850	51665	53480	55295	57110	58925	60740	1815
11	52473	54361	56249	58137	60025	61913	63801	1888
12	55087	57058	59029	61000	62971	64942	66913	1971

13	58051	60109	62167	64225	66283	68341	70399	2058
14	61077	63234	65391	67548	69705	71862	74019	2157
15	64276	66520	68764	71008	73252	75496	77740	2244
16	67596	69940	72284	74628	76972	79316	81660	2344
17	71088	73557	76026	78495	80964	83433	85902	2469
18	74819	77414	80009	82604	85199	87794	90389	2595
19	78600	81310	84020	86730	89440	92150	94860	2710
20	82354	85183	88012	90841	93670	96499	99328	2829
21	86489	89439	92389	95339	98289	101239	104189	2950
22	90820	93945	97070	100195	103320	106445	109570	3125
23	95436	98649	101862	105075	108288	111501	114714	3213
24	100298	103631	106964	110297	113630	116963	120296	3333
25	105589	109065	112541	116017	119493	122969	126445	3476

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	25 Yr. Long Max. Step
1	42860	44642	48096	49880
2	44386	46272	49827	51716
3	46237	48205	51844	53813
4	48158	50230	53966	56033
5	50232	52410	56256	58434
6	52566	54859	58823	61117
7	55052	57436	61490	63873
8	57642	60118	64267	66747
9	60396	62988	67246	69832
10	63456	66167	70549	73264
11	66627	69446	73948	76774
12	69868	72824	77453	80408
13	73477	76555	81309	84385
14	77244	80468	85369	88592
15	81100	84460	89492	92850
16	85173	88687	93864	97375
17	89597	93292	98658	102353
18	94272	98156	103716	107603
19	98916	102971	108696	112753

20	103574	107818	113729	117976
21	108614	113042	119130	123553
22	114248	118925	125272	129952
23	119533	124355	130843	135662
24	125290	130286	136956	141950
25	131655	136868	143744	148953

(2) Effective April first, two thousand twenty-four:

	Hiring						Job	
SG	Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Rate	Incr
1	34930	36160	37390	38620	39850	41080	42310	1230
2	36000	37296	38592	39888	41184	42480	43776	1296
3	37490	38841	40192	41543	42894	44245	45596	1351
4	38924	40349	41774	43199	44624	46049	47474	1425
5	40505	42004	43503	45002	46501	48000	49499	1499
6	42331	43906	45481	47056	48631	50206	51781	1575
7	44409	46049	47689	49329	50969	52609	54249	1640
8	46599	48303	50007	51711	53415	55119	56823	1704
9	48885	50661	52437	54213	55989	57765	59541	1776
10	51346	53215	55084	56953	58822	60691	62560	1869
11	54047	55992	57937	59882	61827	63772	65717	1945
12	56740	58770	60800	62830	64860	66890	68920	2030
13	59793	61913	64033	66153	68273	70393	72513	2120
14	62909	65131	67353	69575	71797	74019	76241	2222
15	66204	68515	70826	73137	75448	77759	80070	2311
16	69624	72038	74452	76866	79280	81694	84108	2414
17	73221	75764	78307	80850	83393	85936	88479	2543
18	77064	79737	82410	85083	87756	90429	93102	2673
19	80958	83749	86540	89331	92122	94913	97704	2791
20	84825	87739	90653	93567	96481	99395	102309	2914
21	89084	92123	95162	98201	101240	104279	107318	3039
22	93545	96764	99983	103202	106421	109640	112859	3219
23	98299	101608	104917	108226	111535	114844	118153	3309
24	103307	106740	110173	113606	117039	120472	123905	3433
25	108757	112337	115917	119497	123077	126657	130237	3580

				Long Max.
10 Yr.	15 Yr.	20 Yr.	25 Yr.	

SG	Long Step	Long Step	Long Step	Long Step
1	44146	45982	49540	51377
2	45720	47662	51324	53270
3	47622	49649	53397	55425
4	49606	51740	55588	57717
5	51741	53985	57946	60189
6	54144	56506	60589	62951
7	56705	59160	63336	65790
8	59373	61924	66197	68751
9	62210	64879	69265	71929
10	65357	68150	72663	75460
11	68628	71531	76168	79079
12	71964	75008	79776	82820
13	75683	78854	83750	86919
14	79563	82883	87932	91251
15	83531	86992	92175	95633
16	87726	91346	96678	100294
17	92285	96091	101618	105424
18	97101	101102	106829	110832
19	101882	106058	111955	116134
20	106682	111054	117142	121516
21	111876	116437	122707	127263
22	117677	122495	129032	133852
23	123117	128083	134766	139729
24	129049	134195	141065	146209
25	135603	140973	148055	153420

(3) Effective April first, two thousand twenty-five:

SG	Hiring Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Job Rate	Incr
1	35978	37245	38512	39779	41046	42313	43580	1267
2	37080	38415	39750	41085	42420	43755	45090	1335
3	38615	40007	41399	42791	44183	45575	46967	1392
4	40092	41560	43028	44496	45964	47432	48900	1468
5	41720	43264	44808	46352	47896	49440	50984	1544
6	43601	45223	46845	48467	50089	51711	53333	1622
7	45741	47430	49119	50808	52497	54186	55875	1689

8	47997	49752	51507	53262	55017	56772	58527	1755
9	50352	52181	54010	55839	57668	59497	61326	1829
10	52886	54811	56736	58661	60586	62511	64436	1925
11	55668	57672	59676	61680	63684	65688	67692	2004
12	58442	60533	62624	64715	66806	68897	70988	2091
13	61587	63771	65955	68139	70323	72507	74691	2184
14	64796	67085	69374	71663	73952	76241	78530	2289
15	68190	70570	72950	75330	77710	80090	82470	2380
16	71713	74199	76685	79171	81657	84143	86629	2486
17	75418	78037	80656	83275	85894	88513	91132	2619
18	79376	82129	84882	87635	90388	93141	95894	2753
19	83387	86262	89137	92012	94887	97762	100637	2875
20	87370	90371	93372	96373	99374	102375	105376	3001
21	91757	94887	98017	101147	104277	107407	110537	3130
22	96351	99667	102983	106299	109615	112931	116247	3316
23	101248	104656	108064	111472	114880	118288	121696	3408
24	106406	109942	113478	117014	120550	124086	127622	3536
25	112020	115707	119394	123081	126768	130455	134142	3687

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	25 Yr. Long Max. Long Step
1	45471	47362	51027	52919
2	47092	49093	52864	54869
3	49054	51142	55002	57091
4	51096	53294	57257	59450
5	53293	55605	59684	61995
6	55767	58200	62405	64838
7	58405	60933	65235	67762
8	61154	63781	68182	70813
9	64075	66824	71342	74086
10	67317	70194	74842	77723
11	70690	73680	78457	81455
12	74123	77259	82170	85305
13	77956	81222	86265	89529
14	81952	85371	90572	93990

15	86035	89600	94938	98500
16	90356	94084	99576	103301
17	95052	98972	104665	108585
18	100013	104134	110033	114156
19	104940	109242	115316	119620
20	109880	114383	120654	125159
21	115232	119930	126388	131080
22	121210	126172	132905	137870
23	126809	131924	138807	143919
24	132920	138221	145297	150595
25	139669	145200	152495	158020

2. Allocation of positions. All positions allocated pursuant to title A of article eight of this chapter shall be allocated to an appropriate salary grade as prescribed in subdivision one of this section, and all positions in a promotional series shall be allocated to salary grades which properly reflect the varying degrees of responsibilities and duties to be performed and training required.

3. Longevity Payment. (a) Notwithstanding any inconsistent provision of this chapter, effective April twenty-eighth, nineteen hundred eighty-eight, for employees on the administration payroll and May fifth, nineteen hundred eighty-eight, for employees on the institution payroll, an employee holding a position in the collective negotiating unit designated as the security services unit allocated to a salary grade described in paragraph b of subdivision one of this section shall be entitled to a longevity payment upon the completion of ten years of continuous service in a title or a combination of titles which exist or have existed in the security services/supervisors occupational title series. Such employee shall be entitled to an additional longevity payment upon the completion of fifteen years of such service and an additional longevity payment upon completion of twenty years of such service. The longevity amount shall be as specified in the current salary schedule for the salary grade for the position which the employee holds upon completion of the prescribed service requirements or, in the case of the twenty year longevity payment, half of the performance advance amount for such grade for such position. Effective April first,

nineteen hundred eighty-nine, the twenty year longevity payment shall be three-quarters of the performance advance amount for such grade for such position and, effective April first, nineteen hundred ninety, the twenty year longevity payment shall be equal to the performance advance amount for such grade for such position. The longevity amount shall not exceed the longevity maximum, and shall be added to the employee's basic salary effective on the first day of the payroll period which next begins following completion of such service; provided, however, that an employee's basic annual salary may not exceed the longevity maximum of the salary grade of the employee's current position as a result of a longevity payment. Notwithstanding the foregoing provisions of this paragraph, an employee holding a position in the security services unit allocated to a salary grade prescribed in paragraph b of subdivision one of this section who has completed the prescribed service requirements for the twenty year longevity payment prior to April first, nineteen hundred eighty-five and who has not previously received a longevity payment for such service shall be entitled to such twenty year longevity payment effective April twenty-fifth, nineteen hundred eighty-five for employees on the institutional payroll and May second, nineteen hundred eighty-five for employees on the administrative payroll at the current twenty year longevity payment amount of the salary grade of the title which the employee was in upon completion of the twenty year service requirement; provided, however, that an employee's basic annual salary may not exceed the longevity maximum of the salary grade of the employee's current position as a result of such longevity payment. Employees in such unit who have already received a twenty year longevity payment or payments prior to April first, nineteen hundred eighty-nine, shall, effective April first, nineteen hundred eighty-nine, receive an adjustment in such twenty year longevity payment based on the current twenty year longevity payment amount of the salary grade of the title or titles which the employee was in upon completion of the twenty year service requirement. Employees in such unit who have already received a twenty year longevity payment or payments prior to April first, nineteen hundred ninety, shall, effective April first, nineteen hundred ninety, receive an adjustment in such twenty year longevity payment based on the current twenty year longevity payment amount of the salary grade of the title or titles which the employee was in upon completion of the twenty

year service requirement.

(b) Notwithstanding any inconsistent provision of this chapter, effective April twenty-eighth, nineteen hundred eighty-eight for employees on the administration payroll and May fifth, nineteen hundred eighty-eight for employees on the institution payroll, an employee holding a position in the collective negotiating unit designated as the security supervisors unit allocated to a salary grade prescribed in paragraph b of subdivision one of this section shall be entitled to a longevity payment upon the completion of ten years of continuous service in a title or a combination of titles which exist or have existed in the security services/supervisors occupational title series. Such employee shall be entitled to an additional longevity payment upon the completion of fifteen years of such service and an additional longevity payment upon completion of twenty years of such service. The longevity amount shall be as specified in the salary schedule for the current salary grade for the position which the employee holds upon completion of prescribed service requirements or in the case of the twenty year longevity payment half of the performance advance amount for such grade for such position. Effective April first, nineteen hundred eighty-nine, the twenty year longevity payment shall be three-quarters of the performance advance amount for such grade for such position and, effective April first, nineteen hundred ninety, the twenty year longevity payment shall be equal to the performance advance amount for such grade for such position. The longevity amount shall not exceed the longevity maximum and shall be added to the employee's basic annual salary effective on the first day of the payroll period which next begins following completion of such service; except that the twenty year longevity payment shall be for the salary grade for the position which the employee presently holds and shall be added to the employee's basic salary effective on the first day of the payroll period which next begins following completion of such service; provided, however, that an employee's basic annual salary may not exceed the longevity maximum of the salary grade as a result of a longevity payment. Notwithstanding the foregoing provisions of this paragraph, an employee holding a position in the security supervisors unit allocated to a salary grade prescribed in paragraph b of subdivision one of this section who has completed the prescribed service requirements for the twenty year longevity payment

prior to April first, nineteen hundred eighty-five and who has not previously received a longevity payment for such service shall be entitled to such twenty year longevity payment effective April twenty-fifth, nineteen hundred eighty-five for employees on the institutional payroll and May second, nineteen hundred eighty-five for employees on the administrative payroll at the current twenty year longevity payment amount of the salary grade of the title which the employee presently holds; provided, however, that an employee's basic annual salary may not exceed the longevity maximum of the salary grade of the employee's current position as a result of such longevity payment. Employees in such unit who have already received a twenty year longevity payment or payments prior to April first, nineteen hundred eighty-nine, shall, effective April first, nineteen hundred eighty-nine, receive an adjustment in such twenty year longevity payment based on the current twenty year longevity payment amount of the salary grade of the title or titles which the employee was in upon initial receipt of the twenty year longevity payment. Employees in such unit who have already received a twenty year longevity payment or payments prior to April first, nineteen hundred ninety, shall, effective April first, nineteen hundred ninety, receive an adjustment in such twenty year longevity payment based on the current twenty year longevity payment amount of the salary grade of the title or titles which the employee was in upon initial receipt of the twenty year longevity payment.

(c) For the purposes of this subdivision, the term continuous service shall mean uninterrupted service in the classified service. An employee who has been on a preferred list pursuant to section eighty-one of this chapter, or section two hundred forty-three of the military law, or who has been on leave of absence, or who has resigned and who has been reinstated, or who has been on workers' compensation leave, shall be deemed to have continuous service; provided, however, that such employee shall not receive credit for other than paid service or time spent on workers' compensation leave, but the failure to receive credit for service shall not constitute an interruption of continuous service.

(d) Effective on and after April first, nineteen hundred seventy-nine that portion of the basic annual salary of an employee to whom the provisions of this subdivision apply which exceeds the job rate of the salary grade to which his position is allocated, and any additions to

his basic annual salary paid in accordance with the provisions of paragraphs (a) and (b) of this subdivision shall be considered to be longevity payment.

(e) (1) Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or division of military and naval affairs unit so provides officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand sixteen, on their anniversary date have five or more years, but less than ten years, of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, shall receive a lump sum payment in the amount of one thousand two hundred fifty dollars. Effective April first, two thousand nineteen, such lump sum payment shall increase to one thousand five hundred dollars.

(2) Effective until March thirty-first, two thousand twenty, where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or division of military and naval affairs unit so provides officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand sixteen, on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall receive a lump sum payment in the amount of two thousand five hundred dollars which, effective April first, two thousand nineteen, such lump sum payment shall be increased to three thousand dollars. Effective April first, two thousand twenty, where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or division of military and naval affairs unit so provides officers and

employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand twenty, on their anniversary date have ten or more years, but less than fifteen years, of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall receive a lump sum payment in the amount of three thousand dollars.

(3) Effective April first, two thousand twenty, where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or division of military and naval affairs unit so provides officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand twenty, on their anniversary date have fifteen or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall receive a lump sum payment in the amount of four thousand five hundred dollars.

(4) Such lump sum payment, as provided by this paragraph, shall be in addition to and not part of the employee's basic annual salary, provided however that any amount payable by this paragraph shall be included as compensation for overtime and retirement purposes. Such lump sum payment, as provided by this paragraph, shall be payable in April of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, or ten or more, or fifteen or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade during the period October first through March thirty-first of the previous fiscal year. Such lump sum payment, as provided by this paragraph, shall be payable in October of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, or ten or more, or fifteen or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their

salary grade during the period April first through September thirtieth of that same fiscal year.

(5) Effective April first, two thousand twenty-five, where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or division of military and naval affairs unit so provides officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand twenty-five, on their anniversary date have twelve or more years, but less than seventeen years, of continuous service within one or any of the collective bargaining units, shall receive a lump sum payment in the amount of one thousand five hundred dollars.

(6) Effective April first, two thousand twenty-five, where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or division of military and naval affairs unit so provides officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand twenty-five, on their anniversary date have seventeen or more years but less than twenty-two years of continuous service within one or any of the collective bargaining units shall receive a lump sum payment in the amount of three thousand dollars.

(7) Effective April first, two thousand twenty-five, where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or division of military and naval affairs unit so provides officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand twenty-five, on their anniversary date have twenty-two or more years of continuous service within one or any of the collective bargaining units shall receive a lump sum payment in the amount of four thousand five hundred dollars.

(8) Such lump sum payment, as provided by subparagraphs five, six and seven of this paragraph, shall be in addition to and not part of the employee's basic annual salary, provided however that any amount payable by this paragraph shall be included as compensation for overtime and retirement purposes.

(9) Such lump sum payment, as provided by subparagraphs five, six and seven of this paragraph, shall be payable in April of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved the continuous service required for a specific payment during the period October first through March thirty-first of the previous fiscal year. Such lump sum payment, as provided by subparagraph five, six or seven of this paragraph, shall be payable in October of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved the continuous service, as defined by this section, required for a specific payment during the period April first through September thirtieth of that same fiscal year.

(10) Effective April first, two thousand twenty-five, no employee shall receive a longevity payment pursuant to subparagraph one, two or three of this paragraph. All employees, to the extent eligible, shall receive a longevity payment pursuant to subparagraph five, six or seven of this paragraph.

(f) Notwithstanding the provisions of paragraph (e) of this subdivision, officers and employees otherwise eligible to receive the longevity payments provided by paragraph (e) of this subdivision who, on their eligibility date, are serving in a higher graded position (i) on a temporary basis or on a probationary or a permanent basis and subsequently fail the probationary period or accept a voluntary demotion which is not a consequence or settlement of a disciplinary action or are demoted as a result of the abolition of positions and (ii) return to a position in a lower salary grade and (iii) remain in such lower salary grade for at least six payroll periods shall be eligible for such longevity payments.

(g) Officers and employees to whom the provisions of paragraph (e) of this subdivision apply who were serving at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position as of July first, nineteen hundred seventy-nine, and who were in full employment status on a full-time basis for the period April

first, nineteen hundred seventy-nine through June thirtieth, nineteen hundred seventy-nine, shall be considered to have been paid at the annual salary rate equal to or above the job rate for their grade for that period in determining fulfillment of the service requirements specified in paragraph (e) of this subdivision. The provisions of this paragraph apply solely for the purpose of implementation of the provisions of paragraph (e) of this subdivision.

(h) Officers and employees to whom the provisions of paragraph (e) of this subdivision apply who were serving at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position and who were appointed or promoted to a position of equivalent or higher salary grade at an annual salary rate equal to or in excess of the job rate or maximum annual salary shall be entitled to have such service in each such position considered as eligible service in determining fulfillment of the service requirements specified in paragraph (e) of this subdivision.

(i) Notwithstanding any foregoing provisions of paragraph (e) of this subdivision to the contrary, officers and employees to whom the provisions of paragraph (e) of this subdivision apply who were serving at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position and whose annual salary rate was subsequently less than the job rate or maximum salary of their position as a result of the mechanics of salary computation upon reallocation shall, solely for the purpose of paragraph (e) of this subdivision, be entitled to have service at such lower salary rate deemed to be service at the job rate and considered as eligible service in determining fulfillment of the service requirements specified in such paragraph (e) provided the actual annual salary rate of such officers or employees is equal to or in excess of the job rate on their anniversary dates.

(j) In order to provide for the officers and employees to whom this subdivision applies who are not allocated to salary grades, increases and payments pursuant to paragraph (e) of this subdivision in proportion to those provided to persons to whom this applies who are allocated to salary grades, the director of the budget is authorized to add appropriate adjustments and/or payments to the compensation which such officers and employees are otherwise entitled to receive. The director

of the budget shall issue certificates which shall contain schedules of positions and the salaries and/or payments thereof for which adjustments and/or payments are made pursuant to the provisions of this paragraph and a copy of each such certificate shall be filed with the state comptroller, the department of civil service, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

4. Increased hiring salaries. Whenever the director shall determine that it is impracticable to recruit for a position at its then hiring salary in one or more or all areas or locations, he, subject to the approval of the director of the budget, may increase the hiring salary of the salary grade of such position with respect to which such determination shall have been made, but not to exceed the job rate of the salary grade of such position. Such new hiring salary shall remain in effect until he shall prescribe a different hiring salary pursuant to this subdivision or restore the hiring salary to the hiring salary set forth in this section. When any such increase is made with respect to one or more or all areas or locations, all incumbents of such positions who are employed in any state department, state institution or other state agency, in the particular area or areas or location or locations affected, who are receiving less than such new hiring salary shall have their salaries brought up to such hiring salary. For the purpose of computing future performance advances such incumbents and new employees in such positions shall be credited with the amount of performance advances in such positions which corresponds with such rate of compensation. The salary or compensation of any officer or employee appointed, promoted, demoted, transferred or reinstated to or from a position for which an increased hiring salary has been prescribed under the provisions of this subdivision, shall be determined as follows:

(a) The incumbent of any such position, for which an increased hiring salary is prescribed under the provisions of this subdivision, who is appointed, transferred or reinstated to the same titled position in an area or location to which the same increased hiring salary does not apply shall receive, upon such appointment, transfer or reinstatement, the salary he would have received had he been originally employed in such area or location to which he is appointed, transferred or

reinstated.

(b) The incumbent of any such position for which an increased hiring salary is prescribed under the provisions of this subdivision, who is appointed, transferred, reinstated or demoted to another position in the same or a lower salary grade, for which an increased hiring salary is not prescribed, shall receive, upon such appointment, transfer, reinstatement or demotion, the rate of compensation which he would be entitled to receive had his service for the period of time during which he held the position from which he is appointed, transferred, reinstated or demoted, been rendered in the position to which he is appointed, transferred, reinstated or demoted.

(c) The incumbent of any such position for which an increased hiring salary is prescribed under the provisions of this subdivision, who is appointed, transferred, reinstated or demoted to another position in the same or a lower salary grade for which an increased hiring salary is also prescribed under the provisions of this subdivision, shall receive, upon such appointment, transfer, reinstatement or demotion, the rate of compensation which he would be entitled to receive had his service for the period of time during which he held the position from which he is appointed, transferred, reinstated or demoted, been rendered in the position to which he is appointed, transferred, reinstated or demoted.

(d) The incumbent of any such position for which an increased hiring salary is prescribed under the provisions of this subdivision, who is appointed or promoted to another position in a higher salary grade, shall receive, upon such appointment or promotion, a salary as determined pursuant to the provisions of subdivision two of section one hundred thirty-one of this chapter.

(e) The incumbent of a position for which an increased hiring salary is not prescribed under the provisions of this subdivision, who is appointed, transferred, demoted or reinstated to a position in the same or a lower salary grade for which an increased hiring salary is prescribed shall receive, upon such appointment, transfer, demotion or reinstatement, the hiring salary of the grade of such new position as prescribed in subdivision one of this section plus the number of annual increments and the percentage value of performance advances actually received in the positions from which and to which he is appointed, transferred, demoted or reinstated; provided, however, that he shall

receive at least the increased hiring salary of such new position as prescribed under the provisions of this subdivision and not more than the job rate of the grade of such new position.

(f) Where an increased hiring salary prescribed under the provisions of this subdivision for any position is reduced or discontinued, the salary of a then incumbent of such position shall not be reduced.

5. (a) Applications to director. Any employee, employee representative, or appointing officer, with respect to any position or positions in his department or agency, may apply to the director, on a form prescribed and furnished by him, for a review of such position or positions to determine whether a pay differential should be authorized pursuant to this section. The director may consolidate applications pertaining to a particular position or positions. The director may designate an officer or employee of the division to conduct a hearing with relation to any application for a pay differential. Such applications shall not include any matter involving an employee's rate of compensation which is presently provided for under sections one hundred twenty and one hundred twenty-one of the civil service law, or any other matter which is otherwise reviewable pursuant to law or any rule or regulation having the force and effect of law.

(b) Appeals. Any employee, employee representative or appointing officer aggrieved by a determination of the director may appeal from such determination to the commission. Such appeal must be made within sixty days after receipt of a written notice of such determination. Determinations of the commission shall be subject to the same conditions, restrictions and limitations provided in this section for the determinations of the director. The commission shall transmit its decision to the director of the budget, the director of the division of classification and compensation and the employees, employee representative or department heads affected thereby.

6. Shift pay differentials. Whenever the director finds that under prevailing wage practices in private or other public employment in the state, employees in a given occupation receive a higher rate of pay or wage differential for a work shift other than that which is paid to employees in the same occupation, the director may, subject to the

approval of the director of the budget, authorize a pay differential to be paid to those employees in positions in the same or related occupations in the state service and who are assigned to an equivalent or substantially equivalent work shift, on a statewide basis, provided however, where the director finds that in a particular geographical area or areas wage practices would warrant a shift differential for employees in a particular occupation then the director may grant a work shift pay differential for such employees, subject to the approval of the director of the budget. In determining whether to authorize a pay differential the director shall consider the various duties on each shift, in relation to the normal day shift. A pay differential under this subdivision shall be a percentage of basic salary, an hourly rate, an annual rate, or a fixed dollar amount per pay period, as prescribed in each case by the director of the classification and compensation division subject to approval of the director of the budget. Such differential shall be paid in addition to and shall not be part of an employee's basic annual salary, and shall not affect or impair any performance advancement payments, performance awards, longevity payments or other rights or benefits to which an employee may be entitled under the provisions of this chapter, provided, however, that any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes. A pay differential shall be terminated for any employee when the employee ceases to be employed in the work shift or position for which such pay differential was authorized. A pay differential shall remain in effect until terminated by the director of the classification and compensation division with the consent of the director of the budget or until a new pay differential is authorized pursuant to this subdivision. The director of the budget may adopt such regulations as necessary to carry out the provisions of this subdivision.

7. Geographic pay differentials. Whenever the director finds that under community wage practices in private or other public employment in one or more areas or locations, wage rates of employees in a given occupation are substantially higher than the wage rates paid by the state, he may, subject to the approval of the director of the budget, authorize a pay differential to be added as an adjustment to the hiring

rate, the job rate and the longevity steps of the salary grade or grades for the same or related occupations in the state service in such areas or locations. A pay differential under this subdivision shall be a percentage or a fixed dollar amount as prescribed in each case by the director of the classification and compensation division subject to approval of the director of the budget. Such differentials shall be paid to employees whose basic annual salary is at or below the unadjusted job rate of the salary grade or at or below the unadjusted longevity step of the salary grade to which the employees are entitled based on the criteria specified in subdivision three of this section. Those employees whose basic annual salary is above the unadjusted job rate for the salary grade and who are not entitled to be paid at a longevity step shall receive a portion of the differential sufficient to increase their salary to the adjusted job rate. Those employees whose basic annual salary is above the unadjusted longevity step to which they are entitled shall receive a portion of the differential sufficient to increase their salary to such longevity step as adjusted by the differential. Such differentials shall be in addition to and shall not be part of an employee's basic annual salary, and shall not affect or impair any performance advancement payments, performance awards, longevity payments or other rights or benefits to which an employee may be entitled under the provisions of this chapter, provided, however, that any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes. A pay differential shall be terminated for any employee when he ceases to be employed in the position, or area or location for which such pay differential was authorized. A pay differential shall remain in effect until terminated by the director of the classification and compensation division, with the consent of the director of the budget or until a new pay differential is authorized pursuant to this subdivision. The director of the budget may adopt such regulations as he may deem necessary to carry out the provisions of this subdivision. Employees who on April first, nineteen hundred seventy-nine are receiving additional compensation as a result of a previous determination to authorize a geographic area pay differential shall continue to receive such additional compensation while employed in the position for which such differential was authorized.

8. Performance based payments and increases for certain employees excluded from collective negotiating units. (a) The provisions of this subdivision shall apply to the following full-time state officers and employees in salary grades M/C 17 and below: (1) officers and employees whose positions are designated managerial or confidential pursuant to article fourteen of this chapter; (2) civilian state employees of the division of military and naval affairs in the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit; (3) officers and employees excluded from representation rights under article fourteen of this chapter pursuant to rules or regulations of the public employment relations board.

(b) Effective April first, two thousand nineteen longevity payments shall be made in the amount of one thousand five hundred dollars to officers and employees as defined herein who on their anniversary date have five or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, and in the amount of three thousand dollars to officers and employees as defined herein who on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade. Additionally, effective April first, two thousand twenty, such officers and employees to whom the provisions of this subdivision apply whose basic annual salary equals or exceeds the job rate of the salary grade of their position who on their anniversary date have fifteen or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall on such anniversary date receive a longevity payment in the amount of four thousand five hundred dollars. Such payments shall be made in addition to and shall not be considered part of basic annual salary and shall be made by separate check as soon as practicable following the anniversary date upon which the required service is attained.

Effective April first, two thousand twenty-five, officers and

employees to whom paragraph (a) of this subdivision applies who, on or after April first, two thousand twenty-five, on their anniversary date have twelve or more years, but less than seventeen years, of continuous service in the state, shall receive a lump sum payment in the amount of one thousand five hundred dollars. Effective April first, two thousand twenty-five, officers and employees to whom this subdivision applies who, on or after April first, two thousand twenty-five, on their anniversary date have seventeen or more years but less than twenty-two years of continuous service in the state shall receive a lump sum payment in the amount of three thousand dollars. Effective April first, two thousand twenty-five, officers and employees to whom paragraph (a) of this subdivision applies who, on or after April first, two thousand twenty-five, on their anniversary date have twenty-two or more years of continuous service in the state shall receive a lump sum payment in the amount of four thousand five hundred dollars. Such lump sum payment shall be in addition to and not part of the employee's basic annual salary, provided however that any amount payable shall be included as compensation for overtime and retirement purposes. Such lump sum payment shall be paid as authorized by the director of the budget. No employee shall receive more than one longevity payment and, to the greatest extent possible, employees shall receive the longevity payment under the continuous years of service in the state except that no employee shall lose a longevity payment if they have previously received one by virtue of the years at job rate service calculation.

(c) The increases in salary payable pursuant to this subdivision shall apply on a prorated basis to officers and employees, otherwise eligible to receive an increase in salary pursuant to this subdivision, who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis and employees paid on any basis other than at an annual salary rate; except that the provisions of this subdivision shall not apply to employees serving on a seasonal basis, except as determined by the director of the budget.

(d) Notwithstanding the foregoing provisions of this subdivision, officers and employees who are otherwise eligible to receive such longevity payment but who on the anniversary eligibility date are serving in a higher graded position (i) on a temporary basis or on a probationary or permanent basis and subsequently fail the probationary

period or accept a voluntary demotion during the probationary period or are demoted as a result of the abolition of positions and (ii) return to a position in their former salary grade within one year of such eligibility date and (iii) remain in their former salary grade for at least six payroll periods shall be eligible for such longevity payment, except that officers and employees who return to their former salary grade as a result of a disciplinary action or who accept a voluntary demotion after successful completion of the probationary period shall not be eligible for such longevity payment.

(e) Officers and employees to whom the provisions of this subdivision apply who were serving at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position and whose annual salary rate was during some subsequent period less than the job rate or maximum salary of the salary grade of their position as a result of an increase in the job rate or maximum salary, shall be considered to have been paid at the annual salary rate equal to or in excess of the job rate for their grade for such period in determining fulfillment of the service requirements specified in paragraph (b) of this subdivision, provided the officers and employees were in full-time employment status. The provisions of this paragraph apply solely for the purpose of implementation of the provisions of paragraph (b) of this subdivision.

(f) Officers and employees to whom the provisions of this subdivision apply who were serving at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position and who were appointed or promoted to a position of equivalent or higher salary grade at an annual salary rate equal to or in excess of the job rate or maximum annual salary shall be entitled to have such service in each such position considered as eligible service in determining fulfillment of the service requirements specified in paragraph (b) of this subdivision.

(g) Notwithstanding any foregoing provisions of this subdivision to the contrary, officers and employees to whom the provisions of this subdivision apply who were serving at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position and whose annual salary rate was subsequently less than the job rate or maximum salary of the salary grade of their position as a result

of the mechanics of salary computation upon reallocation, shall, solely for the purpose of paragraph (b) of this subdivision, be entitled to have service at such lower salary rate deemed to be service at the job rate and considered as eligible service in determining fulfillment of the service requirements specified in such paragraph (b) provided the actual annual salary rate of such officers or employees is equal to or in excess of the job rate of the salary grade of their position on the anniversary date upon which eligibility for a longevity payment provided pursuant to this subdivision is attained.

(h) The amounts provided pursuant to this subdivision, unless otherwise expressly provided herein, shall be in addition to and shall not be part of the employee's basic annual salary; provided, however, that any amounts payable pursuant to this subdivision shall be included as compensation for retirement purposes.

(i) Officers and employees whose basic annual salary is or was less than the job rate of the salary grade of their position but was not or is not less than ninety-eight percent of such job rate shall for the purpose of this subdivision be deemed to be or have been at the job rate as appropriate.

9. Hazardous duty differentials. (a) Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provide, on behalf of employees serving in positions in a collective negotiating unit represented by such employee organization, and for employees designated managerial or confidential pursuant to article fourteen of this chapter and civilian state employees of the division of military and naval affairs of the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit, whenever the director determines that an employee who is serving in a position at a particular work location or as a result of a temporary work assignment is exposed to an unavoidable, clear and direct risk and hazard to safety and health, the director may, subject to the approval of the director of the budget, authorize a hazardous duty differential for the employee assigned to such position or temporary work assignment. Except for such managerial or confidential employees and such civilian state employees of the division of military

and naval affairs whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit, such differentials determined by the director during the term of such agreement shall only be payable from an amount which is collectively negotiated for such purposes pursuant to the terms of such an agreement between the state and an employee organization representing such employees; thereafter such differentials shall continue for those employees assigned to such position or temporary work assignment unless terminated or revoked in accordance with paragraph (b) of this subdivision.

(b) A hazardous duty differential under this subdivision shall be a percentage or a fixed dollar amount, as prescribed by the director of classification and compensation, subject to the approval of the director of the budget. Such differentials shall be in addition to and shall not be part of an employee's basic annual salary, and shall not affect or impair any performance advancement payments, performance awards, longevity payments or other rights or benefits to which an employee may be entitled under the provisions of this chapter, provided, however, that any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes. A hazardous duty differential shall be terminated for any employee who ceases to be employed in the position or assignment for which the pay differential was authorized; or upon revocation of such differential or upon cessation of the temporary hazardous duty as determined by the director of classification and compensation. The director of the budget may adopt regulations to carry out the provisions of this subdivision.

10. Performance based payments for certain state officers and employees in the rent regulation services negotiating unit. (a) The provisions of this subdivision shall apply to full-time officers and employees in the rent regulation services negotiating unit established pursuant to article fourteen of this chapter.

(b) Notwithstanding any inconsistent provision of law, officers and employees to whom paragraph e of subdivision one of this section applies who, on or after April first, two thousand ten, on their anniversary date have five or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual

salary rate equal to or in excess of the job rate or maximum salary of their salary grade, shall receive a lump sum payment in the amount of one thousand two hundred fifty dollars. Effective April first, two thousand nineteen, such lump sum payment shall increase to one thousand five hundred dollars. Officers and employees to whom paragraph e of subdivision one of this section applies who, on or after April first, two thousand ten, on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall receive a lump sum payment in the amount of two thousand five hundred dollars. Effective April First, two thousand nineteen, such lump sum payment shall be increased to three thousand dollars.

Officers and employees to whom paragraph e of subdivision one of this section applies who, on or after April first, two thousand twenty, on their anniversary date have fifteen or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall receive a lump sum payment in the amount of four thousand five hundred dollars.

Such lump sum payment shall be in addition to and not part of the employee's basic annual salary, provided however that any amount payable herein shall be included as compensation for overtime and retirement purposes.

Such lump sum payment shall be payable in April of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, ten or more or fifteen or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade during the period October first through March thirty-first of the previous fiscal year. Such payment shall be payable in October of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, ten or more or fifteen or more years of

continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade during the period April first through September thirtieth of that same fiscal year. All compensation already included in an employee's basic annual salary shall remain included in such basic annual salary.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, officers and employees otherwise eligible to receive the longevity payments provided by paragraph (b) of this subdivision who, on their eligibility date, are serving in a higher graded position (i) on a temporary basis or on a probationary or a permanent basis and subsequently fail the probationary period or accept a voluntary demotion which is not a consequence or settlement of a disciplinary action or are demoted as a result of the abolition of positions and (ii) return to a position in a lower salary grade and (iii) remain in such lower salary grade for at least six payroll periods shall be eligible for such longevity payments.

(d) Officers and employees to whom the provisions of this subdivision apply who were serving at an annual salary rate in excess of the job rate of their salary grade as of March thirty-first, nineteen hundred eighty-five, shall be deemed to have been paid at the annual salary rate equal to or above the job rate for their salary grade for a period of five years for the purpose of determining fulfillment of the service requirements specified in paragraph (b) of this subdivision. The provisions of this paragraph apply solely for the purpose of implementation of the provisions of paragraph (b) of this subdivision.

(e) Officers and employees to whom the provisions of this subdivision apply who were serving at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position and who were appointed or promoted to a position of equivalent or higher salary grade at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position shall be entitled to have such service in each such position considered as eligible service in determining fulfillment of the service requirements specified in paragraph (b) of this subdivision.

(f) Notwithstanding any foregoing provisions of this subdivision to the contrary, officers and employees to whom the provisions of this

subdivision apply who were serving at an annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position and whose annual salary rate was subsequently less than the job rate or maximum salary of their position as a result of the mechanics of salary computation upon reallocation, shall, solely for the purpose of paragraph (b) of this subdivision, be entitled to have service at such lower salary rate deemed to be service at the job rate and considered as eligible service in determining fulfillment of the service requirements specified in paragraph (b) of this subdivision provided the actual annual salary rate of such officers or employees is equal to or in excess of the job rate on March thirty-first, two thousand three, or on their anniversary dates for the purpose of paragraph (b) of this subdivision.

11-a. Performance awards; longevity increases and salary review. Notwithstanding any inconsistent provisions of this section or any other law and where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of employees serving in positions in a collective negotiating unit represented by such employee organization and for employees designated managerial or confidential pursuant to such article of this chapter and civilian state employees in the division of military and naval affairs whose positions are not in or are excluded from representation rights in any recognized or certified negotiating unit, effective April first, nineteen hundred eighty-seven, officers and employees who are eligible for longevity step increases, performance award increases or bonuses, or any other increases or bonuses based on length of service at or above the job rate of their salary grade, who were receiving a salary equal to or in excess of the job rate of the grade and who have been promoted, appointed or otherwise advanced to a position in a higher salary grade and whose former position has been reallocated to a higher salary grade as a result of the implementation of the system developed pursuant to the provisions of section seventeen of chapter three hundred two, subdivision eleven of section nineteen of chapter three hundred six, section six of chapter three hundred three, or section eleven of chapter three hundred eight of the laws of nineteen hundred eighty-five and who are serving in a

position allocated to the salary grade to which such former position has been reallocated shall, solely for the purpose of determining eligibility for any such increases or bonuses, be entitled to have all service in such position or positions to which promoted, appointed or otherwise advanced credited as if it were service at the job rate and considered as eligible service in determining fulfillment of the service requirements for such increases or bonuses, provided the actual annual salary in the current position is equal to or in excess of the job rate on their eligibility date.

13. Occupational pay differentials. Whenever the director of classification and compensation finds it necessary to adjust the compensation of positions allocated to a salary grade prescribed in paragraph d of subdivision one of this section in order to appropriately compensate employees in such positions in relation to the compensation of their immediate occupational subordinates, the director may, subject to the approval of the director of the budget, authorize a pay differential for such positions in one or more areas or locations. A pay differential authorized under this subdivision shall be a percentage or fixed dollar amount as prescribed in each case by the director of classification and compensation to be added as an adjustment to the hiring rate and the job rate of the salary grade for such positions in such areas or locations. Such differential shall be paid to employees whose basic annual salary is at or below the unadjusted job rate of the salary grade. Those employees whose basic annual salary is above the unadjusted job rate of the salary grade shall receive a portion of the differential sufficient to increase their salary to the adjusted job rate. Such differential shall be in addition to and shall not be part of an employee's basic annual salary, and shall not affect or impair any performance advancement payments, performance awards or other rights or benefits to which an employee may be entitled under the provisions of this chapter, provided, however, that any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes. A pay differential shall be terminated for any employee when such employee ceases to be employed in the position or area or location for which such pay differential was authorized. A pay differential shall remain in effect until terminated by the director of classification and

compensation with the approval of the director of the budget, or until a new pay differential is authorized pursuant to this subdivision. The director of the budget may adopt such procedures as may be necessary to carry out the provisions of this subdivision.

14. Notwithstanding any foregoing provisions of this section to the contrary, wage rates and/or pay differentials paid by the state to teaching and research center nurses of the state university of New York pursuant to subdivision thirteen of section three hundred fifty-five-a of the education law may be based on a study of representative peer institutions in private or other public hospitals in the same geographic area as a hospital of the state university which shows that pay differentials of nurses employed by such peer institutions are higher than the wage rates and/or pay differentials paid by the state to teaching and research center nurses of the state university. Whenever, in the opinion of the chief administrative officer of the health science centers at which teaching and research center nurses are employed, additional compensation for such employees is necessary to maintain adequate support to protect the health, safety and welfare of patients, such chief administrative officer shall request the state university board of trustees to conduct such a study.

§ 131. Determination of salaries. 1. Rates of compensation. An employee holding a position allocated to one of the salary grades included in section one hundred thirty of this chapter shall receive the hiring rate of the salary grade to which his position is allocated and may receive periodic performance advancement payments based on periodic evaluations of work performance in accordance with the terms of applicable agreements between the state and employee organizations reached pursuant to article fourteen of this chapter and the rules and regulations promulgated by the director of the budget. No employee shall receive an annual salary in excess of the job rate of the salary grade to which his position is allocated as a result of a performance advancement payment.

1-a. Appointment above minimum salary in certain cases.

Notwithstanding any other provision of this chapter, with respect to positions allocated to salary grades in section one hundred thirty of this chapter the director of the classification and compensation division, subject to the approval of the director of the budget, may authorize an increased hiring rate, not to exceed the job rate of the salary grade of the position to which a person is to be appointed when the training or experience of such appointee substantially exceeds requirements necessary for appointment. The salaries of other employees serving in the same title in the same geographical area or location having qualifications of training or experience equivalent to those of the person appointed shall be increased by such amount as may be necessary to equal the rate of compensation of the person appointed.

2. Appointments and promotions to higher grade positions. (a) If such an employee is promoted, appointed or otherwise advanced to a position in a higher salary grade he shall receive a percentage increase in existing basic salary of one and one-half percent plus one and one-half percent times the number of grades by which he is so advanced, or he shall be paid the hiring rate of such higher grade, whichever results in a higher annual salary. For purposes of determining such increase for employees promoted, appointed or otherwise advanced to a position in one of the salary grades with the prefix M as prescribed in paragraph d of subdivision one of section one hundred thirty of this article, each such grade with the prefix M shall be deemed to constitute a two grade advancement.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an employee holding a position allocated to one of the salary grades prescribed in paragraph b of subdivision one of section one hundred thirty of this chapter who is promoted, appointed or otherwise advanced to a position in a higher salary grade as prescribed in such paragraph shall receive an increase in salary determined in accordance with the provisions of paragraph (a) of this subdivision, provided however that the amount of such employee's basic salary which is considered to be longevity payment in accordance with the provisions of paragraph d of subdivision three of section one hundred thirty of this chapter shall not be considered as basic salary for the purpose of determining his increase, and such amount shall be adjusted to the

longevity amount appropriate for such higher salary grade and added to and become part of his basic salary in the higher grade to which he is promoted, appointed or advanced.

(c) Notwithstanding the provisions of paragraph (a) of this subdivision, if such employee is promoted, appointed or otherwise advanced to a position allocated to one of the salary grades with the prefix M as prescribed in paragraph d of subdivision one of section one hundred thirty of this chapter he shall receive an increase in salary determined in accordance with the provisions of paragraph (a) of this subdivision provided however that the appointing officer shall have the discretion, with the approval of the director of the classification and compensation division, to increase such an employee's salary by an amount not to exceed an additional three percent of the employee's basic salary in the grade from which appointed, promoted or advanced.

(d) Notwithstanding the provisions of paragraphs (a) and (c) of this subdivision, if such employee is promoted, appointed, transferred, reinstated, or otherwise placed in a position allocated to salary grade M 8 as prescribed in paragraph d of subdivision one of section one hundred thirty of this chapter he shall receive the hiring rate of that salary grade or any higher rate authorized by the director of the budget.

(e) Notwithstanding any inconsistent provision of law, officers and employees to whom the provisions of paragraph d of subdivision one of section one hundred thirty of this article apply who are on the payroll on March thirty-first, nineteen hundred eighty-five, who are promoted, appointed or otherwise advanced to a position in a higher salary grade during the period between June sixth, nineteen hundred eighty-five for the employees on the institutional payroll and June thirteenth, nineteen hundred eighty-five for employees on the administrative payroll and March thirty-first, nineteen hundred eighty-six, shall receive the precentage increase in basic annual salary as provided in this subdivision or a basic annual salary equal to the hiring rate of such higher grade which is in effect during that time period plus five percent, whichever results in a higher annual salary.

(f) Notwithstanding any inconsistent provision of this section, officers and employees on the payroll on May twenty-third, nineteen hundred eighty-five in the collective negotiating units designated as

the security services unit and the security supervisors unit established pursuant to article fourteen of the civil service law, who are promoted, appointed or otherwise advanced to a position in a higher salary grade during the period between April twenty-fifth, nineteen hundred eighty-five for the employees on the institutional payroll and May second, nineteen hundred eighty-five for employees on the administrative payroll and March thirty-first, nineteen hundred eighty-six, shall receive the percentage increase provided in this subdivision or the performance advancement rate one of such higher salary grade which is in effect at the time of such promotion, appointment, or advancement whichever results in a higher annual salary.

(g) Notwithstanding any inconsistent provision of law, officers and employees to whom paragraph c of subdivision one of section one hundred thirty of this article apply who are on the payroll on March thirty-first, nineteen hundred eighty-five, who are promoted, appointed or otherwise advanced to a position in a higher salary grade during the period between June sixth, nineteen hundred eighty-five for the employees on the institution payroll and June thirteenth, nineteen hundred eighty-five for employees on the administration payroll and March thirty-first, nineteen hundred eighty-six, shall receive the percentage increase in basic annual salary as provided in this subdivision or a basic annual salary equal to the hiring rate of such higher grade which is in effect during that time period plus five percent, whichever results in a higher annual salary.

(h) Notwithstanding any inconsistent provision of law, officers and employees to whom the provisions of paragraph e of subdivision one of section one hundred thirty of this article apply who are on the payroll on March thirty-first, nineteen hundred eighty-five, who are promoted, appointed or otherwise advanced to a position in a higher salary grade during the period between June thirteenth, nineteen hundred eighty-five and March thirty-first, nineteen hundred eighty-six, shall receive the percentage increase in basic annual salary as provided in this subdivision or a basic annual salary equal to the hiring rate of such higher grade which is in effect during the time period plus five percent, whichever results in a higher annual salary.

(i) Notwithstanding any inconsistent provision of law, officers and employees to whom paragraph c of subdivision one of section one hundred

thirty of this title apply who are promoted, appointed or otherwise advanced to a position in a higher salary grade shall receive the percentage increase in basic annual salary as provided in this subdivision or a basic annual salary equal to the hiring rate of such higher grade which is in effect at the time of promotion, whichever results in a higher annual salary. For the purposes of such calculation, where the terms of an agreement negotiated pursuant to article fourteen of this chapter so provide, the amount of a performance award paid to such employee being promoted, appointed or advanced shall be considered as part of basic annual salary.

(j) Notwithstanding any inconsistent provision of law, officers and employees to whom paragraphs a and e of subdivision one of section one hundred thirty of this title apply, who are promoted, appointed or otherwise advanced to a position in a higher salary shall receive the percentage increase in basic annual salary as provided in this subdivision or a basic annual salary equal to the hiring rate of such higher grade which is in effect at the time of promotion, whichever results in a higher annual salary. Effective April first, two thousand twenty, for the purposes of such calculation, where the terms of an agreement negotiated pursuant to article fourteen of this chapter applicable to such officers and employees so provide, the amount of longevity paid to such employee being promoted, appointed or advanced shall be considered as part of basic annual salary.

3. Appointments, transfers, reinstatements, demotions and displacements to lower grade positions. (a) If such an employee is demoted, or displaced to a position in a lower grade pursuant to section eighty of this chapter, or is appointed, transferred or reinstated to a position in a lower grade, they shall, upon such demotion, displacement, appointment, transfer, or reinstatement, receive the rate of compensation which corresponds with the number of annual increments and the percentage value of performance advances actually received in the salary grades from which and to which they are demoted, displaced, appointed, transferred or reinstated, as the case may be.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an employee holding a position allocated to one of the salary grades prescribed in paragraph b of subdivision one of section

one hundred thirty of this chapter who is demoted, displaced, appointed, transferred, or reinstated to a position in a lower salary grade as prescribed in such paragraph shall receive the rate of compensation determined in accordance with the provisions of paragraph (a) of this subdivision, provided however that the amount of such employee's basic salary which is considered to be longevity payment in accordance with the provisions of paragraph d of subdivision three of section one hundred thirty of this chapter shall not be considered as basic salary for the purpose of determining his salary in such lower grade and such amount shall be adjusted to the longevity amount appropriate for such lower salary grade and added to and become part of his basic salary in such lower grade to which he is demoted, displaced, appointed, transferred or reinstated.

(c) Notwithstanding the provisions of this section to the contrary, an employee holding a position allocated to one of the salary grades prescribed in paragraph a of subdivision one of section one hundred thirty of this title may be demoted or reinstated to a position in a lower salary grade by an arbitrator in an award pursuant to authority granted in a collectively negotiated agreement. Such arbitrator's award may place the basic annual salary of the employee demoted or reinstated to a lower salary grade anywhere within the range of the hiring rate and the job rate of the lower graded position, provided, however, for purposes of longevity payments, such employee must serve no less time in the new position than he or she would have had to serve in the position from which demoted to be eligible.

4. Appointments, transfers and reinstatements to similar grade positions. If such an employee is appointed, transferred, or reinstated to a position in the same salary grade, he shall be paid the same salary in the new position as he received in his former position.

5. Appointments, promotions, reinstatements, and transfer of employees occupying non-allocated positions. (a) Employees serving in positions which are not allocated to one of the salary grades prescribed in section one hundred thirty of this title, and which are covered by paragraph d of subdivision one of section one hundred thirty of this title or where, and to the extent that, an agreement between the state

and a certified employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of positions in a collective negotiating unit represented by such employee organization: (i) an employee in the service of the state or of a public authority under the civil service jurisdiction of the department who has been continuously occupying an unallocated position, excluding a seasonal position as defined by the director of the classification and compensation division, and who is appointed, promoted, reinstated, or transferred to a position allocated to one of the salary grades in section one hundred thirty of this title, the hiring rate of which is equal to or lower than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement, or transfer, be paid either the minimum salary of the grade of such allocated position plus an amount to be determined by the director of the classification and compensation division consistent with the performance advancement system in effect for positions in the salary grade to which he or she is appointed, promoted, reinstated, or transferred, or at a rate equal to the salary that he or she was receiving in his or her former position immediately prior to the date of such appointment, promotion, reinstatement, or transfer. In this event, such salary received in the position to which he or she is appointed, promoted, reinstated, or transferred shall not exceed the salary that he or she was receiving in his or her former position immediately prior to the date of such appointment, promotion, reinstatement, or transfer and shall not exceed the job rate of his or her new position. However, if such unallocated position has previously been equated to a grade by the director of the division of the budget which is lower than the allocated grade of the position to which he or she is being appointed, promoted, reinstated, or transferred, subparagraph (ii) of this paragraph shall apply. The director of the classification and compensation division shall instruct the office of the state comptroller regarding the application of salary computations performed pursuant to this subparagraph. In addition, for the purposes of this subparagraph, the annual rate of compensation of the incumbent of an unallocated position compensable on an hourly or per diem basis or on any basis other than at an annual salary rate, shall be deemed to be the compensation which would have been payable if the services were required on a full time

annual basis for the number of hours per day and days per week established by law or administrative rule or order; (ii) an employee in the service of the state or of a public authority under the civil service jurisdiction of the state department of civil service who has been continuously occupying an unallocated position, excluding a seasonal position as defined by the director of the classification and compensation division, and who is appointed, promoted, reinstated, or transferred to a position allocated to one of the salary grades is section one hundred thirty of this title, the hiring rate of which is greater than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement, or transfer, be paid either the minimum salary of the grade of such allocated position, or shall be provided a salary increase as determined by the director of the classification and compensation division, not to exceed the job rate of his or her new position, except in cases where an employee receives a longevity payment or a contractually negotiated payment above the job rate. If such unallocated position has previously been equated to a grade by the director of the division of the budget, the director of the classification and compensation division shall use such grade equation in performing such salary increase calculation. For the purposes of salary increase calculations pursuant to any such agreement between the state and a certified employee organization, the director of the classification and compensation division shall, consistent with such agreement, determine the salary basis to be used by the office of the state comptroller when performing such calculations. In addition, for the purposes of this subparagraph, the annual rate of compensation of the incumbent of an unallocated position compensable on an hourly or per diem basis or on any other basis other than at an annual salary rate, shall be deemed to be the compensation which would have been payable if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rule or order.

(b) Employees serving in seasonal positions, as defined by the director of the classification and compensation division, which are not allocated to one of the salary grades prescribed in section one hundred thirty of this title, and which are covered by paragraph d of subdivision one of section one hundred thirty of this title or where,

and to the extent that, an agreement between the state and a certified employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of positions in a collective negotiating unit represented by such employee organization: (i) an employee in the service of the state or of a public authority under the civil service jurisdiction of the department who has been continuously occupying an unallocated seasonal position on a long term basis as defined by such agreement and who is appointed, promoted, reinstated, or transferred to a position allocated to one of the salary grades in section one hundred thirty of this title, the hiring rate of which is equal to or lower than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement, or transfer, be paid at a rate equal to the salary that he or she was receiving in his or her former position for the one calendar year prior to the date of such appointment, promotion, reinstatement, or transfer, not to exceed the job rate of his or her new position. However, if such unallocated position has previously been equated to a grade by the director of the division of the budget which is lower than the allocated grade of the position to which he or she is being appointed, promoted, reinstated, or transferred, subparagraph (ii) of this paragraph shall apply. For the purposes of this subparagraph, the annual rate of compensation of the incumbent of an unallocated seasonal position compensable on an hourly or per diem basis or on any other basis other than at an annual salary rate, shall be deemed to be the compensation which would have been payable if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rule or order; and (ii) an employee in the service of the state or of a public authority under the civil service jurisdiction of the state department of civil service who has been continuously occupying an unallocated seasonal position on a long term basis as defined by such agreement and who is appointed, promoted, reinstated, or transferred to a position allocated to one of the salary grades in section one hundred thirty of this title, the hiring rate of which is greater than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement, or transfer, be paid either the minimum salary of such allocated position, or shall be provided a salary increase as determined by the director of

the classification and compensation division, not to exceed the job rate of his or her new position, except in cases where an employee receives a longevity payment or a contractually negotiated payment above the job rate. If such unallocated position has previously been equated to a grade by the director of the division of the budget, the director of the classification and compensation division shall use such grade equation in performing such salary increase calculation. For the purposes of salary increase calculations pursuant to any such agreement between the state and a certified employee organization, the director of the classification and compensation division shall, consistent with any such agreement, determine the salary basis to be used by the office of the state comptroller when performing such calculations. In addition, for the purposes of this subparagraph, the annual rate of compensation of the incumbent of an unallocated seasonal position compensable on an hourly or per diem basis or on any other basis other than at an annual salary rate, shall be deemed to be the compensation which would have been payable if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rule or order.

(c) Employees in the service of the state or of a public authority under the civil service jurisdiction of the state department of civil service, for which neither paragraph (a) or (b) of this subdivision is applicable, who have been continuously occupying a position which is not allocated to one of the salary grades prescribed in section one hundred thirty of this title and who are appointed, promoted, reinstated, or transferred to a position allocated to one of the salary grades in such section, the hiring rate of which is equal to or lower than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement, or transfer, be paid the minimum salary of the grade of such allocated position plus an amount to be determined by the director of the classification and compensation division consistent with the performance advancement system in effect for positions in the salary grade to which he or she is appointed, promoted, reinstated, or transferred, not to exceed the job rate of his or her new position. For the purposes of this paragraph, the annual rate of compensation of the incumbent of an unallocated position compensable on an hourly or per diem basis or on any other basis other than at an

annual salary rate, shall be deemed to be the compensation which would have been payable if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rule or order.

(d) Notwithstanding the provisions of paragraphs (a) and (c) of this subdivision, if the position held by an employee of a public authority under the civil service jurisdiction of the department has been classified and is allocated to a salary grade corresponding to the grade prescribed in section one hundred thirty of this title to which positions having the same title in the service of the state, if any, are allocated, and if the salary of such employee in such grade has been determined in accordance with the provisions of this article, the salary of such employee upon his or her appointment, promotion, reinstatement, or transfer to an allocated position in the service of the state shall be determined in the same manner as though he or she had been holding an allocated position in the service of the state.

(e) Except as otherwise provided in paragraphs (a), (b), (c), and (d) of this subdivision with respect to employees of certain public authorities who are transferred to allocated positions in the service of the state, the salary of any employee of a civil division, public authority, or other public benefit corporation who, upon the transfer of functions to the state, is transferred to a position allocated to a salary grade in section one hundred thirty of this title, and the salary of any employee of a private institution or enterprise whose employment is continued in such an allocated position pursuant to section forty-five of this chapter upon the acquisition by the state of such institution or enterprise, shall be prescribed by the director of the budget, within amounts available therefor, at a rate between the hiring rate of the grade to which such employee's position is allocated and the job rate of such grade; provided, however, that if the salary received by such employee immediately prior to such transfer or entry into state service was an amount greater than the hiring rate of the grade to which his or her position is allocated and less than the job rate of such grade, his or her salary as prescribed by the director of the budget shall not exceed the salary received by him or her immediately prior to such transfer or entry.

6. Advancement within salary grade. (a) An employee holding a position allocated to one of the salary grades prescribed in paragraphs a, b, c, e, f, g, h or i of subdivision one of section one hundred thirty of this article whose basic annual salary is less than the job rate of such salary grade may receive periodic performance advancement payments based on periodic evaluations of work performance in accordance with the terms of agreements between the state and employee organizations reached pursuant to article fourteen of this chapter and rules and regulations promulgated by the director of the budget; provided, however, that in no event may such a payment result in a basic annual salary in excess of the job rate of such grade. Such payments shall be part of the employee's basic annual salary.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the amount of such employee's basic annual salary which is considered to be longevity payment in accordance with the provisions of paragraph d of subdivision three of section one hundred thirty of this chapter shall not be considered as basic annual salary for the purpose of determining his eligibility for a performance advancement payment.

(c) An employee holding a position allocated to one of the salary grades prescribed in paragraph d of subdivision one of section one hundred thirty of this chapter whose basic annual salary is less than the job rate of such salary grade may receive periodic performance advancement payments based on periodic evaluations of work performance in accordance with rules and regulations promulgated by the director of the budget; provided, however, that in no event may such a payment result in a basic annual salary in excess of the job rate of such grade. Such payments shall be part of the employee's basic annual salary.

7. Temporary and provisional employment. Except as expressly provided herein, temporary or provisional service shall be treated in the same manner as permanent service for the purpose of this section.

§ 132. Reallocations; adjustment of salaries. 1. When any position allocated to a salary grade in paragraph b of subdivision one of section one hundred thirty of this article is reallocated on or after April first, nineteen hundred seventy-nine to a higher salary grade the basic

annual salary of an incumbent of such position on the effective date of such reallocation shall be determined as follows:

(a) If, immediately prior to the effective date of such reallocation, the basic annual salary of such incumbent is identical to the hiring rate, performance advancement rate one, performance advancement rate two, or job rate of the lower grade from which such position is reallocated, the incumbent's basic annual salary shall be increased to the corresponding rate of compensation of the higher grade to which such position is reallocated.

(b) If, immediately prior to the effective date of such reallocation, the basic annual salary of such incumbent is less than the job rate, and not identical to the hiring rate, performance advancement rate one, or performance advancement rate two of the lower grade from which such position is reallocated, the incumbent's basic annual salary shall be increased by an amount equal to the difference between the next higher rate of compensation of such lower grade and the corresponding rate of compensation of the higher grade to which such position is reallocated.

(c) If, immediately prior to the effective date of such reallocation, the basic annual salary of such incumbent exceeds the job rate of the lower grade from which such position is reallocated, the incumbent's basic annual salary shall be increased to the job rate of the higher grade to which such position is reallocated.

(d) In determining the increase to which such incumbent is entitled under the provisions of paragraphs (a) or (b) or (c) of this subdivision the amount of such incumbent's basic annual salary which is considered to be longevity payment in accordance with the provisions of paragraph d of subdivision three of section one hundred thirty of this article shall not be considered as basic annual salary for the purpose of determining such increase, and such amount shall be adjusted to the longevity amount appropriate for such higher salary grade and added to and become part of his basic annual salary in such higher grade.

(e) The provisions of this subdivision shall apply to temporary and provisional employees, as well as permanent employees.

2. When a position allocated to a salary grade in section one hundred thirty of this article is reclassified to a title allocated to a higher salary grade, and the president finds that such reclassification

represents no substantial change in duties and responsibilities from those associated with the former title, the incumbent thereof may continue to serve in such position without further examination, and his salary in this new title shall be determined in accordance with the provisions of this article. This subdivision has no application to a reclassification obtained pursuant to subdivision five of section one hundred twenty-one of this article.

3. When a position allocated to a salary grade in paragraphs a, c, or d of subdivision one of section one hundred thirty of this article is reallocated on or after April first, nineteen hundred seventy-nine or when a position allocated to a salary grade in paragraph e of subdivision one of such section is reallocated on or after April first, nineteen hundred eighty-five to a higher salary grade other than grades thirty-eight or M-eight, the annual salary of an incumbent shall be determined in accordance with the provisions of subdivision two of section one hundred thirty-one of this article; provided, however, that when a position allocated to a salary grade in paragraph a of subdivision one of such section one hundred thirty of this article is reallocated to a higher salary grade on or after April first, nineteen hundred eighty-six, the annual salary of the incumbent shall not be increased to more than one thousand five hundred dollars above the job rate of the higher salary grade; provided further, however, that, when a position allocated to a salary grade in such paragraph a is reallocated to a higher salary grade on or after April first, nineteen hundred eighty-seven, the annual salary of the incumbent shall not be increased to more than the second longevity step of the salary grade to which the position is reallocated.

4. Notwithstanding the provisions of subdivision three of this section, when a position allocated to salary grade M/C 17 or below in paragraph d of subdivision one of section one hundred thirty of this article is reallocated to a higher salary grade on or after April first, nineteen hundred eighty-six, the annual salary of the incumbent shall not be increased to more than one thousand five hundred dollars above the job rate of the higher salary grade.

5. Notwithstanding the provisions of this chapter or any other law and where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of employees serving in positions in a collective negotiating unit represented by such employee organization and for employees designated managerial or confidential pursuant to such article of this chapter and civilian state employees in the division of military and naval affairs whose positions are not in or are excluded from representation rights in any recognized or certified negotiating unit, when positions allocated to one of the salary grades included in section one hundred thirty of this article are reallocated to a lower salary grade, incumbents of such positions on the effective date of such reallocations and employees on authorized leave from such positions on the effective date of such reallocations who subsequently return to such positions shall be entitled to be paid, and shall have all future salary computations authorized by this article made, on the basis of the higher grade from which such positions were reallocated as long as such officers and employees serve in such position as so reallocated.

§ 134. Work week of state officers and employees for basic annual salaries; overtime compensation. 1. For all state officers and employees, other than officers and employees of the legislature and the judiciary and other than those who shall be excluded pursuant to the rules and regulations hereafter mentioned, the workweek for basic annual salary shall not be more than forty-hours; and, notwithstanding any inconsistent provisions of law, and subject to the rules and regulations promulgated by the director of the budget, any such state officer and employee who is authorized or required to work more than forty hours in any week in their regular position or title or in a position the title of which is allocated to the same salary grade as their regular position, shall receive overtime compensation for the hours worked in excess of forty in each week at one and one-half times the hourly rate of pay received by such employee in their regular position; provided, however, that an employee not subject to the overtime provisions of the federal "Fair Labor Standards Act of 1938" as amended by the federal "Fair Labor Standards Amendments of 1966", being public law six hundred

one of the eighty-ninth congress, as approved September twenty-three, nineteen hundred sixty-six, and all acts amendatory thereof and supplementary thereto, may by written agreement with their proper authority exchange hours of work with other employees doing similar work in the same state institution or other state governmental unit without overtime compensation. Upon the approval of the director of the budget a member of the state police may be considered to have worked, for the purpose of determining overtime compensation pursuant to the provisions of this section, a minimum of four hours each time they are recalled to work overtime after completing their scheduled work period and leaving their scheduled work station or may be considered to have worked a minimum of two hours each time they are scheduled to return and returns to duty to work overtime for the purpose of making an appearance in court after completing their regularly scheduled work period and leaving their regularly scheduled work station. Upon the approval of the director of the budget an employee may be considered to have worked, for the purpose of determining overtime compensation pursuant to the provisions of this section, a minimum of one-half day each time they are recalled to work overtime after completing their scheduled work period and leaving their scheduled work station; provided, however, that, subject to the terms of an agreement negotiated between the state and an employee organization pursuant to article fourteen of the civil service law, an employee recalled to work may be considered to have worked less than a minimum of one-half day and an employee recalled to work more than once during a period of one-half day commencing with the onset of the initial recall will not be entitled to more than one-half day of overtime credit unless more than one-half day is actually worked. When an employee shall work overtime in a position which has a title which is allocated to a lower salary grade than the salary grade to which the title of their regular position is allocated, they shall receive overtime compensation at one and one-half times the hourly rate of pay of the maximum salary of the grade of the position in which they shall work overtime, or such maximum salary plus the additional increment or increments, if they would be entitled to such additional increment or increments were they then appointed to such position; provided, however, that when such hourly rate exceeds the hourly rate of pay received by them in their regular position, they shall receive one and one-half

times the hourly rate of their regular position. When an employee works overtime in a position allocated to a salary grade higher than the salary grade to which their regular position is allocated, they shall receive overtime compensation at one and one-half times the hourly rate of pay of the rate of compensation to which he would be entitled if they were permanently promoted to the position in which such overtime work is performed. Notwithstanding any other provision of law, where an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides that such officers and employees covered by such agreement shall receive overtime compensation at a rate of two times the hourly rate of pay received by such employee in their regular position for such hours of work that qualify for such payment under the terms of such agreement.

2. Any person employed by the state in any institution under the jurisdiction of the department of mental hygiene, the department of corrections and community supervision, the department of health or the department of social welfare, or in the state barge canal system, or in the New York state school for the blind, Batavia, or in the New York state veterans' rest camp, Mt. McGregor, whose hours of labor are limited to forty hours per week, or six days per week, by law or administrative regulation, who is not allowed time off by the appointing officer, during any fiscal year commencing on or after April first, nineteen hundred forty-six, for any holiday, pass day or vacation period which he was eligible to receive by law or by administrative regulation, shall, upon the approval of the superintendent or other head of such institution or department and the director of the budget, be entitled to compensation therefor at the hourly rate of pay received by such employee, or shall be allowed an equivalent amount of time off in lieu of such compensation.

3. The amount received as overtime compensation under this section shall be regarded as salary or compensation for any of the purposes of any pension or retirement system in which the employee receiving the same is a member. Overtime compensation shall not be regarded as salary or compensation for the purpose of determining the right to any increase of salary or any salary increment on account of length of service or

otherwise. No such overtime compensation shall be construed to constitute a promotion or to increase any compensation which a public employee may receive pursuant to section six of chapter six hundred eight of the laws of nineteen hundred fifty-two.

4. The director of the budget shall promulgate, and may from time to time amend or rescind, rules and regulations for carrying into effect the provisions of this section. Such rules and regulations, among other things, may classify and define positions and employments for the purposes of this section, and otherwise provide appropriate formulas for determining overtime compensation as herein provided and provide that for the purpose of computing overtime compensation pursuant to this section, members of the state police in any title or individual position or positions shall be considered to have worked a minimum of four hours each time they are recalled to work overtime after having completed their scheduled work period and left their scheduled work station or shall be considered to have worked a minimum of two hours each time they are scheduled to return and return to duty to work overtime for the purpose of making an appearance in court in their official capacity after having completed their scheduled work period and left their scheduled work station; and provide that for the purpose of computing overtime compensation pursuant to this section, employees in any title or individual position or positions shall be considered to have worked a minimum of one-half day each time they are recalled to work overtime after having completed their scheduled work period and left their scheduled work station. Such rules and regulations may exclude any title or individual position or positions, when the nature of the duties performed or the difficulty of maintaining adequate time controls makes it impracticable to apply to such title or individual position or positions the provisions of this section which prescribe a work week for basic salary and provide for overtime compensation.

5. Notwithstanding any other provisions of law to the contrary, employees in any title or individual position or positions ineligible to accrue overtime credits under the rules and regulations promulgated by the director of the budget pursuant to the provisions of this section who are required to work beyond a normal work week may be granted

additional compensation. Such compensation shall be paid upon approval by the director of the budget and at a rate established by the director of the budget, provided however, that such additional compensation shall not exceed twelve per cent of the employee's basic salary. Such compensation shall be paid in addition to and shall not be a part of the employee's basic annual salary, and shall not affect or impair any performance advances or other rights or benefits to which the employee may be entitled under the provisions of this chapter, provided however, that any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes.

6. Notwithstanding any other provisions of law to the contrary, any employee in any title or individual position ineligible to accrue overtime credits under the rules and regulations promulgated by the director of the budget pursuant to the provisions of this section who is required to work beyond a normal workweek during a period deemed by the director of the budget to be an extreme emergency, may be granted additional compensation upon the approval of and at a rate established by the director of the budget; provided, however, that such additional compensation shall not exceed one and one-half times the hourly rate of pay received by such employee in his regular position. Such compensation shall be in addition to, and not be a part of, the employee's basic annual salary and shall not affect or impair any increment or other rights or benefits to which the employee may be entitled under the provisions of this chapter; provided, however, that any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes.

6-a. Notwithstanding any other provisions of law to the contrary, employees in any title or individual position or positions, other than those ineligible to accrue overtime credits under the rules and regulations promulgated by the director of the budget pursuant to the provisions of this section, who are required to be available for immediate recall and who must be prepared to return to duty within a limited period of time may be granted additional compensation for each day that such employee is actually scheduled to remain and remains available for recall; provided, however, in the event an employee

entitled to such additional compensation is actually recalled to work, the employee will receive appropriate overtime or recall compensation in lieu of such additional compensation, except that employees in positions in the administrative, operational and institutional services units and the professional, scientific and technical unit established pursuant to article fourteen of this chapter shall receive such appropriate overtime or recall compensation in addition to such additional compensation. Such additional compensation shall be paid upon approval of the director of the budget and at a rate established by the director of the budget. Such compensation shall be paid in addition to and shall not be a part of the employee's basic annual salary, and shall not affect or impair any increments or other rights or benefits to which the employee may be entitled under the provisions of this chapter; provided, however, that any compensation payable pursuant to this subdivision shall be included as compensation for retirement purposes. The director of the budget may adopt such regulations as he or she may deem necessary to carry out the provisions of this subdivision.

6-b. Notwithstanding any other provision of law to the contrary, a member of the state police in a title or individual position, other than a title or individual position ineligible to accrue overtime credits under the rules and regulations promulgated by the director of the budget pursuant to the provisions of this section, who is either in an off-duty status or has completed a tour of duty and is directed, during an emergency situation, to be available for immediate recall and who must be prepared to return to duty within a limited period of time may be granted additional compensation for each hour of such time that each such member is actually directed to remain and remains available for recall; provided, however, in the event the member is recalled and compensated pursuant to the recall provisions of this section but works less than four hours, for the purpose of computing the compensation payable pursuant to this subdivision the length of time during which the member remains available for recall shall be reduced by an amount of time equal to the difference between the hours worked and four hours. Such additional compensation shall be paid upon approval of the director of the budget and at the rate established, subject to the terms of any agreement negotiated between the state and an employee organization

pursuant to article fourteen of the civil service law, by the director of the budget; provided, however, that such rate, when computed on an annual basis, shall not exceed ten per cent of such member's basic annual salary. Such compensation shall be paid in addition to and shall not affect or impair any increments or other rights or benefits to which the member may be entitled under the provisions of this chapter; provided, however, that any compensation payable pursuant to this subdivision shall be included as compensation for retirement purposes. The director of the budget may adopt such regulations as he may deem necessary to carry out the provisions of this subdivision.

6-c. Notwithstanding any other provision of law to the contrary, employees in any title or individual position or positions who are entitled to time off with pay on days observed as holidays by the state as an employer and are required to work on such holidays may be granted additional compensation for time worked on such days. Such additional compensation shall be at a rate established, subject to the terms of any agreement negotiated between the state and an employee organization pursuant to article fourteen of the civil service law, by the director of the budget. Such compensation shall be paid in addition to and shall not be a part of the employees' basic annual salary, and shall not affect or impair any increments or other rights or benefits to which the employee may be entitled under the provisions of this chapter; provided, however, that any compensation payable pursuant to this subdivision shall be included as compensation for retirement purposes. The director of the budget may adopt such regulations, including eligibility for such pay, as he may deem necessary to carry out the provisions of this subdivision, subject to the terms of any agreement negotiated between the state and an employee organization pursuant to article fourteen of the civil service law.

7. To the extent that appropriations heretofore or hereafter made for personal service in any state department, division, institution or other state agency are sufficient for the purpose, they shall be available for the payment of overtime compensation provided under this section, after audit by and upon the warrant of the state comptroller and the certification prescribed by law for the payment of the regular

compensation of such employees.

7. No rule, regulation or other procedure under this section affecting state employees shall be adopted, repealed or amended without the approval of the director of employee relations.

§ 135. Extra salary or compensation prohibited. 1. No person holding a position or employment in any department, bureau, commission or office to which this article applies and for which a definite salary or compensation has been appropriated or designated, shall receive any extra salary or compensation in addition to that so fixed except overtime compensation as provided in section one hundred thirty-four of this title. The requirements of this subdivision shall not apply to:

(a) clinical practice pursuant to subdivision fourteen of section two hundred six of the public health law, or

(b) certain employees of the department of motor vehicles who receive certain incentive payments for productivity standards pursuant to a program established by such department since nineteen hundred seventy-seven, or

(c) employees in the office of general services who are specified as eligible under a labor management memorandum of understanding with the appropriate employee representative organization to participate in practices or programs constituting one or more pilot studies to evaluate the effect of extra compensation on productivity, efficiency and overall service delivery. The commissioner of general services in consultation with the director of the governor's office of employee relations and the director of classification and compensation in the department and with the approval of the director of the budget is hereby authorized to direct the payment of extra compensation to such employees. Such extra compensation shall be paid pursuant to a specified plan developed by the commissioner of general services which shall be effective when approved by the director of the budget. The payment of such extra compensation shall be in addition to and shall not be part of an employee's basic annual salary, and shall not affect or impair any performance advancement payments, performance awards, longevity payments or other rights or benefits to which an employee may be entitled. Furthermore,

any additional compensation payable pursuant to this subdivision shall not be included as compensation for retirement purposes.

(d) payments made pursuant to a collective bargaining agreement negotiated pursuant to article fourteen of this chapter or regulations promulgated by the president pursuant to subdivision three of section one hundred sixty-three of this chapter permitting payment to an employee or officer in exchange for the employee's election to withdraw from the health insurance plan established pursuant to article eleven of this chapter. Such payments shall not be considered part of an employee's basic annual salary and shall not be considered compensation for the purposes of overtime calculation or retirement.

2. Any contribution by the state of food, lodging or maintenance, or any commutation in lieu of maintenance, except traveling expenses and field allowances, shall be considered as part of the salary established by section one hundred thirty of this chapter. The fair value of such food, lodging, maintenance or commutation shall be determined by the director of the budget and may in his discretion be deducted from the salary established by said section. No employee shall board or lodge away from any institution or hospital which regularly furnishes food, lodging or maintenance, without the permission of the head of the institution or department by which he is employed. The director of the budget may deduct from the salary of any employee who fails to obtain such permission, the fair value of food, lodging or maintenance which such institution or hospital has offered to furnish to such employee. Whenever a chaplain employed in any state institution is not furnished a residence by the state, twenty per cent of his annual salary shall be deemed to constitute the amount to be paid to him in lieu of such residence.

§ 136. Compensation of teachers in state institutions. 1. The term "teacher", for purposes of this section, means any employee of a state facility or institution in the office of children and family services in the executive department and in the departments of corrections and community supervision, health, mental hygiene and social services holding a position the principal duty of which is the teaching or

instruction of patients or incarcerated individuals, or the direct supervision of such teaching or instruction, including an institution education director, as determined by the department of civil service subject to approval of the director of the budget.

2. The annual salary of a teacher shall be determined in accordance with the provisions of this article. Commencing July first, two thousand, the total salary which a teacher would otherwise be entitled to receive for any year beginning on July first shall be paid over either (a) a period of consecutive months beginning with the first day of the facility's or institution's academic year, as determined by the employer, and ending with the last day of the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of corrections and community supervision, over a period of ten consecutive months designated by the commissioner of corrections and community supervision or (b) a period of twelve months from September first to August thirty-first. Any such teacher who is required to work in his position or in any other position allocated to a salary grade in section one hundred thirty of this chapter in the period of time that is outside the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of corrections and community supervision in the two month period outside of the ten consecutive months designated by the commissioner of corrections and community supervision shall receive additional compensation therefor. If such work is performed in his regular position or title or in a position the title of which is allocated to the same salary grade as his regular position, he shall receive additional compensation therefor at the hourly rate of pay received by him in his regular position. If such work is performed in a position having a title allocated to a lower salary grade than the salary grade to which the title of his regular position is allocated, he shall receive additional compensation therefor at the hourly rate of pay of the job rate of the grade of the position in which such work is performed, or at such job rate plus the additional increment or increments of such grade if he would be entitled to such additional increment or increments were he then appointed to such position; provided, however, that when such hourly rate exceeds the hourly rate of

pay received by him in his regular position, his additional compensation shall be at the hourly rate of pay of his regular position. When such work is performed in a position allocated to a salary grade higher than the salary grade to which his regular position is allocated, he shall receive additional compensation therefor at the hourly rate of pay of the rate of compensation to which he would be entitled if he were permanently promoted to the position in which such work is performed.

3. Teachers shall not be subject to the rules governing sick leaves, vacations, time allowances and other conditions of employment in the classified service of the state established pursuant to paragraph (c) of subdivision one of section six of the civil service law. The director of the office of children and family services, the commissioner of corrections and community supervision, the commissioner of health, the commissioner of mental health and the commissioner of social services, respectively, shall adopt regulations for sick leaves, vacations, time allowances and other conditions of employment which shall be applicable to teachers under its or his jurisdiction and, notwithstanding any other provision of law, such rules may provide for cash payment of the monetary value of accumulated and unused vacation and time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his separation from service or his entrance into the armed forces of the United States for active duty (other than for training) as defined in title ten of the United States code, whether or not such entrance constitutes a separation from service, and for the payment of the monetary value of his accumulated and unused time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his appointment, promotion or transfer to another department or agency of the state. Such rules shall be subject to approval of the state civil service commission.

4. The provisions of this section shall be controlling, notwithstanding any inconsistent provisions of this chapter or of the state finance law or of any other law.

TITLE C

PERFORMANCE RATINGS

Section 140. Maintenance and reporting of performance ratings.

§ 140. Maintenance and reporting of performance ratings. 1. All departmental agencies of the state government, whether known as departments, institutions, boards, commissions, or otherwise, shall keep and report, if requested by the civil service department, performance ratings of employees, based on standards of performance established by such respective agencies and approved by the civil service department, for the purpose of recording in terms of quality, quantity, and other factors, the relative efficiency of employees engaged in the same or similar lines of work, under the rules prescribed by the state civil service commission.

2. The state civil service department shall use such performance ratings as a basis for determining the rendition of satisfactory service necessary for advancement from one rate of compensation to another. Such department, in its discretion, may use such performance ratings as a factor in promotion examinations.

3. Notwithstanding the provisions of subdivisions one and two of this section, during periods of time when there is in effect an agreement between the state and an employee organization reached pursuant to the provisions of article fourteen of the civil service law or a performance evaluation plan administered pursuant to rules and regulations promulgated by the director of the budget, the provisions of such agreement and/or the provisions of such rules and regulations shall be applicable.

ARTICLE IX

MERIT AWARDS FOR STATE EMPLOYEES

Section 145. State commission to make merit awards; regulations.
146. Awards.

§ 145. State commission to make merit awards; regulations. The state civil service commission shall have power and it shall be its duty:

(a) To formulate, establish and maintain a plan or plans to encourage and reward unusual and meritorious suggestions and accomplishments by state employees and suggestions of retired state employees promoting efficiency and economy in the performance of any function of state government;

(b) To appoint departmental or divisional boards or committees, from among persons nominated therefor by the respective department or agency heads, which shall analyze and review suggestions and accomplishments of state employees and suggestions of retired state employees submitted for consideration under such plan or plans and make recommendations thereon to the commission;

(c) To make and render merit awards to or for the benefit of state employees and retired state employees nominated to receive them in accordance with such plan or plans;

(d) To adopt and promulgate rules and regulations governing the operation of any plan or plans established under this article, the eligibility and qualifications of state employees and retired state employees participating therein, the character and quality of suggestions and accomplishments submitted for consideration, the method of their submission and the procedure for their review, nominations for merit awards, and the kind, character and value of such awards, and such other rules and regulations as may be deemed necessary or appropriate for the proper administration of this article or for the accomplishment of the purposes thereof;

(e) Upon the request of a public authority or other agency not in the state service but under the jurisdiction of the civil service department, to receive, pass upon and make awards for suggestions submitted by employees and retired employees of such authority or agency, provided such authority or agency agrees to abide by the decisions of the commission and to pay the costs of all awards granted by the commission to its employees.

§ 146. Awards. The commission may determine the nature and extent of

the merit awards to be made under this article which may include but shall not be limited to certificates, medals or other appropriate insignia, or cash awards in such amounts as may be fixed by the commission.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 150. Suspension of pension and annuity during public employment.

151. Leaves of absence for participation in certain athletic competitions.

152. Repair or replacement of assistive devices or adaptive equipment provided for employees with disabilities.

154-b. Agreements between state and employee organization.

154-c. Managerial or confidential survivor's benefit; special education fund.

156. Unauthorized soliciting in behalf of civil service employees.

157. Deductions from retirement allowances.

158. Group term life insurance plan and group accident and health benefit plan.

159. Group insurance or mass merchandising policies or programs.

159-a. Disability program.

159-b. Excused leave to undertake a screening for cancer.

159-c. Prohibition of retaliation for use of sick leave due to COVID-19; public employers.

159-d. Excused leave to donate blood.

§ 150. Suspension of pension and annuity during public employment. Except as otherwise provided by sections one hundred one, two hundred eleven, and two hundred twelve of the retirement and social security law, section five hundred three of the education law, and except as now provided by any local law or charter, if any person subsequent to his or her retirement from the civil service of the state or of any municipal

corporation or political subdivision of the state, shall accept any office, position or employment in the civil service of the state or of any municipal corporation or political subdivision of the state to which any salary or emolument is attached, except jury duty or the office of inspector of election, poll clerk or ballot clerk under the election law, or the office of notary public or commissioner of deeds, or an elective public office, any pension or annuity awarded or allotted to him or her upon retirement, and payable by the state, by such municipal corporation or political subdivision, or out of any fund established by or pursuant to law, shall be suspended during such service or employment and while such person is receiving any salary or emolument therefor except reimbursement for traveling expenses. Notwithstanding the foregoing, if any person, subsequent to his or her retirement from an elective public office, accepts appointment, is re-elected or takes a new oath of office to the same elective public office from which he or she retired, his or her retirement allowance shall be suspended until the date he or she vacates such elective public office, unless the amount earned for any calendar year for that elective public office does not exceed the earning limitation provided for retired persons in section two hundred twelve of the retirement and social security law. However, for purposes of this section the age seventy unlimited earnings provision of section two hundred twelve of the retirement and social security law will not pertain to any person, subsequent to his or her retirement from an elective public office, if such person accepts appointment, is re-elected or takes a new oath of office to the same elective public office from which he or she retired.

§ 151. Leaves of absence for participation in certain athletic competitions. 1. For purposes of this section:

(a) The term "public employee" means any person holding a position by appointment or employment in the service of a public employer.

(b) The term "public employer" means (i) the state of New York, (ii) a county, city, town, village or any other political subdivision or civil division of the state, (iii) a school district or any governmental entity operating a public school, college or university, (iv) a public improvement or special district, (v) a public authority, commission, or

public benefit corporation, or (vi) any other public corporation, agency or instrumentality or unit of government which exercises governmental powers under the laws of the state.

(c) The term "team" means any group leader, coach, official or athlete who comprises the official delegation of the United States to world, Pan American or Olympic competition.

2. A public employee who qualifies as a member of a United States team for athletic competition on the world, Pan American or Olympic level, in a sport contested in either Pan American or Olympic competitions, shall at the discretion of the public employer be granted a leave of absence from employment without loss of pay or diminution of any other privilege, benefit or right arising out of such employment and in accordance with the provisions of this section.

3. Such leave shall be available only for the purpose of preparing for and engaging in either or both such competitions and in no event shall the total of all such leave granted to a public employee exceed the period of the official training camp and competition combined or ninety calendar days a year, whichever is less.

4. The electing public employer shall pay at the employee's regular rate of pay for each week of leave granted in the amount the employee would receive for a standard work week. The employee shall not be entitled to receive compensation for any day spent in camp or competition for which compensation would not ordinarily be paid.

5. The president of the civil service commission shall promulgate appropriate rules necessary to effectuate the provisions of this section.

§ 152. Repair or replacement of assistive devices or adaptive equipment provided for employees with disabilities. Notwithstanding any law, regulation or rule to the contrary, any assistive device or adaptive equipment which has been provided by the state to an employee with a disability as a reasonable accommodation and which is necessary

to the performance of the duties of the employee's position shall be repaired or replaced by such state employee's appointing authority in a timely fashion and at no cost to such employee whenever the assistive device or adaptive equipment requires repair or replacement.

§ 154-b. Agreements between state and employee organization. 1. Notwithstanding any other law, rule or regulation to the contrary, where an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of employees in positions serving in the collective negotiating units designated as the administrative services unit, institutional services unit and the operational services unit, a survivor's benefit for a state employee in a position in such negotiating units shall be paid in an amount as provided in such agreement in the event that such employee dies subsequent to April first, nineteen hundred eighty-five as the result of an accidental on-the-job injury and that a death benefit is paid pursuant to the workers' compensation law. Such survivor's benefit shall be paid to the employee's surviving spouse and children who are designated by the workers' compensation board to receive a death benefit or portion thereof in the same proportion as the death benefit provided by the workers' compensation law is paid. In the event that the employee is not survived by a spouse or children, the survivor's benefit shall be paid to the estate of the employee. Such survivor's benefit shall be in addition to and not in place of any other survivor's or death benefit payable on behalf of such employee.

2. Notwithstanding any law, rule or regulation to the contrary, where an agreement between the state and such employee organization entered into pursuant to article fourteen of this chapter so provides, the state shall establish a special education fund to provide the child or children as designated by the workers' compensation board to receive a death benefit pursuant to the workers' compensation law of such employees for whom a survivor's benefit is paid pursuant to subdivision one of this section with full tuition up to the amount charged for an undergraduate college or university by the state university of New York to attend any accredited college or university within this state

provided, however, such child or children as so designated meet the entrance requirements of such college or university. The special education fund shall be funded at a level and for the period of time as determined by such agreement and any interest or other earnings attributable to the money held in such fund shall be utilized with such money for the purpose set forth in this subdivision.

3. Notwithstanding any law, rule or regulation to the contrary, where an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of employees in positions serving in the collective negotiating units designated as the security services unit, agency police services unit and the security supervisors unit, the state shall establish a special education fund to provide the child or children as designated by the workers' compensation board to receive a death benefit pursuant to the workers' compensation law of such employees who, subsequent to April first, nineteen hundred eighty-five, die under circumstances as defined in such agreement with full tuition up to the amount charged for an undergraduate college or university by the state university of New York to attend any college or university provided, however, such child or children as so designated meet the entrance requirements of such college or university. The special education fund shall be funded at a level and for the period of time as determined by such agreement and any interest or other earnings attributable to the money held in such fund shall be utilized with such money for the purpose set forth in this subdivision.

4. Notwithstanding any other law, rule or regulation to the contrary, where an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of employees in positions serving in the collective negotiating unit designated as the professional, scientific and technical services unit, a survivor's benefit for a state employee in a position represented by such employee organization shall be paid in an amount as provided in such agreement in the event that such employee dies subsequent to April first, nineteen hundred eighty-five, as the result of an accidental on-the-job injury or disease and that a death benefit is paid pursuant to the workers' compensation law. Such survivor's

benefit shall be paid to the employee's surviving spouse and children as designated by the workers' compensation board to receive a death benefit pursuant to the workers' compensation law in the same proportion as the death benefit provided by the workers' compensation law is paid. In the event that the employee is not survived by a spouse or children, the survivor's benefit shall be paid to the estate of the employee. Such survivor's benefit shall be in addition to and not in place of any other survivor's or death benefit payable on behalf of such employee.

5. Notwithstanding any law, rule or regulation to the contrary, where an agreement between the state and such employee organization entered into pursuant to article fourteen of this chapter so provides, the state shall establish a special education fund to provide the child or children as designated by the workers' compensation board to receive a death benefit pursuant to the workers' compensation law of such employees for whom a survivor's benefit is paid pursuant to subdivision four of this section with full tuition to attend a college or university which is part of the state university provided, however, such child or children meet the entrance requirements of such college or university. The special education fund shall be funded at a level and for the period of time as determined by such agreement and any interest or other earnings attributable to the money held in such fund shall be utilized with such money for the purpose set forth in this subdivision.

6. Notwithstanding any other law, rule or regulation to the contrary, where an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of employees in positions serving in the collective negotiating unit created by chapter four hundred three of the laws of nineteen hundred eighty-three, a survivor's benefit for a state employee in a position represented by such employee organization shall be paid in an amount as provided in such agreement in the event that such employee dies subsequent to April first, nineteen hundred eighty-five, as the result of an accidental on-the-job injury or disease and that a death benefit is paid pursuant to the workers' compensation law. Such survivor's benefit shall be paid to the employee's surviving spouse and children as designated by the workers' compensation board to receive a

death benefit pursuant to the workers' compensation law in the same proportion as the death benefit provided by the workers' compensation law is paid. In the event that the employee is not survived by a spouse or children, the survivor's benefit shall be paid to the estate of the employee. Such survivor's benefit shall be in addition to or not in place of any other survivor's or death benefit payable on behalf of such employee.

7. Notwithstanding any law, rule or regulation to the contrary, where an agreement between the state and such employee organization entered into pursuant to article fourteen of this chapter so provides, the state shall establish a special education fund to provide the child or children as designated by the workers' compensation board to receive a death benefit pursuant to the workers' compensation law of such employees for whom a survivor's benefit is paid pursuant to subdivision six of this section with full tuition up to the amount charged for an undergraduate college or university by the state university of New York as determined by the state to attend any accredited college or university within this state provided, however, such child or children as so designated meet the entrance requirements of such college or university. The special education fund shall be funded at a level and for the period of time as determined by such agreement and any interest or other earnings attributable to the money held in such fund shall be utilized with such money for the purpose set forth in this subdivision.

8. Notwithstanding any other law, rule or regulation to the contrary, where an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of employees in positions serving in the collective negotiating units designated as the security services unit, agency police services unit and the security supervisors unit, a survivor's benefit for a state employee in a position represented by such employee organization shall be paid in an amount as provided in such agreement in the event that such employee dies subsequent to April first, nineteen hundred eighty-five, as the result of an accidental on-the-job injury or disease provided that it is finally determined by the appropriate federal authorities that a public safety officer's death benefit is not payable

pursuant to sections three thousand seven hundred ninety-six through three thousand seven hundred ninety-six-c of title forty-two of the United States Code, and provided further that a death benefit is paid pursuant to the workers' compensation law. Such survivor's benefit shall be paid to the employee's surviving spouse and dependent children who are designated by the workers' compensation board to receive a death benefit or portion thereof in the same proportion as the death benefit provided by the workers' compensation law is paid. In the event that the employee is not survived by a spouse or dependent children, the survivor's benefit shall be paid to the estate of the employee. Such survivor's benefit shall be in addition to and not in place of any other survivor's or death benefit payable on behalf of such employee, except that such benefit shall not be payable if a public safety officer's death benefit is payable pursuant to sections three thousand seven hundred ninety-six through three thousand seven hundred ninety-six-c of the United States Code.

9. Notwithstanding any law, rule or regulation to the contrary, where an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of civilian employees in positions serving in the collective negotiating unit designated as the division of military and naval affairs unit, a survivor's benefit for a state employee in a position in such negotiating unit shall be paid in an amount as provided in such agreement in the event that such employee dies subsequent to April first, nineteen hundred eighty-five, as the result of an accidental on-the-job injury, provided that it is finally determined by the appropriate federal authorities that a public safety officer's death benefit is not payable pursuant to sections three thousand seven hundred ninety-six through three thousand seven hundred ninety-six-c of title forty-two of the United States code, and provided further that a death benefit is paid pursuant to the workers' compensation law. Such survivor's benefit shall be paid to the employee's surviving spouse and children who are designated by the workers' compensation board to receive a death benefit or portion thereof in the same proportion as the death benefit provided by the workers' compensation law is paid. In the event that the employee is not survived by a spouse or children, the

survivor's benefit shall be paid to the estate of the employee. Such survivor's benefit shall be in addition to and not in place of any other survivor's or death benefit payable on behalf of such employee except that such benefit shall not be payable if a public safety officer's death benefit is payable pursuant to sections three thousand seven hundred ninety-six through three thousand seven hundred ninety-six-c of title forty-two of the Unites States code.

10. Notwithstanding any law, rule or regulation to the contrary, where an agreement between the state and such employee organization entered into pursuant to article fourteen of this chapter so provides, the state shall establish a special education fund to provide the child or children as designated by the workers' compensation board to receive a death benefit pursuant to the workers' compensation law of such employees for whom a survivor's benefit is paid pursuant to subdivision nine of this section with full tuition up to the amount charged for an undergraduate college or university by the state university of New York to attend any accredited college or university within this state provided, however, such child or children as so designated meet the entrance requirements of such college or university. The special education fund shall be funded at a level and for the period of time as determined by such agreement and any interest or other earnings attributable to the money held in such fund shall be utilized with such money for the purpose set forth in this subdivision.

§ 154-c. Managerial or confidential survivor's benefit; special education fund. 1. The term "managerial or confidential employee" as used in this section shall mean a full-time employee or officer in the executive branch of the state whose position is designated managerial or confidential pursuant to article fourteen of this chapter, civilian state employees of the division of military and naval affairs in the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit, officers and employees excluded from representation rights under article fourteen of this chapter pursuant to rules and regulations of the public employment relations board, officers and employees whose salaries are

prescribed by section nineteen of the correction law, officers and employees whose salaries are provided for by paragraph (a) of subdivision one of section two hundred fifteen of the executive law, and employees in positions in the professional service in the state university which are designated, stipulated or excluded from negotiating units as managerial or confidential as defined pursuant to article fourteen of this chapter.

2. Notwithstanding any other law, rule or regulation to the contrary, a survivor's benefit for a managerial or confidential employee shall be paid in an amount of fifty thousand dollars in the event that such employee dies subsequent to April first, nineteen hundred eighty-five, as the result of an accidental on-the-job injury or disease, provided that it is finally determined by the appropriate federal authorities that a public safety officer's death benefit is not payable pursuant to sections three thousand seven hundred ninety-six through three thousand seven hundred ninety-six-c of title forty-two of the United States code and provided further that a death benefit is paid pursuant to the workers' compensation law. Such survivor's benefit shall be paid to the employee's surviving spouse and children in the same proportion as the death benefit provided by the workers' compensation law is paid. For the purposes of this section, the employee's surviving spouse and children shall be the persons designated as such by the workers' compensation board. In the event that the employee is not survived by a spouse or children, the survivor's benefit shall be paid to the estate of the employee. Such survivor's benefit shall be in addition to and not in place of any other survivor's or death benefit payable on behalf of such employee, except that such benefit shall not be payable if a public safety officer's death benefit is payable pursuant to sections three thousand seven hundred ninety-six through three thousand seven hundred ninety-six-c of the United States code.

3. Notwithstanding any law, rule or regulation to the contrary, the state shall provide the child or children of such employees for whom a survivor's benefit is paid pursuant to subdivision one of this section, with full tuition up to the amount charged by the state university, to attend any accredited college or university within this state provided,

however, such child or children meet the entrance requirements of such college or university. Such child or children are those who are designated by the workers' compensation board to receive a death benefit pursuant to the workers' compensation law.

§ 156. Unauthorized soliciting in behalf of civil service employees. Any person, not at the time a salaried officer or employee of a department, bureau or office of the state, or of any of the counties or cities thereof, or of any of the courts of the state, or any of the counties or cities thereof, who shall distribute, circulate or display any ticket, credentials, letter, letterhead, contract, agreement, application or other written or printed matter which bears, either in full or in part, the name, seal or insignia of any state, county or city department, bureau, office or court, or any person not an active member of the uniformed force, who shall wear or display the uniform or part of the uniform thereof, or any badge, shield, medal, button, decoration, or other insignia relating to or identified with any state, county or city department, bureau, office or court, for the purpose of selling or attempting to sell any ticket, book or privilege in connection with a dinner, reception, dance, entertainment, concert, athletic exhibition, contest or lecture, proposed to be conducted by and under the auspices of any group or association of active or retired employees of any department, bureau, office or court of the state or any of the counties or cities thereof, or for the purpose of soliciting paid advertisements or greetings for any book, pamphlet or program to be published by any such groups or associations, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for six months or by a fine of five hundred dollars or both.

§ 157. Deductions from retirement allowances. A person who (1) retired from employment with the state, (2) is receiving a retirement allowance from a state retirement system, and (3) at the time of his retirement had group life insurance premiums and employee organization dues deducted from his salary, may elect to have deductions for such purposes made from his retirement allowance by providing notification in writing

to the head of the retirement system from which he retired. Such life insurance deduction shall be transmitted to the insurance carrier. Such dues deduction shall be transmitted to the employee organization. Any such written authorization may be withdrawn by such retired employee at any time upon written notice of such withdrawal to the head of the retirement system from which he retired.

§ 158. Group term life insurance plan and group accident and health benefit plan. 1. The president, subject to the provisions of this section, is hereby empowered to establish regulations relating to, and to enter into and administer contracts providing for, a group term life insurance plan, and a group accident and health benefit plan on behalf of legislators, employees of the legislature hired on an annual basis, judges and justices of the unified court system, and state employees and retired employees who, for the purposes of article fourteen of this chapter, have been for a period of time prescribed by the regulations and, except for such retirees, continue to be in positions designated as managerial or confidential positions. The president may authorize the inclusion in the plan of such employees and retired employees of other governments or public employers as defined in subdivision six of section two hundred one of this chapter. The president may adopt whatever other regulations which may be necessary to fulfill the intentions of this section. No regulation shall be adopted, repealed or amended, and no other action taken with respect to such employees affecting the amount of, or eligibility for, benefits or rates of contribution under this section without the approval of the director of employee relations.

The full costs of any insurance program or programs established pursuant to this subdivision, excluding administrative costs, shall be borne by insureds and retirees. Any interest earned by the moneys in the life insurance fund shall be added to such fund, become a part of such fund, be used for the purpose of such fund, and be available without fiscal year limitation.

2. The regulations of the president authorized by this section shall provide that the entire cost of premiums or subscription charges for

coverage under the insurance plans established pursuant to such regulations shall be borne by the employees electing such coverage. Such regulations may provide for the allocation of any administrative expenses, other than those of the insurer, among employers or employees or retired employees participating in such coverage.

§ 159. Group insurance or mass merchandising policies or programs. 1. The president, subject to the approval of the director of employee relations and the director of the budget, is hereby empowered to establish regulations relating to, and to enter into and administer contracts or agreements providing for group insurance or mass merchandising policies or programs for state employees in the executive branch precluded from collective bargaining by subdivision five or subdivision seven of section two hundred one of this chapter.

2. Any such policy or program shall be subject to the following provisions:

a. The benefits provided thereby shall be available to all state officers and employees in the executive branch whose positions are designated managerial or confidential pursuant to article fourteen of this chapter and all state officers and employees excluded from representation rights under this chapter pursuant to rules and regulations of the public employment relations board, subject to reasonable underwriting restrictions of the selected insurers;

b. The benefits provided thereby may be made available to state officers and employees in the division of military and naval affairs in the executive department; and

c. Unless any group insurance or mass merchandising policy or program offered pursuant to this section is funded by payroll deductions in accordance with subdivision three of section two hundred one of the state finance law, such policy or program shall be funded by specific appropriation of monies of the state, provided, however, both payroll deductions and state appropriations may be utilized to fund any such

policy or program.

3. Notwithstanding the provisions of any general or special law, no state monies shall be available for group insurance or mass merchandising policies or programs established by the president until a certificate of allocation and a schedule of amounts to be available therefor shall have been issued by the director of the budget, and a copy of such certificate filed with the comptroller, the chairman of the assembly ways and means committee and the chairman of the senate finance committee.

4. Monies appropriated and allocated for the purposes set forth herein, shall be paid out on the audit and warrant of the comptroller on vouchers certified or approved by the president.

§ 159-a. Disability program. Notwithstanding any other law, rule or regulation to the contrary, where an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides on behalf of employees in positions serving in the collective negotiating unit created by chapter four hundred three of the laws of nineteen hundred eighty-three, the director of employee relations is authorized to establish and implement a disability program that will provide long term income protection for such employees and the president is empowered to establish regulations to effect such implementation. No regulation shall be adopted, repealed or amended, and no other action taken with respect to such employees or such implementation without the approval of the director of employee relations. Notwithstanding any other law, rule or regulation to the contrary, any employee who participates in or is covered by a disability program authorized by this section shall receive retirement service credit not to exceed six months during the period that he or she is receiving the short term disability benefit under such program on the same basis and at the same rate as such employee would receive such credit were he or she on sick leave at half pay for the period of time for which such employee would have been entitled to such sick leave at half pay had the sick leave policy supplemented by the short term

disability program remained in effect.

§ 159-b. Excused leave to undertake a screening for cancer. 1. Every public officer, employee of this state, employee of any county, employee of any community college, employee of any public authority, employee of any public benefit corporation, employee of any board of cooperative educational services (BOCES), employee of any vocational education and extension board, or a school district enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, employee of any municipality, employee of any school district or any employee of a participating employer in the New York state and local employees' retirement system or any employee of a participating employer in the New York state teachers' retirement system shall be entitled to absent himself or herself and shall be deemed to have a paid leave of absence from his or her duties or service as such public officer or employee of this state, employee of any county, employee of any community college, employee of any public authority, employee of any public benefit corporation, employee of any board of cooperative educational services (BOCES), employee of any vocational education and extension board, or a school district enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, employee of any municipality, employee of any school district, or any employee of a participating employer in the New York state and local employees' retirement system or any employee of a participating employer in the New York state teachers' retirement system for a sufficient period of time, not to exceed four hours on an annual basis, to undertake a screening for cancer.

2. The entire period of the leave of absence granted pursuant to this section shall be excused leave and shall not be charged against any other leave such public officer, employee of this state, employee of any county, employee of any community college, employee of any public authority, employee of any public benefit corporation, employee of any board of cooperative educational services (BOCES), employee of any vocational education and extension board, or a school district enumerated in section one of chapter five hundred sixty-six of the laws

of nineteen hundred sixty-seven, employee of any municipality, employee of any school district or any employee of a participating employer in the New York state and local employees' retirement system or any employee of a participating employer in the New York state teachers' retirement system is otherwise entitled to.

§ 159-c. Prohibition of retaliation for use of sick leave due to COVID-19; public employers. A public employer shall not dismiss or take other disciplinary or other adverse personnel action against a public employee regarding the employee's employment, including designating the employee as chronically absent, because the employee uses sick leave or compensatory time to quarantine, convalesce, seek medical treatment, or engage in other activities related to a COVID-19 diagnosis or contact.

§ 159-d. Excused leave to donate blood. 1. Every public officer or employee of this state shall be entitled to absent himself or herself and shall be deemed to have a leave of absence from his or her duties or service as such public officer or employee of this state, for a sufficient period of time, not to exceed four hours on an annual basis, to donate blood.

2. A supervisor of any such public officer or employee may require the public officer or employee to provide written substantiation from a donation center or entity coordinating donations that the public officer or employee actually donated blood during the excused absence.

3. The entire period of the leave of absence granted pursuant to this section shall be excused leave and shall not be charged against any other leave such public officer or employee of this state is otherwise entitled to.

ARTICLE XI

HEALTH BENEFITS FOR STATE AND RETIRED STATE EMPLOYEES

Section 160. Regulations governing the health benefit plan; advisory

committee.
161. Health insurance.
161-a. Implementation of negotiated agreements.
162. Contract for health benefits.
163. Eligibility for benefits.
163-a. Supplementary plan.
164. Coverage for dependents.
165. Termination of active employment.
165-a. Continuation of state health benefit plans for survivors of employees of the state and/or of a political subdivision or of a public authority.
166. Payment of benefits.
167. Contributions.
167-a. Reimbursement for medicare premium charges.
168. Assessment of certain costs.
170. Separability.

§ 160. Regulations governing the health benefit plan; advisory committee. 1. The president, subject to the provisions of this article, is hereby empowered to establish regulations relating to:

(1) the eligibility of (a) active and (b) retired employees to participate in the health benefit plan authorized by this article,

(2) the terms and conditions of the insurance and/or plan administrator contract or contracts, as applied to (a) active employees and (b) retired employees, and

(3) the purchase of such insurance and/or plan administrator contract or contracts and the administration of such health benefit plan.

The president shall adopt such further regulations as may be required for the effective administration of this article, including the right to require advance payments of any portion of the amount required to be paid by any participating employer as its share in connection with the operation of the health benefit plan hereunder.

2. The president, in his discretion, is hereby empowered to make, amend and rescind, from time to time, regulations establishing a dental

insurance plan which shall be a part of the health insurance plan authorized by this article. Such regulations may provide for negotiating unit, employee and employer participation or nonparticipation, employee, dependent and retiree eligibility or noneligibility and such contribution rates as the president may determine even though such regulations establish standards which differ from those applicable by law to other parts of such health insurance plan. The president is hereby authorized and directed to provide in such regulations for participation in the dental insurance plan by retirees; provided, however, that the claims experience for retirees shall be separately rated and premiums established separate from other participants in the plan and provided further that the full costs of participation in such plan, including all administrative costs, shall be borne by such retirees. Considering the dental insurance plan as a whole, no regulation enacted pursuant to this subdivision shall provide or permit a benefit structure inconsistent with the most efficient and economical administration of such plan.

3. Notwithstanding any inconsistent provision of this article, no rule or regulation shall be adopted, repealed or amended, and no other action taken with respect to state employees affecting the rate of or eligibility for benefits under this article, without the approval of the director of employee relations.

§ 161. Health insurance. 1. The president is hereby authorized and directed to establish a health benefit plan for state officers and employees and their dependents and officers and employees of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York and their dependents which, subject to the conditions and limitations contained in this article, and in the regulations of the

president, will provide for group hospitalization, surgical and medical insurance against the financial costs of hospitalization, surgery, medical treatment and care, and may include, among other things prescribed drugs, medicines, prosthetic appliances, hospital in-patient and out-patient service benefits and medical expense indemnity benefits.

2. Such health insurance shall not include expenses incurred by or on account of an individual prior to the effective date of the plan as to him or her; cosmetic surgery or treatment except to the extent necessary for correction of damage caused by accidental injury while covered by the plan or as direct result of diseases covered by the plan; services received because of illness or injury arising out of or in the course of employment and entitling the individual to benefits under a workers' compensation or occupational disease law; services received in a hospital owned or operated by the United States government for which no charge is made; services received for injury or sickness due to war or any act of war, whether declared or undeclared, which war or act of war shall have occurred after the effective date of this plan; expenses for which the individual is not required to make payment; expenses to the extent of benefits provided under any employer group plan other than this plan, and such other expenses as may be excluded by regulations of the president.

3. The health benefit plan shall be designed by the president (1) to provide a reasonable relationship between the hospital, surgical and medical benefits to be included, and the expected distribution of expenses of each such type to be incurred by the covered employees and dependents, and (2) to include reasonable controls, which may include deductible and coinsurance provisions applicable to some or all of the benefits, to reduce unnecessary utilization of the various hospital, surgical and medical services to be provided and to provide reasonable assurance of stability in future years of the plan, and (3) to provide benefits on a non-discriminatory basis to the extent possible, to active members throughout the state, wherever located.

§ 161-a. Implementation of negotiated agreements. 1. Where, and to the

extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter provides for health benefits, the president, after receipt of written directions from the director of employee relations, shall implement the provisions of such agreement consistent with the terms thereof and to the extent necessary shall adopt regulations providing for the benefits to be thereunder provided. The president, with the approval of the director of the budget, may extend such benefits, in whole or in part, to employees not subject to the provisions of such agreement.

2. Insofar as the provisions of this section are inconsistent with any other act, general or special, or any rule or regulation adopted thereunder, the provisions of this section shall be controlling and insofar as the regulations promulgated by the president pursuant to subdivision one of this section are inconsistent with any rule or regulation, the provisions of such regulations shall be controlling.

3. There is hereby created a council on employee health insurance to supervise the administration of changes to the health benefit plan negotiated in collective negotiations and to provide continuing policy direction to insurance plans administered by the state the provisions of any other law to the contrary notwithstanding. The council shall consist of the president, the director of the division of the budget, and the director of employee relations.

§ 162. Contract for health benefits. 1. The president is hereby authorized and directed to purchase a contract or contracts to provide the benefits under the plan of health benefits determined upon in accordance with the provisions of this article. Such contract or contracts shall be purchased from one or more corporations licensed to transact accident and health insurance business in this state or subject to article forty-three of the insurance law.

(a) Alternatively, the president may provide health benefits directly to plan participants, in which case the president is hereby authorized to purchase a contract or contracts with one or more firms qualified to administer, on New York state health benefit plan's behalf, the plan of

benefits required under this article.

(b) In the event the president elects to provide health benefits directly to plan participants in accordance with paragraph (a) of this subdivision:

(i) Any and all health insurance coverage mandated by any law, rule or regulation, including but not limited to coverage mandated pursuant to article forty-three of the insurance law, applicable to contracts for health insurance entered into under this section shall be provided in a manner assuring uninterrupted continuance of coverage for all covered persons. For the purposes of this paragraph "coverage" shall include but shall not be limited to all benefits, services, rights, privileges and guarantees allowed by law;

(ii) Plan participants shall be afforded all internal and external review and appeal rights as described in article forty-nine of the insurance law;

(iii) A plan participant receiving covered services rendered by a health care provider prior to the date upon which the president elects to provide health benefits directly to plan participants in accordance with paragraph (a) of this subdivision shall be permitted to continue receiving services from such health care provider after the effective date of the election at the discretion of such plan participant. Services provided by such health care provider after the effective date of the election as described in this paragraph shall be covered in a manner consistent with covered services provided directly to plan participants in accordance with paragraph (a) of this subdivision; and

(iv) Notwithstanding the provisions of this subdivision, the president's election to provide health benefits directly to plan participants shall not constitute the doing of insurance business within the meaning of article eleven of the insurance law; provided however, the provision of direct benefits as per this subdivision shall be subject to review by the superintendent of financial services for the purposes of ensuring compliance with applicable insurance law and any and all associated insurance rules and regulations as noted in this subdivision.

(c) All of the benefits to be provided under this article may be included in one or more similar contracts, or the benefits may be classified into different types with each type included under one or

more similar contracts issued by the same or different companies.

2. A reasonable time before entering into any insurance contract or contract with an administrator or administrators hereunder, the president shall invite proposals from such qualified insurers or administrators as in his or her opinion would desire to accept any part of the insurance coverage or administrative services authorized by this article.

3. The president may arrange with any corporation licensed to transact accident and health insurance business in this state or subject to article forty-three of the insurance law issuing any such contract to reinsure portions of such contract with any other such corporation which elects to be a reinsurer and is legally competent to enter into a reinsurance agreement.

4. The president may designate one or more of such corporations as the administering corporation or corporations.

5. Each employee who is covered under any such contract or contracts shall receive a certificate setting forth the benefits to which the employee and his dependents are entitled thereunder, to whom such benefits shall be payable, to whom claims should be submitted, and summarizing the provisions of the contract principally affecting the employee and his dependents. Such certificate shall be in lieu of the certificate which the corporation or corporations issuing such contract or contracts would otherwise issue.

6. The corporations eligible to participate as reinsurers, and the amount of coverage under the contract or contracts to be allocated to each issuing corporation or reinsurer, may be redetermined by the president for and in advance of any contract year after the first year on a basis consistent with subdivision three of this section, and with any modifications thereof he deems appropriate to carry out the intent of such subdivision.

7. The president shall not purchase any contract or contracts for any

period except upon the prior approval of the director of the budget.

8. The president may, on March thirty-first, nineteen hundred fifty-seven or at the end of any fiscal year thereafter, discontinue any contract or contracts he has purchased from any corporation or corporations and replace it or them with a contract or contracts in any other corporation or corporations meeting the requirements of this section.

9. (a) (i) As soon as is practicable, but no later than the first of September, two thousand fourteen, the department shall, upon request, but no more frequently than semi-annually, provide to any participating employer a standard report which contains data relating to the use of benefits by persons covered under the plan by such employer. Such report shall include: premiums paid by month for each month covered in the report and paid claims by month for the following categories of services: inpatient hospital, outpatient hospital, in network medical, out of network medical, prescription drugs, and treatment of behavioral conditions, each reported separately. To the extent allowed by state and federal privacy laws, such report shall also contain claims information for individual claimants for claims in excess of fifty thousand dollars that were paid in any of the months covered by the report.

(ii) The department shall provide such reports to any participating employer, upon request submitted on or after the first of April for data from the first of January through the thirty-first of December of the prior year, and on or after the first of September for data from the first of June of the prior year through the thirty-first of May of the current year, within thirty days of receipt of said request. However, requests submitted in the two thousand fourteen calendar year shall be provided as soon as practicable, but no later than the first of September, two thousand fourteen, or within thirty days after said request if request is submitted on or after the first of August, two thousand fourteen.

(b) (i) As soon as practicable, but not later than December first of each year, the department shall collect and analyze health care claims data from the Empire Plan, or its successor, to develop, and make publicly available, a New York state health benefit plan hospital

pricing report. Such report shall exclude optional benefit plan health care claims data and claims for Medicare primary individuals. The report shall include, but not be limited to, a comparative analysis of actual hospital in-network allowed amounts and out-of-network allowed amounts for each hospital facility located in the state of New York identified by name and CMS certification number (CCN) or successor identifier, based on the following service categories: (A) inpatient hospital, (B) outpatient hospital, (C) emergency room services, and (D) physician services provided (1) during an inpatient hospital admission and (2) as part of an outpatient visit or in connection with the provision of emergency room services, except to the extent that the department determines that the analysis of physician services is not technically feasible and explains the basis for such determination.

(ii) The report shall also include the in-network allowed amount and out-of-network allowed amount per service per hospital facility on the top twenty services by volume within each of the following service categories: (A) inpatient, (B) outpatient, (C) emergency room services, and (D) physician services provided (1) during an inpatient hospital admission and (2) as part of an outpatient visit or in connection with the provision of emergency room services, except to the extent that the department determines that the analysis of physician services is not technically feasible and explains the basis for such determination at each hospital located in the state of New York. The report shall compare, to the best of the department's ability, the in-network allowed amounts and out-of-network allowed amounts for similar services reimbursed under title eighteen of the social security act. Such report shall also include a comprehensive analysis of the prior two years of hospital in-network allowed amounts and out-of-network allowed amounts for such services to illustrate trends in hospital prices. The report shall also include an all-plan aggregated total yearly spend by hospital facility identified by name and CMS certification number (CCN) or successor identifier. In preparing the report, the president shall take appropriate steps to ensure that individual insurer's or health plan's confidential proprietary pricing information is maintained as confidential to the extent permissible by law. Such report shall be delivered to the legislative fiscal committees, the chairs of the legislative health care committees, the chair of the senate civil

service and pensions committee, and the chair of the assembly committee on governmental employees, on or before December thirty-first of each year, and such report shall be posted on the department's website no later than January first of the following calendar year. For purposes of this subdivision, "health care claims data" means any hospital claims paid by the health benefit plan, or its designee, for the service categories listed in this subdivision on form UB-04 or successor forms, with UB-04 being the billing form identified by the Centers for Medicare and Medicaid Services.

§ 163. Eligibility for benefits. 1. All persons in the service of the state, whether elected, appointed or employed, who elect to participate in such health benefit plan shall be eligible to participate therein, provided, however, that the president may adopt such regulations as he or she may deem appropriate excluding temporary, part time or intermittent employment.

2. The contract or contracts shall provide for health benefits for retired employees of the state and of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, and their spouses and dependent children as defined by the regulations of the president, on such terms as the president may deem appropriate, and the president may authorize the inclusion in the plan of the employees and retired employees of public authorities, public benefit corporations, school districts, special districts, district corporations, municipal corporations excluding active employees and retired employees of cities having a population of one million or more inhabitants whose compensation is or was before retirement paid out of the city treasury, or other appropriate agencies, subdivisions or quasi-public organizations of the state, including active members of volunteer fire

and volunteer ambulance companies serving one or more municipal corporations pursuant to subdivision seven of section ninety-two-a of the general municipal law, and their spouses and dependent children as defined by the regulations of the president. Notwithstanding any law or regulation to the contrary, active members of volunteer ambulance companies serving one or more municipal corporations pursuant to subdivision seven of section ninety-two-a of the general municipal law shall be eligible for health benefits regardless of the amount of funds derived from public sources. Any such corporation, district, agency or organization electing to participate in the plan shall be required to pay its proportionate share of the expenses of administration of the plan in such amounts and at such times as determined and fixed by the president. All amounts payable for such expenses of administration shall be paid to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for such purposes. Neither the state nor any other participant in the plan shall be charged with the particular experience attributable to the employees of the participant, and all dividends or retroactive rate credits shall be distributed pro-rata based upon the number of employees of such participant covered by the plan.

3. The president shall adopt regulations prescribing the conditions under which an employee or retired employee may elect to participate in or withdraw from the plan. Such regulations may also prescribe conditions under which an employee whose service terminates and who is entitled to a vested retirement allowance may continue to participate in the plan; such condition shall include a requirement that such person pay the full cost of such coverage following termination of his employment and prior to commencement of the payment of his retirement allowance, unless such person becomes currently entitled to, but defers receipt of, a retirement allowance or pension from a retirement or pension plan or system administered and operated by the state of New York, or a civil division thereof, including the New York state teachers' retirement system and the optional retirement programs established under article three, part V, and article eight-B of the education law.

4. Any public authority, public benefit corporation, school district, special district, district corporation, municipal corporation, or other agency, subdivision or quasi-public organization of the state, whose employees and retired employees are authorized to be included in the plan as provided by subdivision two, may elect to participate in such plan. Any such election shall be exercised by the adoption of a resolution by its governing body and, in the case of any municipal corporation where a resolution of its governing body is required by law to be approved by any other body or officer, such resolution shall also be approved by such other body or officer. Any such election may be made with respect to inclusion in the plan of both its employees and its retired employees at the same time, or may be made only with respect to its employees alone and at another time with respect to its retired employees. Any such authority, corporation, district, agency, subdivision or organization making such election shall become a participating employer under such plan, subject to and in accordance with the regulations of the president relating thereto.

5. The chief fiscal officer of any such participating employer shall be authorized to deduct from the wages or salary paid to its employees who are participants in such health benefit plan the sums required to be paid by them under such plan. Each such participating employer is authorized to appropriate such sums as are required to be paid by it as its share in connection with the operation of such plan.

6. The president shall have power and authority to make such inspection of the employment and payroll records of any participating employer concerning any of its employees who are participants in the health insurance fund as he may deem necessary.

7. For purposes of eligibility for participation in the health benefit plan no person shall be deemed to be a state officer or employee or to be in the service of the state unless his salary or compensation is paid directly by the state, and no person shall be deemed to be a retired officer or employee of the state unless his salary or compensation immediately preceding his retirement was paid directly by the state; provided, however, that all active and retired justices, judges,

officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city shall be eligible for participation in the health benefit plan whether or not their salaries are paid or before retirement were paid directly by the state.

8. Notwithstanding any other law, rule or regulation to the contrary, where the state and an employee organization representing state officers and employees who are in positions which are in the collective negotiating unit established by chapter four hundred three of the laws of nineteen hundred eighty-three enter into a collectively negotiated agreement pursuant to article fourteen of this chapter providing that officers and employees who hold positions in such unit on or after April first, nineteen hundred eighty-four and who immediately upon termination from such position are eligible to receive a retirement benefit from either the New York state or New York city retirement systems shall continue to be eligible to participate in the employee benefit fund established by section two hundred six-a of the state finance law, such officers and employees upon retirement shall continue to participate in and receive the benefits of such fund as provided in such collectively negotiated agreement and shall not be eligible to receive and shall not receive from the statewide health benefit plan established pursuant to this article coverage for benefits covered by such employee benefit fund.

§ 163-a. Supplementary plan. 1. For the purposes of this section, the term "supplementary plan" shall mean a health benefit plan which provides an adjustment to the deductible or co-insurance liability or to the benefits provided by the statewide health benefit plan purchased pursuant to section one hundred sixty-two of this article.

2. The president may require the insurer of a supplementary plan to the statewide health benefit plan, provided as a result of a collectively negotiated agreement pursuant to article fourteen of this

chapter, to make a comparable supplementary plan available to participating employers as of the implementation date of the state employees' supplementary plan. The comparable supplementary plan shall be experience rated as to those participating employers electing it, with the costs thereof allocated equitably among them.

3. Every participating employer which, on or before July first, nineteen hundred eighty-five, entered into a collectively negotiated agreement pursuant to article fourteen of this chapter with employee organizations representing its employees to provide the statewide health benefit plan shall provide such comparable supplementary plan on the date established by the president until the expiration of such negotiated agreement.

§ 164. Coverage for dependents. 1. Each employee shall be entitled to have his spouse and dependent children, as defined by the regulations of the president, included in the coverage upon agreeing to pay his contribution, if any, to the cost of such coverage for such dependents. The president shall adopt regulations governing the discontinuance and resumption by employees of coverage for dependents.

2. During the fiscal year ending March thirty-first, two thousand sixteen, the president may establish an amnesty period not to exceed sixty days. During this amnesty period when any employee enrolled in the plan voluntarily identifies any ineligible dependent:

(a) the termination of the ineligible dependent's coverage resulting from such employee's timely compliance shall be made on a current basis;

(b) the plan shall not seek recovery of any claims paid based on the coverage of the ineligible dependent;

(c) the employee shall not be entitled to any refund of premium paid on behalf of any such ineligible dependent; and

(d) the employee shall not be subject to any disciplinary, civil or criminal action, directly as a result of the coverage of the ineligible dependent.

§ 165. Termination of active employment. 1. The health benefit coverage of any employee and his or her dependents, if any, shall cease upon the discontinuance of his or her term of office or employment, subject to regulations which may be prescribed by the president for extension of coverage and for conversion to an individual contract providing for such of the benefits provided under this article as may be provided under such individual contracts, under terms approved by the president, the total cost of any such contract to be borne by the employee.

2. In the event of death of an employee having coverage at the time of death for himself or herself and his or her dependents, and where the circumstances of death are such that beneficiaries or dependents of such deceased employee are entitled to an accidental death benefit payable by a retirement system or pension plan administered by the state or a civil division thereof on account of death resulting from an accident sustained in the performance of his or her duties or to death benefits provided for under the workers' compensation law, the unremarried spouse of such employee covered at the time of his or her death and his or her covered dependents, for so long as they would otherwise qualify as dependents eligible for coverage under the regulations of the president, shall be eligible to continue full coverage under the health benefit plan upon payment at intervals determined by the president of the full cost of such coverage; provided, however, that the state shall pay and any participating employer may elect to pay the full cost of such coverage, except that in the case of those enrolled in an optional benefit plan, the employer shall contribute not more than the same dollar amount which would be paid if such unremarried spouse and dependents were enrolled in the basic statewide health benefit plan. The president shall adopt such regulations as may be required to carry out the provisions of this subdivision which shall include, but need not be limited to, provisions for filing application for continued coverage, including reasonable time limits therefor, and provisions for continued coverage of spouse and dependents pending determination of an application for accidental death benefits from a retirement system or pension plan administered by the state or a civil division thereof or pending determination of a claim for death benefits under the workers'

compensation law.

§ 165-a. Continuation of state health benefit plans for survivors of employees of the state and/or of a political subdivision or of a public authority. Notwithstanding any other provision of law to the contrary, the president shall permit the unremarried spouse and the dependents, otherwise qualified as eligible for coverage under regulations of the president, of a person who was an employee of the state and/or of a political subdivision thereof or of a public authority for not less than ten years, provided however, that the ten-year service requirement shall not apply to such employees on active military duty in connection with the Persian Gulf conflict who die on or after August second, nineteen hundred ninety while in the Persian Gulf combat zone or while performing such military duties, or the unremarried spouse and the dependents, otherwise qualified as eligible for coverage under regulations of the president, to any employee of the state and/or of a political subdivision thereof or of a public authority who retires with less than ten years of service with an accidental disability retirement benefit or a performance of duty disability pension, who had been a participant in any of the state health benefit plans, to continue under the coverage which such deceased employee had in effect at the time of death, upon the payment at intervals determined by the president of the full cost of such coverage, provided, however, that the unremarried spouse of an active employee of the State who died on or after April first nineteen hundred seventy-five and before April first nineteen hundred seventy-nine who timely elected to continue dependent coverage, or such unremarried spouse who timely elected individual coverage shall continue to pay at intervals determined by the president one-quarter of the full cost of dependent coverage and provided further, that, with regard to employees of the State, where and to the extent that an agreement pursuant to article fourteen of this chapter so provides, or where the director of employee relations, with respect to employees of the State who are not included within a negotiating unit so recognized or certified pursuant to article fourteen of this chapter whom the director of employee relations determines should be declared eligible for the continuation of health benefit plans for the survivors of such employees

of the State, the president shall adopt regulations providing for the continuation of such health benefit or benefits by the unremarried spouse of an active employee of the State who died on or after April first nineteen hundred seventy-nine who elects to continue dependent coverage, or such unremarried spouse who elects individual coverage, and upon such election shall pay at intervals determined by the president one-quarter of the full cost of dependent coverage and, provided further with respect to enrolled employees of a political subdivision or public authority in a negotiating unit recognized or certified pursuant to article fourteen of this chapter, where an agreement negotiated pursuant to said article so provides, and with respect to enrolled employees of a political subdivision or public authority not included within a negotiating unit so recognized or certified, at the discretion of the appropriate political subdivision or public authority, the unremarried spouse of an active employee of the political subdivision or of the public authority who died on or after April first nineteen hundred seventy-five, may elect to continue dependent coverage or such unremarried spouse may elect individual coverage and upon such election shall pay at intervals determined by the president one-quarter of the full cost of dependent coverage.

The president shall adopt such regulations as may be required to carry out the provisions of this subdivision which shall include, but need not be limited to, provisions for filing application for continued coverage.

Notwithstanding any law to the contrary, the survivors of any employee subject to this section shall be entitled to the health benefits granted pursuant to this section, provided that such employee died while on active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code, and such member died on such active duty or service in the uniformed services on or after June fourteenth, two thousand five as a result of injuries, disease or other medical condition sustained or contracted in such active duty with the armed forces of the United States or in the uniformed services.

§ 166. Payment of benefits. Any benefits payable under the plan may be made either directly to the attending physicians, hospitals, medical groups, or others furnishing the services upon which a claim is based, or to the covered employee, upon presentation of valid bills for such services, subject to such provisions to facilitate payment as may be made by the president.

§ 167. Contributions. 1. (a) The full cost of premium or subscription charges for the coverage of retired state employees who are enrolled in the statewide and the supplementary health benefit plans established pursuant to this article and who retired prior to January first, nineteen hundred eighty-three shall be paid by the state. Nine-tenths of the cost of premium or subscription charges for the coverage of state employees and retired state employees retiring on or after January first, nineteen hundred eighty-three who are enrolled in the statewide and supplementary health benefit plans shall be paid by the state. Three-quarters of the cost of premium or subscription charges for the coverage of dependents of such state employees and retired state employees shall be paid by the state. Except as provided in paragraph (b) of this subdivision, the state shall contribute toward the premium or subscription charges for the coverage of each state employee or retired state employee who is enrolled in an optional benefit plan and for the dependents of such state employee or retired state employee the same dollar amount which would be paid by the state for the premium or subscription charges for the coverage of such state employee or retired state employee and his or her dependents if he or she were enrolled in the statewide and the supplementary health benefit plans, but not in excess of the premium or subscription charges for the coverage of such state employee or retired state employee and his or her dependents under such optional benefit plan. For purposes of this subdivision, employees of the state colleges of agriculture, home economics, industrial labor relations, and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and employees

of the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, shall be deemed to be state employees whose salaries or compensation are paid directly by the state.

(b) Effective January first, nineteen hundred eighty-nine, notwithstanding any other law, rule or regulation, and where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides or where and to the extent the employee health insurance council so directs with respect to any other state employees and for retired state employees retiring on or after January first, nineteen hundred eighty-three, the state shall contribute nine-tenths of the cost of premiums or subscription charges for coverage of each such state employee or retired state employee who is enrolled in an optional benefit plan and three-fourths of such premium or subscription charges for dependents of such state employees or retired state employees enrolled in such optional benefit plan; provided, however, effective January first, nineteen hundred ninety-six, the contribution rates for the hospitalization and medical components of each optional benefit plan shall not exceed one hundred percent of the dollar amount of the state's contribution toward the hospitalization and medical components of individual and dependent coverage, respectively, in the Empire Plan. In the case of state employees retiring prior to January first, nineteen hundred eighty-three, the state shall contribute one hundred percent of the individual premium and three-fourths of such premium for dependents of such retired employees enrolled in such optional benefit plan; however, these contribution rates shall not exceed one hundred percent of the employer dollar amount contribution for individual and dependent coverage respectively in the Empire Plan.

2. Each participating employer shall be required to pay not less than fifty percentum of the cost of premium or subscription charges for the coverage of its employees and retired employees who are enrolled in the statewide only or the statewide and comparable supplementary health benefit plans established pursuant to this article. Such employer shall be required to pay not less than thirty-five percentum of the cost of premium or subscription charges for the coverage of dependents of such

employees and retired employees. Such employer shall contribute toward the premium or subscription charges for the coverage of each employee or retired employee who is enrolled in an optional benefit plan and for the dependents of such employee or retired employee the same dollar amount which would be paid by such employer for the premium or subscription charges for the coverage of such employee or retired employee and his or her dependents if he or she were enrolled in the statewide health benefit plan, but not in excess of the premium or subscription charges for the coverage of such employee or retired employee and his or her dependents under such optional benefit plan. Such employer shall not be required to pay the cost of premium or subscription charges for the coverage of unpaid elected officials, or unpaid board members of a public authority, or their dependents, provided, however that no unpaid board member of a public authority shall be eligible to participate in such benefit plan until he or she has served in such position for at least six months. Subject to such regulations as the president may prescribe, any participating employer may elect to pay higher rates of contribution for the coverage of employees, retired employees and their dependents; provided, however, that if a participating employer elects to pay a higher or lower rate of contribution for its retired employees or their dependents, or both, than that paid by the state for its retired employees or their dependents, or both, amounts withheld from the retirement allowances of such retired employees for their share of premium or subscription charges, if any, shall, if the president so requires, be paid to such participating employer which shall pay into the health insurance fund the full cost of premium or subscription charges for the coverage of such retired employees and their dependents. Such election shall be exercised by the adoption of a resolution by its governing body which, if required by law to be approved by any other body or officer, shall have been so approved.

3. Contributions, if any, required to be paid by an employee or a retired employee for his or her coverage and for the coverage of his or her dependents, if any, shall be deducted from his or her salary payments or from his or her retirement allowance, as the case may be. Upon the written request of a survivor of such retirees or employees, such contribution required to be paid for continued insurance coverage

shall be deducted from any retirement allowance to which he or she is entitled.

4. Upon the retirement, on or after July first, nineteen hundred sixty-five, of a state employee whose salary or compensation is paid directly by the state, who is subject to a plan established by law, rule, regulation, written order or written policy which provides for the regular earning and accumulation of sick leave, and who is eligible to continue coverage under the health benefit plan after retirement, the department shall determine, based on the employee's age at the time of retirement, the actuarial equivalent in monthly installments for the remaining life expectancy of such retired employee, of the dollar value of the earned and accumulated but unused sick leave standing to his or her credit at the time of retirement, without interest. Such dollar value shall be based on the employee's salary at the time of retirement. In addition to regular employer contributions, contributions in the amount of such monthly installments shall be paid from the state's appropriation to the health insurance fund and applied towards the charges for health benefits on account of such retired employee and his or her dependents, to the extent necessary to pay such charges. The remaining amount, if any, necessary to pay such charges shall be contributed by such retired employee. On or after October first, nineteen hundred seventy when such dollar value of such sick leave amounts to less than one hundred dollars for a particular retired employee, in lieu of contributions which would otherwise be required from such retired employee, additional contributions shall be paid for the state's appropriation to the health insurance fund and applied towards the charges for health benefits on account of such retired employee and his or her dependents until the sum of such additional contributions equals such dollar value of such sick leave. The remaining amount, if any, necessary to pay such charges shall be contributed by such retired employee. For purposes of this subdivision, employees of the state colleges of agriculture, home economics, industrial labor relations, and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and employees

of the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, shall be deemed to be state employees whose salaries or compensation is paid directly by the state.

5. Subject to such regulations as the president may prescribe, any participating employer may elect to make additional contributions towards charges for health benefit coverage on account of its retired employees and their dependents, based on the dollar value of their sick leave accumulated but unused at the time of retirement. Such election shall apply to employees in the service of the participating employer who retire on or after the effective date of such election, who are subject to a plan established by law, rule, regulation, written order or written policy which provides for the regular earning and accumulation of sick leave, and who are eligible to continue coverage under the health benefit plan after retirement. The participating employer shall certify to the department the dollar value of earned and accumulated but unused sick leave standing to the credit of an employee at the time of his or her retirement. Additional contributions shall be paid by such participating employer and applied towards charges for health benefits on account of its retired employees and their dependents in the same manner as provided in subdivision four of this section with respect to retired state employees and their dependents.

6. There is hereby created a health insurance fund which shall be available without fiscal year limitation for premium or subscription charge payments, for payment of health benefits to plan participants, and for administrative services under any contract or contracts purchased in accordance with this article. The amounts withheld from employees and retired employees under subdivision three of this section, all amounts appropriated by the state to such health insurance fund, and all amounts contributed by any participating employer pursuant to subdivision two of this section, shall be credited to such health insurance fund. The income derived from any dividends, premium rate adjustments or other refunds under any such contract or contracts shall be credited to such fund and retained therein as a special reserve for adverse fluctuation in future charges under any such contract or

contracts. Any interest earned by the investment of moneys in such health insurance fund shall be added to such special reserve, become a part of such special reserve, and be used for the purpose of such special reserve.

7. The amounts required to be paid to any contracting corporation under any contract entered into pursuant to the provisions of this article shall be payable from such health insurance fund as audited by and upon the warrant of the comptroller on vouchers certified or approved by the president.

8. Notwithstanding any inconsistent provision of law, where and to the extent that an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides, the state cost of premium or subscription charges for eligible employees covered by such agreement may be modified pursuant to the terms of such agreement. The president, with the approval of the director of the budget, may extend the modified state cost of premium or subscription charges for employees or retirees not subject to an agreement referenced above and shall promulgate the necessary rules or regulations to implement this provision.

9. Any interest earned by the investment of moneys in the dental insurance fund shall be added to such fund, become a part of such fund, be used for the purpose of such fund, and be available without fiscal year limitation.

§ 167-a. Reimbursement for medicare premium charges. Upon exclusion from the coverage of the health benefit plan of supplementary medical insurance benefits for which an active or retired employee or a dependent covered by the health benefit plan is or would be eligible under the federal old-age, survivors and disability insurance program, an amount equal to the premium charge for such supplementary medical insurance benefits for such active or retired employee and his or her dependents, if any, shall be paid monthly or at other intervals to such active or retired employee from the health insurance fund. Where

appropriate, such amount may be deducted from contributions payable by the employee or retired employee; or where appropriate in the case of a retired employee receiving a retirement allowance, such amount may be included with payments of his or her retirement allowance. All state employer, employee, retired employee and dependent contributions to the health insurance fund, including contributions from public authorities, public benefit corporations or other quasi-public organizations of the state eligible for participation in the health benefit plan as authorized by subdivision two of section one hundred sixty-three of this article, shall be adjusted as necessary to cover the cost of reimbursing federal old-age, survivors and disability insurance program premium charges under this section. This cost shall be included in the calculation of premium or subscription charges for health coverage provided to employees and retired employees of the state, public authorities, public benefit corporations or other quasi-public organizations of the state; provided, however, the state, public authorities, public benefit corporations or other quasi-public organizations of the state shall remain obligated to pay no less than its share of such increased cost consistent with its share of premium or subscription charges provided for by this article. All other employer contributions to the health insurance fund shall be adjusted as necessary to provide for such payments.

§ 168. Assessment of certain costs. 1. If the salary or compensation of any officers and employees of the state is paid from a special or administrative fund or funds, other than the state purposes fund or the local assistance fund of the general fund of the state or the capital construction fund or an income fund of the state university or the mental hygiene services fund, such fund or funds shall be charged, and there shall be paid therefrom as provided in this section the employer's share of the premium for the coverage of such officers and employees under the health benefit plan. If the amounts appropriated or allocable from such special or administrative fund or funds are insufficient for such purpose, the director of the budget is hereby authorized to allocate such additional sums from such fund or funds as may be necessary therefor; provided, however, that no transfer shall be made

between two or more of such funds. Such amounts shall be paid, at such times as shall be required by the president, to the commissioner of taxation and finance and shall be credited to the health insurance fund to pay, or reimburse the health insurance fund for the payment of, the employer's share of the premium for coverage of such officers and employees under the health benefit plan.

2. If the salary or compensation of any officers and employees of the state is payable from a special or administrative fund or funds, other than the state purposes fund or the local assistance fund of the general fund of the state or the capital construction fund or an income fund of the state university or the mental hygiene services fund, a proportionate share of the expenses of administration of the health benefit plan, on account of coverage of such officers and employees, shall be payable from such fund or funds. If the amounts appropriated or allocable from such special or administrative fund or funds are insufficient for such purpose, the director of the budget is hereby authorized to allocate such additional sums from such funds or funds as may be necessary therefor; provided, however, that no transfer shall be made between two or more of such funds. The proportionate share of the expenses of administration of the health benefit plan chargeable pursuant to this subdivision to any special or administrative fund shall be determined by the president and shall be payable at such times as may be fixed by him or her. Such sums shall be payable to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for the expenses of administration of the health benefit plan.

3. (a) If the salary or compensation of any justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city is not paid in whole or in part from the treasury of the state, but is paid directly from the treasury of a civil division, such civil division shall be required to pay the employer's share of the premium charges for the coverage of such justices, judges, officers and employees under the

state health benefit plan. The appropriate fiscal officer of such civil division shall deduct from the salary or wages paid to such justices, judges, officers and employees the sums required to be paid by them under such plan. Such deductions and the corresponding employer's share of premium charges shall be paid, at such times as required by the president, to the commissioner of taxation and finance and shall be credited to the health insurance fund.

(b) If the salary or compensation of any retired justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city prior to retirement was not paid in whole or in part from the treasury of the state but was paid directly from the treasury of a civil division, such civil division shall be required to pay the employer's share of the premium charges for the coverage of such retired justices, judges, officers and employees under the state health benefit plan. If such retired justices, judges, officers and employees are receiving retirement allowances from a pension or retirement plan or system administered by such civil division, the amounts required to be paid by such retired justices, judges, officers and employees as their share of premium charges shall be deducted from their retirement allowances. Such deductions and the employer's share of premium charges shall be paid, at such times as required by the president, to the commissioner of taxation and finance and shall be credited to the health insurance fund.

(c) Any civil division required by this subdivision to pay the employer's share of the premium charges for the coverage of active or retired justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city shall also be assessed and required to pay a proportionate share of the expenses of administration of the health benefit plan in such amounts and at such times as determined by the president. Such sums shall be payable to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for the expenses of administration of the health

benefit plan.

§ 170. Separability. If any clause, sentence, paragraph, subdivision or section or part of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this article directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE XI-A
LONG TERM CARE INSURANCE FOR STATE AND RETIRED STATE EMPLOYEES

Section 171. Regulations governing the long term care insurance plan.
172. Long term care insurance.
173. Contract for long term care insurance.
174. Eligibility for participation.
175. Termination of active employment.
176. Contributions.
177. Severability.

§ 171. Regulations governing the long term care insurance plan. 1. The president, subject to the provisions of this article, is hereby empowered to establish such regulations as may be required for the effective administration of this article.

2. Notwithstanding any inconsistent provision of this article, no rule or regulation shall be adopted, repealed or amended, and no other action taken with respect to state employees affecting the rate or eligibility for benefits under this article, without the approval of the director of employee relations.

§ 172. Long term care insurance. 1. The president is hereby authorized

and directed to establish a long term care insurance plan for state officers and employees and their dependents and officers and employees of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural station at Geneva, and any other institution or agency under the management and control of Cornell University as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred University as the representative of the board of trustees of the state university of New York and their dependents, and for the employees and retired employees of public authorities, public benefit corporations, school districts, special districts, district corporations, municipal corporations excluding active employees and retired employees of cities having a population of one million or more inhabitants whose compensation is or was before retirement paid out of the city treasury, or other appropriate agencies, subdivisions or quasi-public organizations of the state and their dependents as defined by the regulations of the president, which, subject to the conditions and limitations contained in this article, and in the regulations of the president, will provide for insurance against the financial costs of long term care.

2. Participation in the long term care insurance plan shall be at the option of the employee and shall be paid for solely by the employee in accordance with this article.

§ 173. Contract for long term care insurance. 1. The president is hereby authorized and directed to purchase a contract or contracts to provide long term care benefits under the long term care insurance plan established in accordance with the provisions of this article. Such long term care contract or contracts shall be purchased from one or more corporations authorized under section one thousand one hundred seventeen of the insurance law to issue long term care insurance contracts in this state.

2. A reasonable time before entering into any long term care insurance contract or contracts hereunder, the president shall invite proposals

from such qualified insurers as in his or her opinion would desire to accept any part of the long term care insurance coverage authorized by this article.

3. The president may designate one or more of such corporations as insurers from which employees may select to provide long term care insurance.

4. Each employee who is covered under any such long term care insurance contract or contracts shall receive a certificate setting forth the benefits to which the employee and his or her dependents are entitled thereunder, to whom such benefits shall be payable, to whom claims should be submitted, and summarizing the provisions of the contract principally affecting the employee and his or her dependents.

5. The president may, at the end of any fiscal year, discontinue any long term care insurance contract or contracts he or she has purchased from any corporation or corporations; provided, however, nothing in this article nor in any regulations promulgated hereunder shall affect or impair any employees' continuation of coverage or conversion rights with respect to long term care insurance as defined in the regulations of the New York state department of financial services.

§ 174. Eligibility for participation. 1. All persons who, as of the effective date of this article, are or shall become eligible to participate in the state health benefit plan established under article eleven of this chapter, shall be eligible to participate in the long term care insurance plan established under this article. The president shall adopt regulations prescribing the conditions under which an eligible individual may elect to participate in the long term care insurance plan.

2. The president shall adopt regulations prescribing the conditions under which an individual participating in the long term care insurance plan may elect to withdraw from the plan.

§ 175. Termination of active employment. The president shall adopt regulations prescribing the terms and conditions under which an employee may continue coverage under the long term care insurance plan following termination of active employment; provided, however, that such regulations are consistent with any regulations established by the New York state department of financial services concerning an individual's continuation of coverage or conversion rights with respect to long term care insurance.

§ 176. Contributions. 1. The full cost of premium or subscription charges for the long term care insurance plan established pursuant to this article shall be paid by the employee.

2. The chief fiscal officer of a participating employer shall be authorized to deduct from the wages or salary paid to its employees who are participants in such long term care insurance plan the sums required to be paid by them under such plan.

3. The president shall have power and authority to make such inspection of the employment and payroll records of any participating employer concerning any of its employees who are participants in such long term care insurance plan, as he or she may deem necessary.

§ 177. Severability. If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this article directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE XI-B
MEDICAL EXAMINATION OF PUBLIC PROTECTION OFFICIALS TO DETECT AND

IDENTIFY THE HUMAN IMMUNODEFICIENCY VIRUS (HIV)

Section 178. Medical examination of public protection officials to detect and identify the human immunodeficiency virus (HIV).

§ 178. Medical examination of public protection officials to detect and identify the human immunodeficiency virus (HIV). 1. Definitions. For the purposes of this section:

(a) "Assailant" means a person arrested and charged with a crime, as defined in section 10.00 of the penal law, or a person committed to, certified to, or placed in the custody of the department of corrections and community supervision or any other correctional facility or county jail.

(b) "Medical examination" includes a physical examination or test performed by a physician or other appropriate health care worker to determine if a public protection official has been exposed to or infected by the human immunodeficiency virus (HIV). Tests may include, but need not be limited to, the most accurate, sensitive, and timely tests available used for the early identification of the human immunodeficiency virus (HIV).

(c) "Public protection official" means any state, county or municipal police officer, peace officer, firefighter, emergency medical technician, corrections officer, or sheriff who is acting under the scope of authority of his or her official position.

(d) "Significant risk of transmission" means the alleged conduct of or actions taken by an assailant or any other action, situation or event that occurs while a public protection official is performing his or her official duties that has created a recognized and significant risk of infection of a public protection official with the human immunodeficiency virus (HIV), as determined by the commissioner of health, consistent with guidelines, protocols, and findings of the United States centers for disease control and prevention.

2. Examination of public protection officials. (a) Whenever a public protection official has been exposed to a significant risk of transmission of the human immunodeficiency virus (HIV) while performing

his or her official duties, the employer of such official shall provide to such public protection official an appropriate medical examination to determine if such official has been exposed to or infected with the human immunodeficiency virus (HIV). Such medical examination of a public protection official should be provided within eight hours of notification to the employer or designated agent of the employer of an incident that has created an exposure risk to the official.

(b) Should it be determined by the examining physician or other attending health care worker that a significant risk of transmission has occurred, or should any medical examination conclude that a public protection official has been exposed to or infected with the human immunodeficiency virus (HIV), then such official shall be offered counseling and additional testing, as appropriate and consistent with treatment guidelines issued by the commissioner of health. Such counseling may include a discussion of the risk of the transmission of the human immunodeficiency virus (HIV) from the exposure he or she may have experienced and the spectrum of tests commercially available for the prompt and reliable diagnosis of such infection. Information from any such medical examination of a public protection official shall be confidential information pursuant to article twenty-seven-F of the public health law and shall not be made available to the employer without the written authorization of the affected public protection official.

3. Payment for medical examinations. Payment for medical examinations, additional testing, treatment services, counseling services, and any other additional services provided pursuant to subdivision two of this section shall be covered by subdivision three of section ten of the workers' compensation law; provided that any employer which is not required to and does not provide coverage pursuant to subdivision three of section ten of the workers' compensation law may finance such payments for all of the foregoing services provided for by this section from municipal funding sources, including, but not limited to, employee accident and disability benefit programs, workers' compensation funds, health insurance benefits, accident and disability retirement plans, or any other source of funds that the municipal employer deems appropriate.

4. Guidelines. The commissioner of health shall issue guidelines to facilitate the identification of circumstances potentially exposing a public protection official to a significant risk of transmission of the human immunodeficiency virus (HIV). Such guidelines shall be consistent with criteria accepted by the federal centers for disease control and prevention. Such guidelines shall also provide information regarding related counseling and testing procedures available to such individuals.

5. Confidentiality. Any information gathered pursuant to the provisions of this article which is deemed confidential under any other provision of law shall be treated in a confidential manner and shall not be distributed, be made available or be disclosed by the employer.

ARTICLE XII
LAWS REPEALED; WHEN TO TAKE EFFECT

Section 180. Laws repealed.
181. When to take effect.

§ 180. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 181. When to take effect. This chapter shall take effect immediately.

ARTICLE XIII
SAVING CLAUSE; CONSTRUCTION; SEPARABILITY

Section 185. Saving clause; construction.
186. Separability.

§ 185. Saving clause; construction. 1. Nothing contained in this act shall affect or impair any act done or right accruing, accrued or acquired prior to the time when this act shall take effect, under or by

virtue of the provisions of the civil service law as in force immediately prior to the time this act shall take effect, but the same may be asserted and enforced as fully and to the same extent as if this act had not been enacted. This act shall not affect pending actions or proceedings, but the same may be prosecuted or defended in the same manner and with the same effect as though this act had not been enacted.

2. Any act of the legislature of the year nineteen hundred fifty-eight which, in form, amends or repeals or purports to amend or repeal any provision or provisions of the civil service law as in force and effect immediately prior to the time this act shall take effect, shall be legally effective notwithstanding the repeal of such provision or provisions by this act and shall be construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of this act irrespective of whether such provision or provisions are contained in this act in one or more than one article, section, subdivision or other part thereof and such corresponding provision or provisions shall be deemed and construed to be amended, modified, changed or repealed as though the same had been expressly and in terms so amended or repealed.

3. An act of the legislature of the year nineteen hundred fifty-eight which adds or purports to add a new article, section, subdivision or other provision of law to the civil service law, as in force and effect immediately prior to the time this act shall take effect, shall be deemed and construed as having been added to such law, as amended by this act, and shall be given full effect according to its context as if the same had been added expressly and in terms of such law, as amended by this act, and shall be deemed and construed to have been inserted in such law, as amended by this act, in the appropriate respective position in regard to and as modifying the effect of the corresponding provision or provisions of such law, as amended by this act.

4. Reference in any act of the legislature of the year nineteen hundred fifty-eight to an existing article, section, subdivision or other provision of the civil service law, as in force immediately prior to the time this act shall take effect, shall be deemed and construed to refer to the corresponding article, section, subdivision or other

provision of such law, as renumbered, modified or amended by this act.

5. Reference in any general, special or local law, rule, regulation or public document to any provision or provisions of the civil service law, as in force immediately prior to the time this act shall take effect, shall be deemed to be and construed as a reference to the corresponding provision or provisions of such law, as renumbered, modified or amended by this act, irrespective of whether such provision or provisions is or are contained in one or more than one title, article, section, subdivision or other part thereof.

6. The provisions added to the civil service law by this act insofar as they are substantially the same as provisions of such law repealed by this act shall be construed as a continuation of such repealed provisions, and not as new enactments.

§ 186. Separability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE 14

PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

Section 200. Statement of policy.
201. Definitions.
202. Right of organization.
203. Right of representation.
204. Recognition and certification of employee organizations.
204-a. Agreements between public employers and employee organizations.
205. Public employment relations board.
206. Procedures for determination of representation status of

local employees.
207. Determination of representation status.
208. Rights accompanying certification or recognition.
209. Resolution of disputes in the course of collective negotiations.
209-a. Improper employer practices; improper employee organization practices; application.
210. Prohibition of strikes.
211. Application for injunctive relief.
212. Local government procedures.
213. Judicial review and enforcement.
214. Management and confidential employees; membership and office in employee organizations.
215. Dues or agency shop fee deductions.
216. Falsely impersonating an employee organization or employee organization representative.

§ 200. Statement of policy. The legislature of the state of New York declares that it is the public policy of the state and the purpose of this act to promote harmonious and cooperative relationships between government and its employees and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. These policies are best effectuated by (a) granting to public employees the right of organization and representation, (b) requiring the state, local governments and other political subdivisions to negotiate with, and enter into written agreements with employee organizations representing public employees which have been certified or recognized, (c) encouraging such public employers and such employee organizations to agree upon procedures for resolving disputes, (d) creating a public employment relations board to assist in resolving disputes between public employees and public employers, and (e) continuing the prohibition against strikes by public employees and providing remedies for violations of such prohibition.

§ 201. Definitions. As used in this article:

1. The term "board" means the public employment relations board created by section two hundred five of this article.

2. (a) The term "membership dues deduction" means the obligation or practice of a government to deduct from the salary of a public employee with his consent an amount for the payment of his membership dues in an employee organization. Such term also means the obligation or practice of a government to transmit the sums so deducted to an employee organization.

(b) The term "agency shop fee deduction" means the obligation or practice of a government to deduct from the salary of a public employee who is not a member of the certified or recognized employee organization which represents such employee for the purpose of collective negotiations conducted pursuant to this article, an amount equivalent to the amount of dues payable by a member. Such term also means the obligation or practice of a government to transmit the sums so deducted to an employee organization.

3. The term "chief legal officer" means (a) in the case of the state of New York or a state public authority, the attorney general of the state of New York, (b) in the case of a county, city, town, village or school district, the county attorney, corporation counsel, town attorney, village attorney or school district attorney, as the case may be, and (c) in the case of any such government not having its own attorney, or any other government or public employer, the corporation counsel of the city in which such government or public employer has its principal office, and if such principal office is not located in a city, the county attorney of the county in which such government or public employer has its principal office.

4. The term "terms and conditions of employment" means:

(a) salaries, wages, hours and other terms and conditions of employment provided, however, that such term shall not include any benefits provided by or to be provided by a public retirement system, or payments to a fund or insurer to provide an income for retirees, or payment to retirees or their beneficiaries. No such retirement benefits

shall be negotiated pursuant to this article, and any benefits so negotiated shall be void.

(b) in addition, the terms and conditions of employment for firefighters shall include discipline and disciplinary procedures including alternatives to any statutory disciplinary system, provided, however, that any right of firefighters under the terms of any state law to elect coverage under either a statutory disciplinary system or a disciplinary system established by collective negotiations shall not be impaired, unless any such state law authorizes exclusivity of a negotiated disciplinary system and provided further that no provision contained in the town law, general city law, second class cities law, general municipal law, municipal home rule law, county law, or other state, local, special law or charter provision, or any special police act or other special act created by local law or charter or otherwise created, or this chapter shall prevent or impair the right to collective bargaining for or modification of disciplinary procedures.

5. The term "employee organization" means an organization of any kind having as its primary purpose the improvement of terms and conditions of employment of public employees, except that such term shall not include an organization (a) membership in which is prohibited by section one hundred five of this chapter, (b) which discriminates with regard to the terms or conditions of membership because of race, color, creed or national origin, or (c) which, in the case of public employees who hold positions by appointment or employment in the service of the board and who are excluded from the application of this article by rules and regulations of the board, admits to membership or is affiliated directly or indirectly with an organization which admits to membership persons not in the service of the board, for purposes of any provision of this article other than sections two hundred ten and two hundred eleven of this article.

6. (a) The term "government" or "public employer" means (i) the state of New York, (ii) a county, city, town, village or any other political subdivision or civil division of the state, (iii) a school district or any governmental entity operating a public school, college or university, (iv) a public improvement or special district, (v) a public

authority, commission, or public benefit corporation, (vi) any other public corporation, agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, or (vii) in the case of a county sheriff's office in those counties where the office of sheriff is an elected position, both the county and the sheriff, shall be designated as a joint public employer for all purposes of this article.

(b) Upon the application of any government, the board may determine that the applicant shall be deemed to be a joint public employer of public employees in an employer-employee negotiating unit determined pursuant to section two hundred seven of this chapter when such determination would best effectuate the purposes of this chapter.

7. (a) The term "public employee" means any person holding a position by appointment or employment in the service of a public employer, except that such term shall not include for the purposes of any provision of this article other than sections two hundred ten and two hundred eleven of this article, judges and justices of the unified court system, persons holding positions by appointment or employment in the organized militia of the state and persons who may reasonably be designated from time to time as managerial or confidential upon application of the public employer to the appropriate board in accordance with procedures established pursuant to section two hundred five or two hundred twelve of this article, which procedures shall provide that any such designations made during a period of unchallenged representation pursuant to subdivision two of section two hundred eight of this chapter shall only become effective upon the termination of such period of unchallenged representation. Employees may be designated as managerial only if they are persons (i) who formulate policy or (ii) who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment. Employees may be designated as confidential only if they are persons who assist and act in a confidential capacity to managerial employees described in clause (ii).

(b) For the purposes of this article, assistant attorneys general, assistant district attorneys, and law school graduates employed in titles which promote to assistant district attorney upon admission to the bar of the state of New York shall be designated managerial employees, and confidential investigators employed in the department of law shall be designated confidential employees.

(c) Notwithstanding the provisions of any general, special or local law or code to the contrary, for the purposes of this article and with respect to the officers of a paid city fire department in a city of one million or more inhabitants, members in the rank of deputy chief designated as deputy assistant chief and higher shall be designated as managerial and confidential employees and members in the rank of deputy chief or lower shall not be so designated.

(d) A substitute teacher or a person employed in a nonpedagogical position who has received a reasonable assurance of continuing employment in accordance with subdivision ten or eleven of section five hundred ninety of the labor law which is sufficient to disqualify the substitute teacher or person employed in a nonpedagogical position from receiving unemployment insurance benefits shall be deemed to be an employee of the school district or board of cooperative educational services that has furnished such reasonable assurance of continuing employment; provided however that for the purposes of this article only, the determination of whether such reasonable assurance was furnished shall be made as if such determination were made prior to the promulgation by the United States department of labor of program letter number 4-87, dated December twenty-fourth, nineteen hundred eighty-six.

(e) Notwithstanding the provisions of any general, special or local law or code to the contrary, for the purposes of this article and with respect to the officers of a paid city police department, in a city of one million or more inhabitants, members in the rank of captain designated as assistant chief and higher shall be designated as managerial and confidential employees; members in the rank of captain, deputy inspector, inspector and deputy chief or lower shall not be so designated, unless a final determination to the contrary results from a petition to decertify (or from an action to otherwise designate any or all such members as managerial or confidential employees), which petition or action is or was initiated at any time prior to October

first, nineteen hundred eighty-four and such petition or action is not withdrawn or otherwise discontinued.

(f) The term "public employee" means any person employed by a school district or board of cooperative educational services not otherwise deemed to be a public employee pursuant to the provisions of this subdivision, but who would be deemed a public employee under precedents or standards utilized or promulgated by the board for determining whether a person employed in a part-time, seasonal or casual position by a public employer other than a school district or board of cooperative educational services would be a public employee under paragraph (a) of this subdivision, taking into account the length of the school day and school year.

(g) Notwithstanding the provisions of any general, special or local law or code to the contrary, for the purposes of this article and with respect to employees of a city school district having a population of one million or more inhabitants, members in a title of school plant manager shall be designated as managerial and confidential employees in the noncompetitive classification.

8. The term "state public authority" means a public benefit corporation or public corporation, a majority of the members of which are (i) appointed by the governor or by another state officer or body, (ii) designated as members by virtue of their state office, or (iii) appointed or designated by any combination of the foregoing.

9. The term "strike" means any strike or other concerted stoppage of work or slowdown by public employees.

10. The term "chief executive officer" in the case of school districts, means the superintendent of schools in school districts employing their own superintendents, and in school districts under the jurisdiction of a district superintendent of schools, shall mean the principal of the district.

11. The term "legislative body of the government," in the case of school districts, means the board of education, board of trustees or sole trustee, as the case may be.

12. The term "agreement" means the result of the exchange of mutual promises between the chief executive officer of a public employer and an employee organization which becomes a binding contract, for the period set forth therein, except as to any provisions therein which require approval by a legislative body, and as to those provisions, shall become binding when the appropriate legislative body gives its approval.

§ 202. Right of organization. Public employees shall have the right to form, join and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing.

§ 203. Right of representation. Public employees shall have the right to be represented by employee organizations, to negotiate collectively with their public employers in the determination of their terms and conditions of employment, and the administration of grievances arising thereunder.

§ 204. Recognition and certification of employee organizations. 1. Public employers are hereby empowered to recognize employee organizations for the purpose of negotiating collectively in the determination of, and administration of grievances arising under, the terms and conditions of employment of their public employees as provided in this article, and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

2. Where an employee organization has been certified or recognized pursuant to the provisions of this article, it shall be the exclusive representative, for the purposes of this article, of all the employees in the appropriate negotiating unit, and the appropriate public employer shall be, and hereby is, required to negotiate collectively with such employee organization in the determination of, and administration of grievances arising under, the terms and conditions of employment of the

public employees as provided in this article, and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

3. For the purpose of this article, to negotiate collectively is the performance of the mutual obligation of the public employer and a recognized or certified employee organization to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written agreement incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.

§ 204-a. Agreements between public employers and employee organizations. 1. Any written agreement between a public employer and an employee organization determining the terms and conditions of employment of public employees shall contain the following notice in type not smaller than the largest type used elsewhere in such agreement:

"It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefor, shall not become effective until the appropriate legislative body has given approval."

2. Every employee organization submitting such a written agreement to its members for ratification shall publish such notice, include such notice in the documents accompanying such submission and shall read it aloud at any membership meeting called to consider such ratification.

3. Within sixty days after the effective date of this act, a copy of this section shall be furnished by the chief fiscal officer of each public employer to each public employee. Each public employee employed thereafter shall, upon such employment, be furnished with a copy of the provisions of this section.

4. The terms of any current or expired agreement or interest arbitration award between any public employer and any public employee organization representing firefighters relating to the discipline of any firefighters shall be deemed valid and enforceable from the effective date of this subdivision.

§ 205. Public employment relations board. 1. There is hereby created in the department a board, to be known as the public employment relations board, which shall consist of three members appointed by the governor, by and with the advice and consent of the senate from persons representative of the public. Not more than two members of the board shall be members of the same political party. Each member shall be appointed for a term of six years, except that of the members first appointed, one shall be appointed for a term to expire on May thirty-first, nineteen hundred sixty-nine, one for a term to expire on May thirty-first, nineteen hundred seventy-one, and one for a term to expire on May thirty-first, nineteen hundred seventy-three. The governor shall designate one member who shall serve as chairperson of the board until the expiration of his or her term. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom he or she is to succeed.

2. Members of the board shall hold no other public office or public employment in the state. The chairperson shall give his or her whole time to his or her duties.

3. Members of the board other than the chairperson shall, when performing the work of the board, be compensated at the rate of two hundred fifty dollars per day, together with an allowance for actual and necessary expenses incurred in the discharge of their duties hereunder. The chairperson shall receive an annual salary to be fixed within the amount available therefor by appropriation, in addition to an allowance for expenses actually and necessarily incurred by him or her in the performance of his or her duties.

4. (a) The chairperson of the board may appoint an executive director

and such other persons, including but not limited to attorneys, mediators, members of fact-finding boards and representatives of employee organizations and public employers to serve as technical advisers to such fact-finding boards, as it may from time to time deem necessary for the performance of its functions, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within the amounts made available therefor by appropriation. Attorneys appointed under this section may, at the direction of the chairperson of the board, appear for and represent the board in any case in court.

(b) No member of the board or its appointees pursuant to this subdivision, including without limitation any mediator or fact-finder employed or retained by the board, shall, except as required by this article, be compelled to nor shall he or she voluntarily disclose to any administrative or judicial tribunal or at the legislative hearing, held pursuant to subparagraph (iii) of paragraph (e) of subdivision three of section two hundred nine of this article, any information relating to the resolution of a particular dispute in the course of collective negotiations acquired in the course of his or her official activities under this article, nor shall any reports, minutes, written communications, or other documents pertaining to such information and acquired in the course of his or her official activities under this article be subject to subpoena or voluntarily disclosed; except that where the information so required indicates that the person appearing or who has appeared before the board has been the victim of, or otherwise involved in, a crime, other than a criminal contempt in a case involving or growing out of a violation of this article, said members of the board and its appointees may be required to testify fully in relation thereto upon any examination, trial, or other proceeding in which the commission of such crime is the subject of inquiry.

5. In addition to the powers and functions provided in other sections of this article, the board shall have the following powers and functions:

(a) To establish procedures consistent with the provisions of section two hundred seven of this article and after consultation with interested parties, to resolve disputes concerning the representation status of employee organizations.

(b) To resolve, pursuant to such procedures, disputes concerning the representation status of employee organizations of employees of the state and state public authorities upon request of any employee organization, state department or agency or state public authority involved.

(c) To resolve, pursuant to such procedures but only in the absence of applicable procedures established pursuant to section two hundred six of this article, disputes concerning the representation status of other employee organizations, upon request of any employee organization or other government or public employer involved.

(d) To establish procedures for the prevention of improper employer and employee organization practices as provided in section two hundred nine-a of this article, and to issue a decision and order directing an offending party to cease and desist from any improper practice, and to take such affirmative action as will effectuate the policies of this article (but not to assess exemplary damages), including but not limited to the reinstatement of employees with or without back pay; provided, however, that except as appropriate to effectuate the policies of subdivision three of section two hundred nine-a of this article, the board shall not have authority to enforce an agreement between an employer and an employee organization and shall not exercise jurisdiction over an alleged violation of such an agreement that would not otherwise constitute an improper employer or employee organization practice; provided further that, without limiting in any way the board's general power to take affirmative action, including the provision to make whole relief, the board's power to address employer violations of cease and desist orders issued pursuant to this section in connection with charges of unfair labor practices under paragraph (d) of subdivision one of section two hundred nine-a of this article shall include, to the extent the board deems appropriate, the authority to make employees whole for the loss of pay and/or benefits resulting from the violation of the cease and desist order and the underlying unfair labor practice by providing that any agreement between the parties be given retroactive effect to the date on which the unfair labor practice was found to have commenced and by providing for appropriate interest from that date, calculated using the short-term federal rate for the underpayment of taxes as set out in 26 U.S.C. 6621.14, except that the

make whole relief provided for under this paragraph shall not be ordered when and to the extent that the employee organization is also found to have refused to bargain in good faith. When the board has determined that a duly recognized or certified employee organization representing public employees has breached its duty of fair representation in the processing or failure to process a claim alleging that a public employer has breached its agreement with such employee organization, the board may direct the employee organization and the public employer to process the contract claim in accordance with the parties' grievance procedure. The board may, in its discretion, retain jurisdiction to apportion between such employee organization and public employer any damages assessed as a result of such grievance procedure. The pendency of proceedings under this paragraph shall not be used as the basis to delay or interfere with determination of representation status pursuant to section two hundred seven of this article or with collective negotiations. The board shall exercise exclusive nondelegable jurisdiction of the powers granted to it by this paragraph, in which connection, no finding of fact or law contained in a report and recommendation of a hearing officer appointed pursuant to subdivision two of section seventy-five of this chapter shall preclude the resolution of any issue of fact or law in a subsequent proceeding held under procedures established by the board under this paragraph; provided, however, that this sentence shall not apply to the city of New York. The board of collective bargaining established by section eleven hundred seventy-one of the New York city charter shall establish procedures for the prevention of improper employer and employee organization practices as provided in section 12-306 of the administrative code of the city of New York, provided, however, that a party aggrieved by a final order issued by the board of collective bargaining in an improper practice proceeding may, within ten days after service of the final order, petition the board for review thereof. Within twenty days thereafter, the board, in its discretion, may assert jurisdiction to review such final order. The failure or refusal of the board to assert jurisdiction shall not be subject to judicial review. Upon the refusal of the board to assert jurisdiction, an aggrieved party shall have the right to seek review of the final order of the board of collective bargaining. Such proceeding to review shall be brought within

thirty days of the board's refusal and shall otherwise conform to the requirements of article seventy-eight of the civil practice law and rules. If the board shall choose to review, it may affirm, or reverse in whole or in part, or modify the final order, or remand the matter for further proceedings, or make such other order as it may deem appropriate, provided, however, that findings by the board of collective bargaining regarding evidentiary matters and issues of credibility regarding testimony of witnesses shall be final and not subject to board review.

(e) To make studies and analyses of, and act as a clearing house of information relating to, conditions of employment of public employees throughout the state.

(f) To request from any government, and such governments are authorized to provide, such assistance, services and data as will enable the board properly to carry out its functions and powers.

(g) To conduct studies of problems involved in representation and negotiation, including, but not limited to (i) the problems of unit determination, (ii) those subjects which are open to negotiation in whole or in part, (iii) those subjects which require administrative or legislative approval of modifications agreed upon by the parties, and (iv) those subjects which are for determination solely by the appropriate legislative body, and make recommendations from time to time for legislation based upon the results of such studies.

(h) To make available to employee organizations, governments, mediators, fact-finding boards and joint study committees established by governments and employee organizations statistical data relating to wages, benefits and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve complex issues in negotiations.

(i) to establish, after consulting representatives of employee organizations and administrators of public services, panels of qualified persons broadly representative of the public to be available to serve as mediators, arbitrators or members of fact-finding boards.

(j) To hold such hearings and make such inquiries as it deems necessary for it properly to carry out its functions and powers. At any conference, hearing, investigation, inquiry or other proceeding before the board or any agent thereof, a party shall have the right to appear

in person, by counsel or by other authorized representative. Nothing contained herein shall restrict the right of the board to exclude, suspend or disbar any representative for misconduct in accordance with the board's rules.

(k) For the purpose of such hearings and inquiries, to administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any person appointed by the board for the performance of its functions. Such subpoenas shall be regulated and enforced under the civil practice law and rules.

(l) To make, amend and rescind, from time to time, such rules and regulations, including but not limited to those governing its internal organization and conduct of its affairs, and to exercise such other powers, as may be appropriate to effectuate the purposes and provisions of this article.

(m) To administer the provisions of article twenty of the labor law to the extent provided for in such article, and to serve all the functions of the board as defined in section seven hundred one of the labor law, including to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of such article.

6. Notwithstanding any other provisions of law, neither the president of the civil service commission nor the civil service commission or any other officer, employer, board or agency of the department of civil service shall supervise, direct or control the board in the performance of any of its functions or the exercise of any of its powers under this article; provided, however, that nothing herein shall be construed to exempt employees of the board from the provisions of the civil service law.

§ 206. Procedures for determination of representation status of local employees. 1. Every government (other than the state or a state public authority), acting through its legislative body, is hereby empowered to establish procedures, not inconsistent with the provisions of section two hundred seven of this article and after consultation with interested

employee organizations and administrators of public services, to resolve disputes concerning the representation status of employee organizations of employees of such government.

2. In the absence of such procedures, such disputes shall be submitted to the board in accordance with section two hundred five of this article.

§ 207. Determination of representation status. For purposes of resolving disputes concerning representation status, pursuant to section two hundred five or two hundred six of this article, the board or government, as the case may be, shall

1. define the appropriate employer-employee negotiating units taking into account the following standards:
(a) the definition of the unit shall correspond to a community of interest among the employees to be included in the unit;
(b) the officials of government at the level of the unit shall have the power to agree, or to make effective recommendations to other administrative authority or the legislative body with respect to, the terms and conditions of employment upon which the employees desire to negotiate; and
(c) the unit shall be compatible with the joint responsibilities of the public employer and public employees to serve the public.

2. ascertain the public employees' choice of employee organization as their representative (in cases where the parties to a dispute have not agreed on the means to ascertain the choice, if any, of the employees in the unit) on the basis of dues deduction authorization and other evidences, or, if necessary, by conducting an election.

3. certify or recognize an employee organization upon (a) the determination that such organization represents that group of public employees it claims to represent, and (b) the affirmation by such organization that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an

obligation to conduct, assist or participate in such a strike.

§ 208. Rights accompanying certification or recognition. 1. A public employer shall extend to an employee organization certified or recognized pursuant to this article the following rights:

(a) to represent the employees in negotiations notwithstanding the existence of an agreement with an employee organization that is no longer certified or recognized, and in the settlement of grievances; and

(b) to membership dues deduction, upon presentation of dues deduction authorization cards signed by individual employees. A public employer shall commence making such deductions as soon as practicable, but in no case later than thirty days after receiving proof of a signed dues deduction authorization card; and such dues shall be transmitted to the certified or recognized employee organization within thirty days of the deduction. A public employer shall accept a signed authorization to deduct from the salary of a public employee an amount for the payment of his or her dues in any format permitted by article three of the state technology law. The right to such membership dues deduction shall remain in full force and effect until:

(i) an individual employee revokes membership in the employee organization in writing in accordance with the terms of the signed authorization; or

(ii) the individual employee is no longer employed by the public employer, provided that if such employee is, within a period of one year, employed by the same public employer in a position represented by the same employee organization, the right to such dues deduction shall be automatically reinstated.

(c) Should the individual employee who has signed a dues deduction authorization card either be removed from a public employer's payroll or otherwise placed on any type of involuntary or voluntary leave of absence, whether paid or unpaid, such public employee's membership in an employee organization shall be continued upon that public employee's return to the payroll or restoration to active duty from such a leave of absence.

(d) Unless otherwise specified by a collective bargaining agreement, upon the request of the employee organization, not more than quarterly,

the employer shall provide the employee organization the name, home address, job title, employing agency or department or other operating unit and work location of all employees of a bargaining unit. A failure to comply with this paragraph shall be deemed an improper employer practice pursuant to paragraph (a) of subdivision one of section two hundred nine-a of this article.

2. An employee organization certified or recognized pursuant to this article shall be entitled to unchallenged representation status until seven months prior to the expiration of a written agreement between the public employer and said employee organization determining terms and conditions of employment. For the purposes of this subdivision, (a) any such agreement for a term covering other than the fiscal year of the public employer shall be deemed to expire with the fiscal year ending immediately prior to the termination date of such agreement, (b) any such agreement having a term in excess of three years shall be treated as an agreement for a term of three years, provided, however, any such agreement between the state and an employee organization representing employees in the executive or judicial branches which commences in the calendar year two thousand twenty-six having a term in excess of three years shall be treated as an agreement for a term certain specified in such agreement but in no event for a term greater than four years, and (c) extensions of any such agreement shall not extend the period of unchallenged representation status.

3. (a) Notwithstanding provisions of and restrictions of sections two hundred two and two hundred nine-a of this article, and section two hundred one of the state finance law, every employee organization that has been recognized or certified as the exclusive representative of employees of the state within a negotiating unit of classified civil service employees, employees within a negotiating unit of civilian state employees of the division of military and naval affairs or employees in a collective negotiating unit established pursuant to this article for the professional services in the state university, for the members of the state police or for the members of the capitol buildings police force of the office of general services shall be entitled to have deducted from the wage or salary of the employees in such negotiating

unit who are not members of said employee organization the amount equivalent to the dues levied by such employee organization, and the state comptroller shall make such deductions and transmit the sum so deducted to such employee organization. Provided, however, that the foregoing provisions of this subdivision shall only be applicable in the case of an employee organization which has established and maintained a procedure providing for the refund to any employee demanding the return any part of an agency shop fee deduction which represents the employee's pro rata share of expenditures by the organization in aid of activities or causes of a political or ideological nature only incidentally related to terms and conditions of employment. Nothing herein shall be deemed to require an employee to become a member of such employee organization.

(b) Notwithstanding provisions of and restrictions of sections two hundred two and two hundred nine-a of this article and section ninety-three-b of the general municipal law, every employee organization that has been recognized or certified as the exclusive representative of employees within a negotiating unit of other than state employees shall be entitled to have deducted from the wage or salary of employees of such negotiating unit who are not members of said employee organization the amount equivalent to the dues levied by such employee organization and the fiscal or disbursing officer of the local government or authority involved shall make such deductions and transmit the sum so deducted to such employee organization. Provided, however, that the foregoing provisions of this subdivision shall only be applicable in the case of an employee organization which has established and maintained a procedure providing for the refund to any employee demanding the return of any part of an agency shop fee deduction which represents the employee's pro rata share of expenditures by the organization in aid of activities or causes of a political or ideological nature only incidentally related to terms and conditions of employment. Nothing herein shall be deemed to require an employee to become a member of such employee organization.

4. (a) Within thirty days of a public employee first being employed or reemployed by a public employer, or within thirty days of being promoted or transferred to a new bargaining unit, the public employer shall notify the employee organization, if any, that represents that

bargaining unit of the employee's name, address, job title, employing agency, department or other operating unit, and work location; and

(b) Within thirty days of providing the notice in paragraph a of this subdivision, a public employer shall allow a duly appointed representative of the employee organization that represents that bargaining unit to meet with such employee for a reasonable amount of time during his or her work time without charge to leave credits, unless otherwise specified within an agreement bargained collectively under article fourteen of the civil service law, provided however that arrangements for such meeting must be scheduled in consultation with a designated representative of the public employer; and

(c) Upon the request of the certified and recognized employee organization, and if the public employer conducts new employee orientations, the public employer shall provide the employee organization mandatory access to such new employee orientations. The employee organization shall receive not less than ten days' notice in advance of an orientation, except that a shorter notice may be provided in a specific instance where there is an urgent need critical to the employer's operations that was not reasonably foreseeable to provide such notice. The structure, time, and manner of exclusive representative access shall be determined through mutual agreement between the employer and the employee organization.

5. (a) If any clause, sentence, paragraph, or subdivision of this section shall be adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or subdivision of this section directly involved in the controversy in which such judgment shall have been rendered.

(b) If any clause, sentence, paragraph, or part of a signed authorization shall be adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such determination shall not affect, impair or invalidate the remainder of such signed authorization but shall be confined in its operation to the clause, sentence, paragraph, or part of the signed authorization directly involved in the controversy in which such judgment shall have been rendered.

§ 209. Resolution of disputes in the course of collective negotiations. 1. For purposes of this section, an impasse may be deemed to exist if the parties fail to achieve agreement at least one hundred twenty days prior to the end of the fiscal year of the public employer.

* 2. Public employers are hereby empowered to enter into written agreements with recognized or certified employee organizations setting forth procedures to be invoked in the event of disputes which reach an impasse in the course of collective negotiations. Such agreements may include the undertaking by each party to submit unresolved issues to impartial arbitration. In the absence or upon the failure of such procedures, public employers and employee organizations may request the board to render assistance as provided in this section, or the board may render such assistance on its own motion, as provided in subdivision three of this section, or, in regard to officers or members of any organized fire department, or any unit of the public employer which previously was a part of an organized fire department whose primary mission includes the prevention and control of aircraft fires, police force or police department of any county, city, town, village or fire or police district, or detective-investigators, or rackets investigators employed in the office of a district attorney of a county, or in regard to any organized unit of troopers, commissioned or noncommissioned officers of the division of state police, or in regard to investigators, senior investigators and investigator specialists of the division of state police, or in regard to members of collective negotiating units designated as security services and security supervisors who are police officers, who are forest ranger captains or who are employed by the state department of corrections and community supervision and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or in regard to organized units of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service as certified by

the county sheriff and are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council or Suffolk county correction officers or Suffolk county park police, as provided in subdivision four of this section.

* NB Effective until July 1, 2029

* 2. Public employers are hereby empowered to enter into written agreements with recognized or certified employee organizations setting forth procedures to be invoked in the event of disputes which reach an impasse in the course of collective negotiations. Such agreements may include the undertaking by each party to submit unresolved issues to impartial arbitration. In the absence or upon the failure of such procedures, public employers and employee organizations may request the board to render assistance as provided in this section, or the board may render such assistance on its own motion, as provided in subdivision three of this section, or, in regard to officers or members of any organized fire department, or any unit of the public employer which previously was a part of an organized fire department whose primary mission includes the prevention and control of aircraft fires, police force or police department of any county, city, except the city of New York, town, village or fire or police district, or in regard to organized units of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service as certified by the county sheriff and are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council or Suffolk county correction officers or Suffolk county park police, as provided in subdivision four of this section.

* NB Effective July 1, 2029

3. On request of either party or upon its own motion, as provided in subdivision two of this section, and in the event the board determines that an impasse exists in collective negotiations between such employee organization and a public employer as to the conditions of employment of public employees, the board shall render assistance as follows:

(a) to assist the parties to effect a voluntary resolution of the dispute, the board shall appoint a mediator or mediators representative

of the public from a list of qualified persons maintained by the board;

(b) if the impasse continues, the board shall appoint a fact-finding board of not more than three members, each representative of the public, from a list of qualified persons maintained by the board, which fact-finding board shall have, in addition to the powers delegated to it by the board, the power to make public recommendations for the resolution of the dispute;

(c) if the dispute is not resolved at least eighty days prior to the end of the fiscal year of the public employer or by such other date determined by the board to be appropriate, the fact-finding board, acting by a majority of its members, (i) shall immediately transmit its findings of fact and recommendations for resolution of the dispute to the chief executive officer of the government involved and to the employee organization involved, (ii) may thereafter assist the parties to effect a voluntary resolution of the dispute, and (iii) shall within five days of such transmission make public such findings and recommendations;

(d) in the event that the findings of fact and recommendations are made public by a fact-finding board appointed by the board or established pursuant to procedures agreed upon by the parties under subdivision two of this section, and the impasse continues, the public employment relations board shall have the power to take whatever steps it deems appropriate to resolve the dispute, including (i) the making of recommendations after giving due consideration to the findings of fact and recommendations of such fact-finding board, but no further fact-finding board shall be appointed and (ii) upon the request of the parties, assistance in providing for voluntary arbitration;

(e) should either the public employer or the employee organization not accept in whole or in part the recommendations of the fact-finding board, (i) the chief executive officer of the government involved shall, within ten days after receipt of the findings of fact and recommendations of the fact-finding board, submit to the legislative body of the government involved a copy of the findings of fact and recommendations of the fact-finding board, together with his recommendations for settling the dispute; (ii) the employee organization may submit to such legislative body its recommendations for settling the dispute; (iii) the legislative body or a duly authorized committee

thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the report of the fact-finding board; and (iv) thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved.

(f) where the public employer is a school district, a board of cooperative educational services, a community college, the state university of New York, or the city university of New York, the provisions of subparagraphs (iii) and (iv) of paragraph (e) of this subdivision shall not apply, and (i) the board may afford the parties an opportunity to explain their positions with respect to the report of the fact-finding board at a meeting at which the legislative body, or a duly authorized committee thereof, may be present; (ii) thereafter, the legislative body may take such action as is necessary and appropriate to reach an agreement. The board may provide such assistance as may be appropriate.

* 4. On request of either party or upon its own motion, as provided in subdivision two of this section, and in the event the board determines that an impasse exists in collective negotiations between such employee organization and a public employer as to the conditions of employment of officers or members of any organized fire department, or any other unit of the public employer which previously was a part of an organized fire department whose primary mission includes the prevention and control of aircraft fires, police force or police department of any county, city, town, village or fire or police district, and detective-investigators, criminal investigators or rackets investigators employed in the office of a district attorney, or as to the conditions of employment of members of any organized unit of troopers, commissioned or noncommissioned officers of the division of state police or as to the conditions of employment of members of any organized unit of investigators, senior investigators and investigator specialists of the division of state police, or as to the terms and conditions of employment of members of collective negotiating units designated as security services and security supervisors, who are police officers, who are forest ranger captains or who are employed by the state department of corrections and community supervision and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law,

or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or as to the conditions of employment of any organized unit of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service as certified by the county sheriff and are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council or Suffolk county correction officers or Suffolk county park police, the board shall render assistance as follows:

(a) to assist the parties to effect a voluntary resolution of the dispute, the board shall appoint a mediator from a list of qualified persons maintained by the board;

(b) if the mediator is unable to effect settlement of the controversy within fifteen days after his appointment, either party may petition the board to refer the dispute to a public arbitration panel;

(c) (i) upon petition of either party, the board shall refer the dispute to a public arbitration panel as hereinafter provided;

(ii) the public arbitration panel shall consist of one member appointed by the public employer, one member appointed by the employee organization and one public member appointed jointly by the public employer and employee organization who shall be selected within ten days after receipt by the board of a petition for creation of the arbitration panel. If either party fails to designate its member to the public arbitration panel, the board shall promptly, upon receipt of a request by either party, designate a member associated in interest with the public employer or employee organization he is to represent. Each of the respective parties is to bear the cost of its member appointed or designated to the arbitration panel and each of the respective parties is to share equally the cost of the public member. If, within seven days after the mailing date, the parties are unable to agree upon the one public member, the board shall submit to the parties a list of qualified, disinterested persons for the selection of the public member. Each party shall alternately strike from the list one of the names with the order of striking determined by lot, until the remaining one person shall be designated as public member. This process shall be completed

within five days of receipt of this list. The parties shall notify the board of the designated public member. The public member shall be chosen as chairman;

(iii) the public arbitration panel shall hold hearings on all matters related to the dispute. The parties may be heard either in person, by counsel, or by other representatives, as they may respectively designate. The panel may grant more than one adjournment each for each party; provided, however, that a second request of either party and any subsequent adjournments may be granted on request of either party, provided that the party which requests the adjournment shall pay the arbitrator's fee. The parties may present, either orally or in writing, or both, statements of fact, supporting witnesses and other evidence, and argument of their respective positions with respect to each case. The panel shall have authority to require the production of such additional evidence, either oral or written as it may desire from the parties and shall provide at the request of either party that a full and complete record be kept of any such hearings, the cost of such record to be shared equally by the parties;

(iv) all matters presented to the public arbitration panel for its determination shall be decided by a majority vote of the members of the panel. The panel, prior to a vote on any issue in dispute before it, shall, upon the joint request of its two members representing the public employer and the employee organization respectively, refer the issues back to the parties for further negotiations;

(v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.

b. the interests and welfare of the public and the financial ability of the public employer to pay;

c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;

d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

(vi) the determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority. Notwithstanding the provisions of this subparagraph to the contrary, where the parties to a public arbitration are those anticipated by the provisions of paragraphs (e) and (f) of this subdivision the state and such parties may agree to confer authority to the public arbitration panel to issue a final and binding determination for a period up to and including four years.

(vii) the determination of the public arbitration panel shall be subject to review by a court of competent jurisdiction in the manner prescribed by law.

(d) The provisions of this subdivision shall expire July first, two thousand twenty-nine.

(e) With regard to members of any organized unit of troopers, investigators, senior investigators, investigator specialists and commissioned or non-commissioned officers of the division of state police, the provisions of this section shall not apply to issues relating to disciplinary procedures and investigations or eligibility and assignment to details and positions, which shall be governed by

other provisions prescribed by law.

(f) With regard to any members of collective negotiating units designated as security services or security supervisors, who are police officers, who are forest ranger captains or who are employed by the state department of corrections and community supervision and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or in regard to detective-investigators, criminal investigators or rackets investigators employed in the office of a district attorney of a county contained within a city with a population of one million or more, the provisions of this section shall only apply to the terms of collective bargaining agreements directly relating to compensation, including, but not limited to, salary, stipends, location pay, insurance, medical and hospitalization benefits; and shall not apply to non-compensatory issues including, but not limited to, job security, disciplinary procedures and actions, deployment or scheduling, or issues relating to eligibility for overtime compensation which shall be governed by other provisions proscribed by law.

(g) With regard to members of any organized unit of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service as certified by the county sheriff and are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council, the provisions of this section shall only apply to the terms of collective bargaining agreements directly relating to compensation, including, but not limited to, salary, stipends, location pay, insurance, medical and hospitalization benefits; and shall not apply to non-compensatory issues including, but not limited to, job security, disciplinary procedures and actions, deployment or scheduling, or issues relating to eligibility for overtime compensation which shall be governed by other provisions proscribed by law. Provided, further, that with regard to any organized unit of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service and are

police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council, the provisions of this subdivision pertaining to interest arbitration shall only apply in the event that the collective bargaining agreement between the public employer and the public employee organization has been expired for a period of not less than twelve months and the parties have fully utilized all other impasse resolution procedures available under this subdivision.

(h) With regard to Suffolk county correction officers the provisions of this section shall not apply to issues relating to disciplinary procedures and investigations or eligibility and assignment to details and positions, which shall be governed by other provisions prescribed by law.

(i) With regard to Suffolk county park police officers the provisions of this section shall not apply to issues relating to disciplinary procedures and investigations or eligibility and assignment to details and positions, which shall be governed by other provisions prescribed by law.

* NB Expires July 1, 2029

4-a. (a) Notwithstanding anything in subdivision four of this section to the contrary, a public employer that is a fiscally eligible municipality, as defined in section 160.05 of the local finance law, and is otherwise subject to subdivision four of this section, upon resolution of its governing body with the concurrence of its chief executive officer, and a public employee organization subject to subdivision four of this section may, jointly, stipulate and agree that an impasse exists, at any time, with respect to collective negotiations between the parties for a collective bargaining agreement and, in lieu of commencing a proceeding under subdivision four of this section, may jointly request that the financial restructuring board for local governments, established in section 160.05 of the local finance law, resolve such impasse. A joint request pursuant to this subdivision shall be irrevocable.

(b) The financial restructuring board for local governments shall render a just and reasonable determination of the matters in dispute by an affirmative vote of a majority of the total number of its members. In

arriving at such determination, it shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, those factors set forth in subdivision six of this section. In all matters regarding public disclosure of its proceedings and findings, it shall be treated the same as the panel convened pursuant to subdivision four of this section. It shall render a determination within six months of being formally requested by the parties to convene.

(c) Each party before the financial restructuring board for local governments may be heard either in person, by counsel, or by other representatives, as they may respectively designate and may present, either orally or in writing, or both, statements of fact, supporting witnesses and other evidence, and argument of their respective positions with respect to each case. The board shall have authority to require the production of additional evidence, either oral or written, as it may desire from the parties. All proceedings, meetings and hearings conducted by the board shall be held in the city of Albany.

(d) The determination of the financial restructuring board for local governments with respect to the conditions of employment presented to it pursuant to this section shall be final and binding upon the parties for the period prescribed by such board, but in no event shall such period exceed four years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed four years from the date of determination by the board. Such determination shall not be subject to the approval of any local legislative body or other municipal authority, and shall only be subject to review by a court of competent jurisdiction in the manner prescribed by law.

* 5. (a) In the event that the board certifies that a voluntary resolution of the contract negotiations between either (i) the New York city transit authority (hereinafter referred to as TA-public employer) and the public employee organization certified or recognized to represent the majority of employees of such TA-public employer, or (ii) the metropolitan transportation authority, including its subsidiaries, the New York city transit authority, including its subsidiary, and the Triborough bridge and tunnel authority (all hereinafter referred to as MTA-public employer) and a public employee organization certified or recognized to represent employees of such MTA-public employer not

subject to the jurisdiction of the Federal Railway Labor Act and not subject to the provisions of subparagraph (i) of this paragraph, which has made an election pursuant to paragraph (f) of this subdivision, or (iii) the Niagara Frontier transportation authority, the Rochester-Genesee regional transportation authority, the capital district transportation authority and the central New York regional transportation authority (all hereinafter referred to as upstate TA-public employer) and the public employee organization certified or recognized to represent the employees of such upstate TA-public employer, cannot be effected, or upon the joint request of the TA-public employer, the MTA-public employer (hereinafter jointly referred to as public employer) or the upstate TA-public employer and any such affected employee organization, such board shall refer the dispute to a public arbitration panel, consisting of one member appointed by the public employer, one member appointed by the employee organization and one public member appointed jointly by the public employer and employee organization who shall be selected within ten days after receipt by the board of a petition for creation of the arbitration panel. If either party fails to designate its member to the public arbitration panel, the board shall promptly, upon receipt of a request by either party, designate a member associated in interest with the public employer or employee organization he is to represent. Each of the respective parties is to bear the cost of its member appointed or designated to the arbitration panel and each of the respective parties is to share equally the cost of the public member. If, within seven days after the mailing date, the parties are unable to agree upon the one public member, the board shall submit to the parties a list of qualified, disinterested persons for the selection of the public member. Each party shall alternately strike from the list one of the names with the order of striking determined by lot, until the remaining one person shall be designated as public member. This process shall be completed within five days of receipt of this list. The parties shall notify the board of the designated public member. The public member shall be chosen as chairman.

(b) The arbitration panel shall hold hearings on all matters within the scope of negotiations related to the dispute for which the panel was appointed. The parties may be heard either in person, by counsel or by other representatives as they may respectively designate. The parties

may present, either orally or in writing or both, statement of fact, supporting witnesses and other evidence and argument of their respective position with respect to each case. The panel shall have authority to require the production of such additional evidence, either oral or written, as it may desire from the parties and shall provide at the request of either party that a full and complete record be kept of any such hearings, the cost of such record to be shared equally by the parties.

(c) All matters presented to such panel for its determination shall be decided by a majority vote of the members of the panel. The panel, prior to a vote on any issue in dispute before it, may refer the issue back to the parties for further negotiations.

(d) Such panel shall make a just and reasonable determination of matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

(i) comparison of the wages, hours, fringe benefits, conditions and characteristics of employment of the public employees involved in the impasse proceeding with the wages, hours, fringe benefits, conditions and characteristics of employment of other employees performing similar work and other employees generally in public or private employment in New York city or comparable communities;

(ii) the overall compensation paid to the employees involved in the impasse proceeding, including direct wage compensation, overtime and premium pay, vacations, holidays and other excused time, insurance, pensions, medical and hospitalization benefits, food and apparel furnished, and all other benefits received;

(iii) the impact of the panel's award on the financial ability of the public employer to pay, on the present fares and on the continued provision of services to the public;

(iv) changes in the average consumer prices for goods and services, commonly known as the cost of living;

(v) the interest and welfare of the public; and

(vi) such other factors as are normally and customarily considered in the determination of wages, hours, fringe benefits and other working conditions in collective negotiations or impasse panel proceedings.

(e) The panel shall have full authority to resolve the matters in

dispute before it and issue a determination which shall be final and binding upon the parties, notwithstanding any other provision of this article. Except for the purposes of judicial review, any provision of a determination of the arbitration panel, the implementation of which requires an enactment of law, shall not become binding until the appropriate legislative body enacts such law.

(f) (i) Within sixty days of the enactment of this provision, and only within such time period, any such public employee organization described in subparagraph (ii) of paragraph (a) of this subdivision may elect to be covered by the provisions of this section by filing in writing a notice of participation with the chairman of the board and the chairman of the metropolitan transportation authority.

(ii) Within sixty days of the enactment of this subparagraph and only within such time period, any such public employee organization certified or recognized to represent employees of an MTA-public employer (described in subparagraph (ii) of paragraph (a) of this subdivision) not subject to the jurisdiction of the Federal Railway Labor Act but which was subject to such jurisdiction during the sixty-day period set forth in subparagraph (i) of this paragraph may elect to be covered by the provisions of this section by filing in writing a notice of participation with the chairman of the board and the chairman of the metropolitan transportation authority.

(iii) Within ninety days of the enactment of this subparagraph, and only within such time period, any such public employee organization certified or registered to represent employees classified as the Triborough bridge and tunnel authority superior officer benevolent association of an MTA-public employer (described in subparagraph (ii) of paragraph (a) of this subdivision) may elect to be covered by the provisions of this section by filing in writing a notice of participation with the chairman of the board and the chairman of the metropolitan transportation authority.

(iv) Once such an election is made pursuant to subparagraph (i) or (ii) of this paragraph, any such public employee organization shall thereafter be subject to the provisions of this section unless such organization and the chairman of the metropolitan transportation authority file a joint agreement in writing with the chairman of the board that provides for a rescission of the election made pursuant to

this paragraph.

(g) This subdivision shall not apply to a certified or recognized public employee organization which represents any public employees described in subdivision sixteen of section twelve hundred four of the public authorities law and nothing contained within this section shall be construed to divest the public employment relations board or any court of competent jurisdiction of the full power or authority to enforce any order made by the board or such court prior to the effective date of this subdivision.

* NB Expires July 1, 2027

* 6. (a) For disputes concerning an impasse pursuant to subdivision four of this section that involve a county, city, town, or village subject to section three-c of the general municipal law, a public arbitration panel shall make a determination as to whether such county, city, town, or village, is a public employer that is a fiscally eligible municipality as part of its analysis of the financial ability of the public employer to pay.

(b) In evaluating whether a public employer covered by this subdivision is a fiscally eligible municipality, such public arbitration panel shall consider the average full value property tax rate of such public employer and the average fund balance percentage of such public employer.

(i) For purposes of this subdivision, "full value property tax rate" shall mean the amount to be raised by tax on real estate by a local government in a given fiscal year divided by the full valuation of taxable real estate for that same fiscal year as reported to the office of the state comptroller.

(ii) For purposes of this subdivision, "average full value property tax rate" shall mean the sum of the full value property tax rates for the five most recent fiscal years divided by five.

(iii) For purposes of this subdivision, "fund balance percentage" shall mean the total fund balance in the general fund of a local government in a given fiscal year divided by the total expenditures from the general fund for that same fiscal year as reported to the office of the state comptroller.

(iv) For purposes of this subdivision, "average fund balance percentage" shall mean the sum of the fund balance percentages for the

five most recently completed fiscal years divided by five.

(c) If the average full value property tax rate of such public employer is greater than the average full value property tax rate of seventy-five percent of counties, cities, towns, and villages, with local fiscal years ending in the same calendar year as of the most recently available information, the public arbitration panel must find that such public employer is a fiscally eligible municipality. The office of the state comptroller shall make publicly available the list of counties, cities, towns, and villages that have an average full value property tax rate that meets such criteria in each local fiscal year. If a public employer has not reported to the office of the state comptroller the information necessary to calculate its average full value property tax rate, such public employer may not be deemed a fiscally eligible municipality and the provisions of this subdivision shall not apply.

(d) If the average fund balance percentage of such public employer is less than five percent and the state comptroller has certified that any additional fund balances in funds other than the general fund available for payment of arbitration awards in each year, if added to the fund balance of the general fund, would not cause the average fund balance percentage of such public employer to exceed five percent, the public arbitration panel must find that such public employer is a fiscally eligible municipality. The office of the state comptroller shall make publicly available the list of counties, cities, towns, and villages that have an average fund balance percentage that is less than five percent in each local fiscal year. If a public employer has not reported to the office of the state comptroller the information necessary to calculate its average fund balance percentage, such public employer may not be deemed a fiscally eligible municipality and the provisions of this subdivision shall not apply.

(e) When such public employer has been found to be a fiscally eligible municipality, the public arbitration panel shall, first and foremost, consider ability to pay by assigning a weight of seventy percent to that portion of the criterion contained within clause b of subparagraph (v) of paragraph (c) of subdivision four of this section that pertains only to the public employer's ability to pay. All other criteria contained in subparagraph (v) of paragraph (c) of subdivision four of this section,

including that portion of clause b of subparagraph (v) of paragraph (c) of subdivision four of this section that pertains to the interest and welfare of the public, shall constitute an aggregate weight of thirty percent. Additionally, with respect to the total monetary value of any determination, the panel must recognize and take into account in its determination the constraints, obligations and requirements imposed by the real property tax cap pursuant to section three-c of the general municipal law upon the public employer involved in the dispute before the panel.

(f) The provisions of this subdivision shall expire July first, two thousand twenty-nine.

* NB Expires July 1, 2029

§ 209-a. Improper employer practices; improper employee organization practices; application. 1. Improper employer practices. It shall be an improper practice for a public employer or its agents deliberately (a) to interfere with, restrain or coerce public employees in the exercise of their rights guaranteed in section two hundred two of this article for the purpose of depriving them of such rights; (b) to dominate or interfere with the formation or administration of any employee organization for the purpose of depriving them of such rights; (c) to discriminate against any employee for the purpose of encouraging or discouraging membership in, or participation in the activities of, any employee organization; (d) to refuse to negotiate in good faith with the duly recognized or certified representatives of its public employees; (e) to refuse to continue all the terms of an expired agreement until a new agreement is negotiated, unless the employee organization which is a party to such agreement has, during such negotiations or prior to such resolution of such negotiations, engaged in conduct violative of subdivision one of section two hundred ten of this article; (f) to utilize any state funds appropriated for any purpose to train managers, supervisors or other administrative personnel regarding methods to discourage union organization or to discourage an employee from participating in a union organizing drive; (g) to fail to permit or refuse to afford a public employee the right, upon the employee's demand, to representation by a representative of the employee

organization, or the designee of such organization, which has been certified or recognized under this article when at the time of questioning by the employer of such employee it reasonably appears that he or she may be the subject of a potential disciplinary action. If representation is requested, and the employee is a potential target of disciplinary action at the time of questioning, a reasonable period of time shall be afforded to the employee to obtain such representation. It shall be an affirmative defense to any improper practice charge under paragraph (g) of this subdivision that the employee has the right, pursuant to statute, interest arbitration award, collectively negotiated agreement, policy or practice, to present to a hearing officer or arbitrator evidence of the employer's failure to provide representation and to obtain exclusion of the resulting evidence upon demonstration of such failure. Nothing in this section shall grant an employee any right to representation by the representative of an employee organization in any criminal investigation; or (h) to disclose home addresses, personal telephone numbers, personal cell phone numbers, personal e-mail addresses of a public employee, as the term "public employee" is defined in subdivision seven of section two hundred one of this article, except (i) where required pursuant to the provisions of this article, (ii) to the extent compelled to do so by lawful service of process, subpoena, court order, or (iii) in accordance with subdivision four of section two hundred eight of this article, or as otherwise required by law. This paragraph shall not prohibit other provisions of law regarding work-related, publicly available information such as title, salary, and dates of employment.

2. Improper employee organization practices. It shall be an improper practice for an employee organization or its agents deliberately (a) to interfere with, restrain or coerce public employees in the exercise of the rights granted in section two hundred two, or to cause, or attempt to cause, a public employer to do so provided, however, that an employee organization does not interfere with, restrain or coerce public employees when it limits its services to and representation of non-members in accordance with this subdivision; (b) to refuse to negotiate collectively in good faith with a public employer, provided it is the duly recognized or certified representative of the employees of

such employer; or (c) to breach its duty of fair representation to public employees under this article. Notwithstanding any law, rule or regulation to the contrary, an employee organization's duty of fair representation to a public employee it represents but who is not a member of the employee organization shall be limited to the negotiation or enforcement of the terms of an agreement with the public employer. No provision of this article shall be construed to require an employee organization to provide representation to a non-member (i) during questioning by the employer, (ii) in statutory or administrative proceedings or to enforce statutory or regulatory rights, or (iii) in any stage of a grievance, arbitration or other contractual process concerning the evaluation or discipline of a public employee where the non-member is permitted to proceed without the employee organization and be represented by his or her own advocate. Nor shall any provision of this article prohibit an employee organization from providing legal, economic or job-related services or benefits beyond those provided in the agreement with a public employer only to its members.

3. The public employer shall be made a party to any charge filed under subdivision two of this section which alleges that the duly recognized or certified employee organization breached its duty of fair representation in the processing of or failure to process a claim that the public employer has breached its agreement with such employee organization.

4. Injunctive relief. (a) A party filing an improper practice charge under this section may petition the board to obtain injunctive relief, pending a decision on the merits of said charge by an administrative law judge, upon a showing that: (i) there is reasonable cause to believe an improper practice has occurred, and (ii) where it appears that immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating the maintenance of, or return to, the status quo to provide meaningful relief.

(b) Within ten days of the receipt by the board of such petition, if the board determines that a charging party has made a sufficient showing both that there is reasonable cause to believe an improper practice has

occurred and it appears that immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating maintenance of, or return to, the status quo to provide meaningful relief, the board shall petition the supreme court, in Albany county, upon notice to all parties for the necessary injunctive relief or in the alternative may issue an order permitting the charging party to seek injunctive relief by petition to the supreme court, in which case the board must be joined as a necessary party. The board or, where applicable, the charging party, shall not be required to give any undertakings or bond and shall not be liable for any damages or costs which may have been sustained by reason of any injunctive relief ordered. If the board fails to act within ten days as provided herein, the board, for purposes of review, shall be deemed to have made a final order determining not to seek injunctive relief.

(c) If after review, the board determines that a charging party has not made a sufficient showing and that no petition to the court is appropriate under paragraph (b) of this subdivision, such determination shall be deemed a final order and may be immediately reviewed pursuant to and upon the standards provided by article seventy-eight of the civil practice law and rules upon petition by the charging party in supreme court, Albany county.

(d) Injunctive relief may be granted by the court, after hearing all parties, if it determines that there is reasonable cause to believe an improper practice has occurred and that it appears that immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating maintenance of, or return to, the status quo to provide meaningful relief. Such relief shall expire on decision by an administrative law judge finding no improper practice to have occurred, successful appeal or motion by respondent to vacate or modify pursuant to the provisions of the civil practice law and rules, or subsequent finding by the board that no improper practice had occurred. The administrative law judge shall conclude the hearing process and issue a decision on the merits within sixty days after the imposition of such injunctive relief unless mutually agreed by the respondent and charging party.

(e) A decision on the merits of the improper practice charge by an administrative law judge finding an improper practice to have occurred

shall continue the injunctive relief until either: (i) the respondent fails to file exceptions to the decision and implements the remedy, or (ii) the respondent successfully moves in court, upon notice, to vacate or modify the injunctive relief pursuant to provisions of the civil practice law and rules.

(f) Any injunctive relief in effect pending a decision by the board on exceptions: (i) shall expire upon a decision by the board finding no improper practice to have occurred, of which the board shall notify the court immediately, or (ii) shall remain in effect only to the extent it implements any remedial order issued by the board in its decision, of which the board shall notify the court immediately.

(g) All matters in which the court has granted injunctive relief pursuant to this subdivision shall be given preference in the scheduling, hearing and disposition over all other matters before the board or its administrative law judges.

(h) The appeal of any order granting, denying, modifying or vacating injunctive relief ordered by the court pursuant to this subdivision shall be made in accordance with the provisions of article fifty-five of the civil practice law and rules except that where such injunctive relief is stayed pursuant to section fifty-five hundred nineteen of the civil practice law and rules, an appeal for removal of such stay may be given preference in the same manner as provided in rule fifty-five hundred twenty-one of the civil practice law and rules.

(i) Nothing in this section shall be deemed to eliminate or diminish any right that may exist pursuant to any other law.

(j) Pursuant to paragraph (d) of subdivision five of section two hundred five of this article, the board shall make such rules and regulations as may be appropriate to effectuate the purposes and provisions of this subdivision.

5. Injunctive relief before the New York city board of collective bargaining. (a) A party filing an improper practice charge under section 12-306 of the administrative code of the city of New York may petition the board of collective bargaining to obtain injunctive relief before the supreme court, New York county, pending a decision on the merits by the board of collective bargaining, upon a showing that: (i) there is reasonable cause to believe an improper practice has occurred, and (ii)

where it appears that immediate and irreparable injury, loss or damage will result and thereby rendering a resulting judgment on the merits ineffectual necessitating the maintenance of, or return to, the status quo to provide meaningful relief.

(b) Within ten days of the receipt by the board of such petition, if the board of collective bargaining determines that a charging party has made a sufficient showing both that there is reasonable cause to believe an improper practice has occurred and it appears that immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating maintenance of, or return to, the status quo to provide meaningful relief, said board shall petition the supreme court in New York county, upon notice to all parties, for the necessary injunctive relief, or in the alternative said board may issue an order permitting the charging party to seek injunctive relief by petition to the supreme court, New York county, in which case said board must be joined as a necessary party. Such application shall be in conformance with the civil practice law and rules except that said board, or where applicable, the charging party shall not be required to give any undertaking or land and shall not be liable for any damages or costs which may have been sustained by reason of any injunctive relief order. If the board of collective bargaining fails to act within ten days as provided in this paragraph, the board of collective bargaining, for purposes of review, shall be deemed to have made a final order determining not to permit the charging party to seek injunctive relief.

(c) If after review, the board of collective bargaining determines that a charging party has not made a sufficient showing and that no petition to the court is appropriate under paragraph (b) of this subdivision, such determination shall be deemed a final order and may be immediately reviewed pursuant to article seventy-eight of the civil practice law and rules upon petition by the charging party to the supreme court, New York county.

(d) Injunctive relief may be granted by the court, after hearing all parties, if it determines that there is reasonable cause to believe an improper practice has occurred and that it appears that immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating maintenance

of, or return to, the status quo to provide meaningful relief. Any injunctive relief granted by the court shall expire upon decision of the board of collective bargaining finding no improper practice to have occurred or successful challenge of the said board's decision pursuant to article seventy-eight of the civil practice law and rules. The said board shall conclude the hearing process and issue a decision on the merits within sixty days after the imposition of such injunctive relief unless mutually agreed by the respondent and charging party.

(e) A decision on the merits of the improper practice charge by the board of collective bargaining finding an improper practice to have occurred shall continue the injunctive relief until either: (i) the respondent fails to appeal the decision and implements the remedy, or (ii) the respondent successfully moves in court, upon notice, to vacate or modify the injunctive relief pursuant to provisions of the civil practice law and rules.

(f) Any injunctive relief in effect pending a decision by the board of collective bargaining on appeal: (i) shall expire upon a decision by the said board finding no improper practice to have occurred, of which the said board shall notify the court immediately, or (ii) shall remain in effect only to the extent it implements any remedial order issued by the said board of its decision, of which the said board shall notify the court immediately.

(g) All matters in which the court has granted injunctive relief upon petition by the charging party pursuant to this subdivision shall be given preference in the scheduling, hearing and disposition over all other matters before the said board. The said board shall establish rules and regulations dealing with the implementation of this section including time limits for its own actions.

(h) The appeal of any order granting, denying, modifying or vacating injunctive relief ordered by the court pursuant to this subdivision shall be made in accordance with the provisions of article fifty-five of the civil practice law and rules except that where such injunctive relief is stayed pursuant to section fifty-five hundred nineteen of the civil practice law and rules, an appeal for removal of such stay may be given preference in the same manner as provided in rule fifty-five hundred twenty-one of the civil practice law and rules.

(i) Nothing in this section shall be deemed to eliminate or diminish

any right that may exist pursuant to any other law.

(j) The board of collective bargaining shall make such rules and regulations as may be appropriate to effectuate the purposes and provisions of this subdivision.

6. Application. In applying this section, fundamental distinctions between private and public employment shall be recognized, and no body of federal or state law applicable wholly or in part to private employment, shall be regarded as binding or controlling precedent.

§ 210. Prohibition of strikes. 1. No public employee or employee organization shall engage in a strike, and no public employee or employee organization shall cause, instigate, encourage, or condone a strike.

2. Violations and penalties; presumption; prohibition against consent to strike; determination; notice; probation; payroll deductions; objections; and restoration. (a) Violations and penalties. A public employee shall violate this subdivision by engaging in a strike or violating paragraph (c) of this subdivision and shall be liable as provided in this subdivision pursuant to the procedures contained herein. In addition, any public employee who violates subdivision one of this section may be subject to removal or other disciplinary action provided by law for misconduct.

(b) Presumption. For purposes of this subdivision an employee who is absent from work without permission, or who abstains wholly or in part from the full performance of his duties in his normal manner without permission, on the date or dates when a strike occurs, shall be presumed to have engaged in such strike on such date or dates.

(c) Prohibition against consent to strike. No person exercising on behalf of any public employer any authority, supervision or direction over any public employee shall have the power to authorize, approve, condone or consent to a strike, or the engaging in a strike, by one or more public employees, and such person shall not authorize, approve, condone or consent to such strike or engagement.

(d) Determination. In the event that it appears that a violation of

this subdivision may have occurred, the chief executive officer of the government involved shall, on the basis of such investigation and affidavits as he may deem appropriate, determine whether or not such violation has occurred and the date or dates of such violation. If the chief executive officer determines that such violation has occurred, he shall further determine, on the basis of such further investigation and affidavits as he may deem appropriate, the names of employees who committed such violation and the date or dates thereof. Such determination shall not be deemed to be final until the completion of the procedures provided for in this subdivision.

(e) Notice. The chief executive officer shall forthwith notify each employee that he has been found to have committed such violation, the date or dates thereof and of his right to object to such determination pursuant to paragraph (g) of this subdivision; he shall also notify the chief fiscal officer of the names of all such employees and of the total number of days, or part thereof, on which it has been determined that such violation occurred. Notice to each employee shall be by personal service or by certified mail to his last address filed by him with his employer.

(f) Payroll deductions. Not earlier than thirty nor later than ninety days following the date of such determination, the chief fiscal officer of the government involved shall deduct from the compensation of each such public employee an amount equal to twice his daily rate of pay for each day or part thereof that it was determined that he had violated this subdivision; such rate of pay to be computed as of the time of such violation. In computing such deduction, credit shall be allowed for amounts already withheld from such employee's compensation on account of his absence from work or other withholding of services on such day or days. In computing the aforesaid thirty to ninety day period of time following the determination of a violation pursuant to subdivision (d) of paragraph two of this section and where the employee's annual compensation is paid over a period of time which is less than fifty-two weeks, that period of time between the last day of the last payroll period of the employment term in which the violation occurred and the first day of the first payroll period of the next succeeding employment term shall be disregarded and not counted.

(g) Objections and restoration. Any employee determined to have

violated this subdivision may object to such determination by filing with the chief executive officer, (within twenty days of the date on which notice was served or mailed to him pursuant to paragraph (e) of this subdivision) his sworn affidavit, supported by available documentary proof, containing a short and plain statement of the facts upon which he relies to show that such determination was incorrect. Such affidavit shall be subject to the penalties of perjury. If the chief executive officer shall determine that the affidavit and supporting proof establishes that the employee did not violate this subdivision, he shall sustain the objection. If the chief executive officer shall determine that the affidavit and supporting proof fails to establish that the employee did not violate this subdivision, he shall dismiss the objection and so notify the employee. If the chief executive officer shall determine that the affidavit and supporting proof raises a question of fact which, if resolved in favor of the employee, would establish that the employee did not violate this subdivision, he shall appoint a hearing officer to determine whether in fact the employee did violate this subdivision after a hearing at which such employee shall bear the burden of proof. If the hearing officer shall determine that the employee failed to establish that he did not violate this subdivision, the chief executive officer shall so notify the employee. If the chief executive officer sustains an objection or the hearing officer determines on a preponderance of the evidence that such employee did not violate this subdivision, the chief executive officer shall forthwith notify the chief fiscal officer who shall thereupon cease all further deductions and refund any deductions previously made pursuant to this subdivision. The determinations provided in this paragraph shall be reviewable pursuant to article seventy-eight of the civil practice law and rules.

3. (a) An employee organization which is determined by the board to have violated the provisions of subdivision one of this section shall, in accordance with the provisions of this section, lose the rights granted pursuant to the provisions of paragraph (b) of subdivision one of section two hundred eight of this chapter.

(b) In the event that it appears that a violation of subdivision one of this section may have occurred, it shall be the duty of the chief

executive officer of the public employer involved (i) forthwith to so notify the board and the chief legal officer of the government involved, and (ii) to provide the board and such chief legal officer with such facilities, assistance and data as will enable the board and such chief legal officer to carry out their duties under this section.

(c) In the event that it appears that a violation of subdivision one of this section may have occurred, the chief legal officer of the government involved, or the board on its own motion, shall forthwith institute proceedings before the board to determine whether such employee organization has violated the provisions of subdivision one of this section.

(d) Proceedings against an employee organization under this section shall be commenced by service upon it of a written notice, together with a copy of the charges. A copy of such notice and charges shall also be served, for their information, upon the appropriate government officials who recognize such employee organization and grant to it the rights accompanying such recognition. The employee organization shall have eight days within which to serve its written answer to such charges. The board's hearing shall be held promptly thereafter and at such hearing, the parties shall be permitted to be represented by counsel and to summon witnesses in their behalf. Compliance with the technical rules of evidence shall not be required.

(e) In determining whether an employee organization has violated subdivision one of this section, the board shall consider (i) whether the employee organization called the strike or tried to prevent it, and (ii) whether the employee organization made or was making good faith efforts to terminate the strike.

(f) If the board determines that an employee organization has violated the provisions of subdivision one of this section, the board shall order forfeiture of the rights granted pursuant to the provisions of paragraph (b) of subdivision one, and subdivision three of section two hundred eight of this chapter, for such specified period of time as the board shall determine, or, in the discretion of the board, for an indefinite period of time subject to restoration upon application, with notice to all interested parties, supported by proof of good faith compliance with the requirements of subdivision one of this section since the date of such violation, such proof to include, for example, the successful

negotiation, without a violation of subdivision one of this section, of a contract covering the employees in the unit affected by such violation; provided, however, that where a fine imposed on an employee organization pursuant to subdivision two of section seven hundred fifty-one of the judiciary law remains wholly or partly unpaid, after the exhaustion of the cash and securities of the employee organization, the board shall direct that, notwithstanding such forfeiture, such membership dues deduction shall be continued to the extent necessary to pay such fine and such public employer shall transmit such moneys to the court. In fixing the duration of the forfeiture, the board shall consider all the relevant facts and circumstances, including but not limited to: (i) the extent of any wilful defiance of subdivision one of this section (ii) the impact of the strike on the public health, safety, and welfare of the community and (iii) the financial resources of the employee organization; and the board may consider (i) the refusal of the employee organization or the appropriate public employer or the representative thereof, to submit to the mediation and fact-finding procedures provided in section two hundred nine and (ii) whether, if so alleged by the employee organization, the appropriate public employer or its representatives engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike. In determining the financial resources of the employee organization, the board shall consider both the income and the assets of such employee organization. In the event membership dues are collected by the public employer as provided in paragraph (b) of subdivision one of section two hundred eight of this chapter, the books and records of such public employer shall be prima facie evidence of the amount so collected.

(g) An employee organization whose rights granted pursuant to the provisions of paragraph (b) of subdivision one, and subdivision three of section two hundred eight of this article have been ordered forfeited pursuant to this section may be granted such rights after the termination of such forfeiture only after complying with the provisions of clause (b) of subdivision three of section two hundred seven of this article.

(h) No compensation shall be paid by a public employer to a public employee with respect to any day or part thereof when such employee is

engaged in a strike against such employer. The chief fiscal officer of the government involved shall withhold such compensation upon receipt of the notice provided by paragraph (e) of subdivision two of section two hundred ten; notwithstanding the failure to have received such notice, no public employee or officer having knowledge that such employee has so engaged in such a strike shall deliver or caused to be delivered to such employee any cash, check or payment which, in whole or in part, represents such compensation.

4. Within sixty days of the termination of a strike, the chief executive officer of the government involved shall prepare and make public a report in writing, which shall contain the following information: (a) the circumstances surrounding the commencement of the strike, (b) the efforts used to terminate the strike, (c) the names of those public employees whom the public officer or body had reason to believe were responsible for causing, instigating or encouraging the strike and (d) related to the varying degrees of individual responsibility, the sanctions imposed or proceedings pending against each such individual public employee.

§ 211. Application for injunctive relief. Notwithstanding the provisions of section eight hundred seven of the labor law, where it appears that public employees or an employee organization threaten or are about to do, or are doing, an act in violation of section two hundred ten of this article, the chief executive officer of the government involved shall (a) forthwith notify the chief legal officer of the government involved, and (b) provide such chief legal officer with such facilities, assistance and data as will enable the chief legal officer to carry out his duties under this section, and, notwithstanding the failure or refusal of the chief executive officer to act as aforesaid, the chief legal officer of the government involved shall forthwith apply to the supreme court for an injunction against such violation. If an order of the court enjoining or restraining such violation does not receive compliance, such chief legal officer shall forthwith apply to the supreme court to punish such violation under section seven hundred fifty of the judiciary law.

§ 212. Local government procedures. 1. This article, except sections two hundred one, two hundred two, two hundred three, two hundred four, paragraph b of subdivision four and paragraph d of subdivision five of section two hundred five, paragraph b of subdivision three of section two hundred seven, section two hundred eight, section two hundred nine-a, subdivisions one and two of section two hundred ten, section two hundred eleven, two hundred thirteen and two hundred fourteen, shall be inapplicable to any government (other than the state or a state public authority) which, acting through its legislative body, has adopted by local law, ordinance or resolution, its own provisions and procedures which have been submitted to the board by such government and as to which there is in effect a determination by the board that such provisions and procedures and the continuing implementation thereof are substantially equivalent to the provisions and procedures set forth in this article with respect to the state.

2. With respect to the city of New York, such provisions and procedures need not be related to the end of its fiscal year; and with respect to provisions and procedures adopted by local law by the city of New York no such submission to or determination by the board shall be required, but such provisions and procedures shall be of full force and effect unless and until such provisions and procedures, or the continuing implementation thereof, are found by a court of competent jurisdiction, in an action brought by the board in the county of New York for a declaratory judgment, not to be substantially equivalent to the provisions and procedures set forth in this article.

3. Notwithstanding any other provision of law to the contrary, the resolution of disputes in the course of collective negotiations as provided by section two hundred nine of this article shall apply to any organized fire department, police force, or police department of any government and detective-investigators, or rackets investigators employed in the office of a district attorney of a county subject to either subdivision one or two of this section. Provided, however, that a recognized or certified employee organization may elect to continue

dispute resolution procedures which existed on the day prior to the effective date of this subdivision by notifying the appropriate public employment relations board in writing.

§ 213. Judicial review and enforcement. (a) Final orders of the board made pursuant to this article shall be conclusive against all parties to its proceedings and persons who have had an opportunity to be parties to its proceedings unless reversed or modified in proceedings for enforcement or judicial review as hereinafter provided. Final orders shall be (i) reviewable under article seventy-eight of the civil practice law and rules upon petition filed by an aggrieved party within thirty days after service by registered or certified mail of a copy of such order upon such party, and (ii) enforceable in a special proceeding, upon petition of such board, by the supreme court, provided, however, that an order of the board which determines whether an employer or employee is subject to this article may be deemed final when made.

(b) Orders of the board or its agents made pursuant to subdivisions one and two of section two hundred seven of this chapter shall be reviewable only in a proceeding brought under article seventy-eight of the civil practice law and rules to review an order of the board made pursuant to subdivision three of section two hundred seven of this chapter.

(c) If a proceeding by the board for enforcement of its order is instituted prior to the expiration of the period within which a party may seek judicial review of such order, the respondent may raise in his answer the questions authorized to be raised by section seven thousand eight hundred three of the civil practice law and rules and thereafter the proceedings shall be governed by the provisions of article seventy-eight of the civil practice law and rules that are not inconsistent herewith, except that if an issue specified in question four of section seven thousand eight hundred three of the civil practice law and rules is raised, the proceeding shall be transferred for disposition to the appellate division of the supreme court. Where an issue specified in question four of section seven thousand eight hundred three of the civil practice law and rules is raised, either in a proceeding to enforce or review an order of the board, the appellate

division of the supreme court, upon completion of proceedings before it, shall remit a copy of its judgment or order to the court in which the proceeding was commenced, which court shall have the power to compel compliance with such judgment or order.

(d) In a proceeding to enforce or review an order of the board, the court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a judgment or decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board.

(e) The failure to perform the duties required by subdivisions two and three of section two hundred ten of this chapter and by section two hundred eleven of this chapter shall be reviewable in a proceeding under article seventy-eight of the civil practice law and rules by any taxpayer, as defined in section one hundred two of this chapter. Any such taxpayer shall also have standing to institute any action described in subdivisions one and two of section one hundred two of this chapter.

§ 214. Management and confidential employees; membership and office in employee organizations. No managerial or confidential employee, as determined pursuant to subdivision seven of section two hundred one of this article, shall hold office in or be a member of any employee organization which is or seeks to become pursuant to this article the certified or recognized representative of the public employees employed by the public employer of such managerial or confidential employee.

§ 215. Dues or agency shop fee deductions. 1. Notwithstanding any other law to the contrary, any public employer, any employee organization, the comptroller and the board, or any of their employees or agents, shall not be liable for, and shall have a complete defense to, any claims or actions under the laws of this state for requiring, deducting, receiving, or retaining dues or agency shop fee deductions from public employees, and current or former public employees shall not have standing to pursue these claims or actions, if the dues or fees were permitted or mandated at the time under the laws of this state then in force and paid, through payroll deduction or otherwise, prior to June

twenty-seventh, two thousand eighteen.

2. This section shall apply to claims and actions pending or filed on or after June twenty-seventh, two thousand eighteen.

3. The enactment of this section shall not be interpreted to create the inference that any relief made unavailable by this section would otherwise be available.

§ 216. Falsely impersonating an employee organization or employee organization representative. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Falsely impersonate an employee organization or employee organization representative" shall mean to use, with the specific intent to deceive the recipient and thereby cause harm to such recipient or employee organization, fraud, misrepresentation, material omission, or other deception in making and disseminating a verbal, written, or electronic communication that purports to be authorized or otherwise approved by such employee organization or employee organization representative but that has not been authorized or approved by such employee organization or employee organization representative.

(b) "Employee organization representative" shall mean any person authorized by an employee organization, pursuant to its constitution, bylaws or other internal rules or procedures, to act on behalf of such employee organization.

2. No person shall falsely impersonate an employee organization or an employee organization representative.

3. (a) Whenever the attorney general shall believe, from evidence satisfactory to the attorney general, that any person, including but not limited to an individual, organization, firm, corporation, company, partnership or association, or agent or employee thereof, has engaged or is about to engage in the false impersonation of an employee organization or an employee organization representative, the attorney general may bring an action or proceeding in the name and on behalf of

the people of the state of New York to enjoin such unlawful acts or practices. In such action or proceeding, preliminary relief may be granted under article sixty-three of the civil practice law and rules. In addition to and not in lieu of any other damages that may be claimed, any person found to be in violation of this section through such action or proceeding shall be fined one thousand dollars per incident; provided, however, that a court shall have discretion to reduce the total fine if the court finds that the amount of such fine is disproportionate to the defendant's conduct.

(b) The attorney general may bring such an action against any person disseminating verbal, written, or electronic communications in this state, whether or not the person is within the state.

(c) In connection with any proposed action or proceeding under this section, the attorney general is authorized to take proof and make a determination of the relevant facts, and to issue subpoenas in accordance with the civil practice law and rules.

4. To protect public employees from fraud or misrepresentation, including the false impersonation of an employee organization representative, an employee organization shall have, as a matter of internal governance, the sole authority to identify and designate its employee organization representatives.