§ 118. Transfer of employees. 1. Upon the transfer of functions, powers, duties and obligations to the commission pursuant to this article, provision shall be made for the transfer of all employees from the former division of the lottery and former racing and wagering board into the commission. Employees so transferred shall be transferred without further examination or qualification to the same or similar titles, shall remain in the same collective bargaining units and shall retain their respective civil service classifications, status and rights pursuant to their collective bargaining units and collective bargaining agreements.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees other than management or confidential persons as defined in article fourteen of the civil service law serving positions in newly created titles shall be assigned to the appropriate bargaining unit. Nothing contained herein shall be construed to affect:

(a) the rights of employees pursuant to a collective bargaining agreement;

(b) the representational relationships among employee organizations or the bargaining relationships between the state and an employee organization; or

(c) existing law with respect to an application to the public employment relations board, provided, however, that the merger of such negotiating units of employees shall be effected only with the consent of the recognized and certified representative of such units and of the department of law.