

## CHAPTER 241

AN ACT concerning layoffs in the civil service system and amending N.J.S.11A:8-1 and N.J.S.11A:8-2.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.11A:8-1 is amended to read as follows:

Layoff.

11A:8-1. a. A permanent employee may be laid off for economy, efficiency or other related reason. A permanent employee shall receive 45 days' written notice, unless in State government a greater time period is ordered by the commissioner, which shall be served personally or by certified mail, of impending layoff or demotion and the reasons therefor. The notice shall expire 120 days after service unless extended by the commissioner for good cause. At the same time the notice is served, the appointing authority shall provide the commissioner with a list of the names and permanent titles of all employees receiving the notice. The board shall adopt rules to implement employee layoff rights consistent with the provisions of this section, upon recommendation by the commissioner. The commissioner shall consult with the advisory board representing labor organizations prior to such recommendations.

b. Permanent employees in the service of the State or a political subdivision shall be laid off in inverse order of seniority. As used in this subsection, "seniority" means the length of continuous permanent service in the jurisdiction, regardless of title held during the period of service, except that for police and firefighting titles, "seniority" means the length of continuous permanent service only in the current permanent title and any other title that has lateral or demotional rights to the current permanent title. Seniority for all titles shall be based on the total length of calendar years, months and days in continuous permanent service regardless of the length of the employee's work week, work year or part-time status.

c. For purposes of State service, a "layoff unit" means a department or autonomous agency and includes all programs administered by that department or agency. For purposes of political subdivision service, the "layoff unit" means a department in a county or municipality, an entire autonomous agency, or an entire school district, except that the commissioner may establish broader layoff units.

d. For purposes of State service, "job location" means a county. The commissioner shall assign a job location to every facility and office within a State department or autonomous agency. For purposes of local service, "job location" means the entire political subdivision and includes any facility operated by the political subdivision outside its geographic borders.

e. For purposes of determining lateral title rights in State and political subdivision service, title comparability shall be determined by the department based upon whether the: (1) titles have substantially similar duties and responsibilities; (2) education and experience requirements for the titles are identical or similar; (3) employees in an affected title, with minimal training and orientation, could perform the duties of the designated title by virtue of having qualified for the affected title; and (4) special skills, licenses, certifications or registration requirements for the designated title are similar and do not exceed those which are mandatory for the affected title. Demotional title rights shall be determined by the commissioner based upon the same criteria, except that the demotional title shall have lower but substantially similar duties and responsibilities as the affected title.

f. In State service, a permanent employee in a position affected by a layoff action shall be provided with applicable lateral and demotional title rights first, at the employee's option, within the municipality in which the facility or office is located and then to the job locations selected by the employee within the department or autonomous agency. The employee shall select individual job locations in preferential order from the list of all job locations and shall indicate job locations at which the employee will accept lateral and demotional title rights. In local service, a permanent employee in a position affected by a layoff action shall be provided lateral and demotional title rights within the layoff unit.

g. Following the employee's selection of job location preferences, lateral and demotional title rights shall be provided in the following order:

- (1) a vacant position that the appointing authority has previously indicated it is willing to fill;
- (2) a position held by a provisional employee who does not have permanent status in another

title, and if there are multiple employees at a job location, the specific position shall be determined by the appointing authority;

(3) a position held by a provisional employee who has permanent status in another title, and if there are multiple provisional employees at a job location, the specific position shall be determined based on level of the permanent title held and seniority;

(4) the position held by the employee serving in a working test period with the least seniority;

(5) in State service, and in local jurisdictions having a performance evaluation program approved by the department, the position held by the permanent employee whose performance rating within the most recent 12 months in the employee's permanent title was significantly below standards or an equivalent rating;

(6) in State service, and in local jurisdictions having a performance evaluation program approved by the department, the position held by the permanent employee whose performance rating within the most recent 12 months in the employee's permanent title was marginally below standards or an equivalent rating; and

(7) the position held by the permanent employee with the least seniority.

h. A permanent employee shall be granted special reemployment rights based on the employee's permanent title at the time of the layoff action and the employee shall be certified for reappointment after the layoff action to the same, lateral and lower related titles. Special reemployment rights shall be determined by the commissioner in the same manner as lateral and demotional rights.

2. N.J.S.11A:8-2 is amended to read as follows:

Pre-layoff actions.

11A:8-2. a. An appointing authority shall lessen the possibility, extent or impact of layoffs by implementing pre-layoff actions, which may include but need not be limited to:

(1) initiating a temporary hiring or promotion freeze;

(2) separating non-permanent employees;

(3) returning provisional employees to their permanent titles;

(4) reassigning employees; and

(5) assisting potentially affected employees in securing transfers or other employment.

b. An appointing authority shall consult with the majority representative of public employees selected or designated pursuant to section 7 of P.L.1968, c.303 (C.34:13A-5.3) that represents the affected employees prior to implementing pre-layoff actions pursuant to this section.

3. This act shall take effect immediately.

Approved September 6, 2001.