

**ASSEMBLY CONCURRENT  
RESOLUTION No. 199**

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**STATE OF NEW JERSEY**

**215th LEGISLATURE**

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INTRODUCED JUNE 20, 2013

**Sponsored by:**

**Assemblywoman LINDA STENDER**  
**District 22 (Middlesex, Somerset and Union)**  
**Assemblyman HERB CONAWAY, JR.**  
**District 7 (Burlington)**  
**Assemblyman REED GUSCIORA**  
**District 15 (Hunterdon and Mercer)**  
**Assemblyman WAYNE P. DEANGELO**  
**District 14 (Mercer and Middlesex)**  
**Assemblyman DANIEL R. BENSON**  
**District 14 (Mercer and Middlesex)**  
**Assemblyman THOMAS P. GIBLIN**  
**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Assemblywoman Sumter, Assemblyman Singleton, Senators Gordon, Greenstein, Lesniak and Turner**

**SYNOPSIS**

Determines that Civil Service Commission's proposed regulations concerning job banding are not consistent with legislative intent.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/28/2013)

1   **A CONCURRENT RESOLUTION** concerning legislative review of the  
2       Civil Service Commission regulations pursuant to Article V,  
3       Section IV, paragraph 6 of the Constitution of the State of New  
4       Jersey.  
5  
6   **WHEREAS**, On March 18, 2013 the Civil Service Commission  
7       proposed a new rule, N.J.A.C.4A:3-3.2A entitled “Job Banding  
8       Program;” and  
9   **WHEREAS**, The proposed new rule will have the effect of eliminating  
10      promotional examinations for tens of thousands of State and local  
11      government positions that are currently subject to a formal  
12      examination process; and  
13   **WHEREAS**, The civil service examination process reduces  
14      discrimination and patronage in the selection of candidates for  
15      promotions; and  
16   **WHEREAS**, Article VII, Sec. I, par. 2 of the New Jersey Constitution  
17      provides that appointments and promotions in the civil service of  
18      the State, and of such political subdivisions as may be provided by  
19      law, shall be made according to merit and fitness to be ascertained,  
20      as far as practicable, by examination, which, as far as practicable,  
21      shall be competitive; except that preference in appointments by  
22      reason of active service in any branch of the military or naval forces  
23      of the United States in time of war may be provided by law; and  
24   **WHEREAS**, Title 11A of the New Jersey Statutes, the “Civil Service  
25      Act,” provides that it is the public policy of this State to: select  
26      and advance employees on the basis of their relative knowledge,  
27      skills and abilities; ensure equal employment opportunity at all  
28      levels of public service; and protect career public employees  
29      from political coercion. N.J.S.A.11A:1-2; and  
30   **WHEREAS**, Pursuant to Title 11A, it is the responsibility of the Civil  
31      Service Commission to establish and maintain a classification  
32      system that establishes titles, assigns titles to appropriate  
33      positions and provides a specification for each title.  
34      N.J.S.A.11A:3-1; and  
35   **WHEREAS**, Pursuant to Title 11A, it is the responsibility of the Civil  
36      Service Commission to provide for the announcement and  
37      administration of examinations, which shall test fairly  
38      knowledge, skills and abilities required to satisfactorily perform  
39      the duties of any title or group of titles. N.J.S.A.11A:4-1; and  
40   **WHEREAS**, Pursuant to Title 11A, it is the responsibility of the Civil  
41      Service Commission to administer promotional examinations  
42      and certify the three eligibles who have received the highest  
43      ranking on a promotional list for purposes of filling vacant  
44      positions. N.J.S.A.11A:4-8; and  
45   **WHEREAS**, Pursuant to Title 11A, whenever a veteran ranks highest  
46      on a promotional certification, a nonveteran shall not be not be  
47      appointed unless the appointing authority shall show cause

1 before the commission why a veteran should not receive such  
2 promotion. N.J.S.A.11A:5-7; and

3 **WHEREAS**, Article V, Section IV, paragraph 6 of the New Jersey  
4 Constitution provides that upon a finding that a proposed rule or  
5 regulation is not consistent with legislative intent, the  
6 Legislature shall transmit this finding in the form of a  
7 concurrent resolution to the Governor and the head of the  
8 Executive Branch agency which promulgated or plans to  
9 promulgate, the rule or regulation; now, therefore,

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11 **BE IT RESOLVED** by the General Assembly of the State of New  
12 Jersey (the Senate concurring):

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14 1. Pursuant to Article V, Section IV, paragraph 6 of the  
15 Constitution of the State of New Jersey, the Legislature may review  
16 any rule or regulation of an administrative agency to determine if  
17 the rule or regulation is consistent with the intent of the Legislature  
18 as expressed in the language of the statute that the rule or regulation  
19 is intended to implement.

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21 2. The proposed new Job Banding Rule, N.J.A.C.4A:3-3.2A, is  
22 contrary to the spirit, intent, and plain meaning of the provision in  
23 the New Jersey Constitution that requires that promotions be based  
24 on merit and fitness to be ascertained, as far as practicable, by  
25 examination, which, as far as practicable, shall be competitive.

26

27 3. The fact that the proposed new rule would eliminate  
28 competitive promotional examinations for tens of thousands of  
29 positions for which such exams have been administered for decades  
30 is compelling evidence that it is practicable to continue to determine  
31 the merit and fitness of candidates for such promotional positions  
32 by competitive examination in accordance with the New Jersey  
33 Constitution.

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35 4. The proposed new rule is not consistent with the legislative  
36 intent that the public policy of this State is to select and advance  
37 employees on the basis of their relative knowledge, skills and  
38 abilities, ensure equal employment opportunity at all levels of  
39 public service, and protect career public employees from political  
40 coercion.

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42 5. The proposed new rule is not consistent with the legislative  
43 intent that a competitive promotional examination process be  
44 established, maintained, and administered by the Civil Service  
45 Commission to ensure that promotions are based on merit and  
46 fitness and are not based on patronage or discriminatory reasons.

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6. The proposed new rule is not consistent with the legislative intent that whenever a veteran ranks highest on a promotional certification, a nonveteran shall not be appointed unless the appointing authority shall show cause before the commission why a veteran should not receive such promotion.

7       7. The proposed new rule is not consistent with the intent of  
8       the Legislature as expressed in the language of the Civil Service  
9       Act, including the spirit, intent, or plain meaning of N.J.S.A.11A:3-  
10      1, N.J.S.A.11A:4-1, N.J.S.A.11A:4-8 or N.J.S.A.11A:5-7.

8. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, and signed by the President of the Senate and attested by the Secretary thereof, shall be transmitted to the Governor and the Civil Service Commission.

9. The Civil Service Commission, pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey, shall have 30 days following transmittal of this resolution to amend or withdraw the proposed regulations or the Legislature may, by passage of another concurrent resolution, exercise its authority under the Constitution to invalidate the regulations in whole or in part.

## STATEMENT

29 This concurrent resolution specifies that certain regulations  
30 proposed by the Civil Service Commission concerning a job  
31 banding program are not consistent with the legislative intent of the  
32 “Civil Service Act,” P.L.1986, c.112 (C.11A:1-1 et seq.), or the  
33 supplementary statutes thereof.