Testimony, Senate Economic Development – 2/14/2013 – Bill S.241

- We are seeking to pass this bill because we want consistency among our bargaining units. Under JELRA, our judiciary bargaining unit employees have the right to bargain for binding arbitration. We are simply looking for the same bargaining rights under SELRA. – This is enabling legislation – it does not mandate anything.
- Other individuals have testified to the cost of arbitration. We believe the cost of the current grievance process to the State as a whole (not just the cost of the VLRB) is much higher than the cost of traditional arbitration. For example there are 4-5 lawyers at the AGO's office who litigate grievances at the VLRB, at least one attorney from DHR usually works alongside them. The AG's Office also has two paralegals and administrative staff. The nature of the current process is that of full blown civil litigation – this consumes staff time and resources – which also drains the State budget. For example: time spent on the discovery process, depositions, pre-trial motions, hearing, remedy hearing, etc. (all the points Vivian Schmitter has already reviewed with you).
- Furthermore, the cost of changing to arbitration is something the state could assess if an arbitration proposal is brought to the bargaining table. At this point, the State has the opportunity to decide whether or not it is cost-effective to shift from the labor board to arbitration.
- It is the established public policy of the State of Vermont as well as the United States that arbitration is to be encouraged as a means of resolving disputes (which is why there is a Vermont Arbitration Act, the Federal Arbitration Act, and also the Supreme Court's famous decisions in what is known as the Steelworker's Trilogy– recently reinforced in the Supreme Court's decision in Pyett v. Penn Plaza).
- Binding arbitration is a right that is enjoyed by almost all unionized public and private employees in this country (including in Vermont – the NEA, AFT, UE). The Vermont Troopers Association and UE support this bill.
- Labor harmony/peace
    - Labor disputes are especially appropriate for arbitration in that the parties have an ongoing relationship best served by speedy and non-litigious dispute resolution.
    - Legal experts and U.S. Supreme Court justices have urged wider use of arbitration for labor disputes because it is a relatively "simple and informal" process and because arbitration procedures have made "incalculable contribution to LABOR PEACE."
    - The U.S. Supreme Court has long recognized the importance of arbitration as a mechanism to resolve grievances because "in the commercial case, arbitration is the substitute for litigation. Grievance arbitration is the substitute for industrial strife." Hence, arbitration is linked to industrial peace.
    - "special heed should be given to the context in which collective bargaining agreements are negotiated and the purpose which they are intended to serve."
- The current process has a negative impact on labor relations
    - It is highly adversarial

- It is inaccessible to the membership. Members should be able to enforce their own rights under the CBA. This is part of labor's history. The current process of a team of lawyers and reps on each side with lengthy grievances and burdensome process has no place in the grievance process or in labor relations.
- It is very difficult to resolve issues at the lower level because of the highly legalistic and formal nature of the grievance process
- This formal/legal framework bleeds through the entire grievance system – i.e. the lower steps. It is difficult for stewards to resolve issues in their worksites because DHR is centralized, supervisors are afraid to work with the union, and grievances that should be resolved at the lowest level succumb to procedural pitfalls. This is contrary to the purpose of labor relations.