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S.131

Introduced by Committee on Government Operations

Date:

Subject: Executive; State's Attorneys and sheriffs; retirement; insurance
benefits

Statement of purpose of bill as introduced: This bill proposes to clarify that State's Attorneys, sheriffs, and employees of State's Attorneys' offices and sheriff's departments whose compensation is administered through the State payroll system are eligible for State insurance and retirement benefits. The bill also proposes to grant employees of the State's Attorneys' offices collective bargaining rights under the State Employees Labor Relations Act.

An act relating to State's Attorneys and sheriffs

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Retirement and Benefits * * *

Sec. 1. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

* * *

(9) "Employee" shall mean:

1 (A) Any regular officer or employee of the Vermont Historical
2 Society or ~~in~~ a department other than a person included under subdivision (B)
3 of this subdivision (9), who is employed for not less than 40 calendar weeks in
4 a year. “Employee” includes deputy State’s Attorneys, victim advocates
5 employed by a State’s Attorney pursuant to 13 V.S.A. § 5306, and secretaries
6 employed by a State’s Attorney pursuant to 32 V.S.A. § 1185.

7 (B) Any regular officer or employee of the Department of Public
8 Safety assigned to police and law enforcement duties, including the
9 Commissioner of Public Safety appointed before July 1, 2001; but, irrespective
10 of the member’s classification, shall not include any member of the General
11 Assembly as such, any person who is covered by the Vermont Teachers’
12 Retirement System, any person engaged under retainer or special agreement or
13 C beneficiary employed by the Department of Public Safety for not more than
14 208 hours per year, or any person whose principal source of income is other
15 than State employment. In all cases of doubt, the Retirement Board shall
16 determine whether any person is an employee as defined in this subchapter.
17 Also included under this subdivision are employees of the Department of
18 Liquor Control who exercise law enforcement powers, employees of the
19 Department of Fish and Wildlife assigned to law enforcement duties, motor
20 vehicle inspectors, full-time deputy sheriffs compensated by the State of
21 Vermont whose primary function is transports, full-time members of the

1 Capitol Police force, investigators employed by the Criminal Division of the
2 Office of the Attorney General, Department of State's Attorneys, Department
3 of Health, or Office of the Secretary of State, who have attained Level III law
4 enforcement officer certification from the Vermont Criminal Justice Training
5 Council, who are required to perform law enforcement duties as the primary
6 function of their employment, and who may be subject to mandatory
7 retirement permissible under 29 U.S.C. § 623(j), who are first included in
8 membership of the system on or after July 1, 2000. Also included under this
9 subdivision are full-time firefighters employed by the State of Vermont and the
10 Defender General.

11 * * *

12 Sec. 2. 3 V.S.A. § 631 is amended to read:

13 § 631. GROUP INSURANCE FOR STATE EMPLOYEES; SALARY
14 DEDUCTIONS FOR INSURANCE, SAVINGS PLANS, AND
15 CREDIT UNIONS

16 (a)(1) The Secretary of Administration may contract on behalf of the State
17 with any insurance company or nonprofit association doing business in this
18 State to secure the benefits of franchise or group insurance. Beginning July 1,
19 1978, the terms of coverage under the policy shall be determined under section
20 904 of this title, but it may include:

21 * * *

1 (2)(A)(i) ~~The~~ As used in this section, the term “employees” ~~as used in~~
2 ~~this section shall include among others~~ includes any class or classes of elected
3 or appointed officials, ~~but it~~ State’s Attorneys, sheriffs, employees of State’s
4 Attorney’s offices whose compensation is administered through the State of
5 Vermont payroll system, except contractual and temporary employees, and
6 deputy sheriffs paid by the State of Vermont pursuant to 24 V.S.A. § 290(b).
7 The term “employees” shall not include members of the General Assembly as
8 such, ~~nor shall it include~~ any person rendering service on a retainer or fee
9 basis, members of boards or commissions, or persons other than employees of
10 the Vermont Historical Society, the Vermont Film Corporation, the Vermont
11 State Employees’ Credit Union, Vermont State Employees’ Association, and
12 the Vermont Council on the Arts, whose compensation for service is not paid
13 from the State Treasury, ~~nor shall it include~~ or any elected or appointed official
14 unless the official is actively engaged in and devoting substantially full-time to
15 the conduct of the business of his or her public office.

16 (ii) For purposes of group hospital-surgical-medical expense
17 insurance, the term “employees” shall include employees as defined in
18 subdivision (i) of this subdivision (2)(A) and former employees as defined in
19 this subdivision who are retired and are receiving a retirement allowance from
20 the Vermont State Retirement System or the State Teachers’ Retirement
21 System of Vermont and, for the purposes of group life insurance only, are

1 State of Vermont, the Vermont State Colleges, ~~or~~ the University of Vermont,
2 or the State's Attorneys and representatives of employees with the intent to
3 arrive at an agreement ~~which~~ that, when reached, shall be reduced to writing.

4 * * *

5 (5) "State employee" means any individual employed on a permanent or
6 limited status basis by the State of Vermont, the Vermont State Colleges, ~~or~~ the
7 University of Vermont, or the State's Attorneys' offices, including permanent
8 part-time employees, and an individual whose work has ceased as a
9 consequence of, or in connection with, any current labor dispute or because of
10 any unfair labor practice, but excluding an individual:

11 (A) exempt or excluded from the State classified service under the
12 provisions of section 311 of this title, except that the State Police in the
13 Department of Public Safety, ~~and~~; employees of the Defender General,
14 excluding attorneys employed directly by the Defender General and attorneys
15 contracted to provide legal services; deputy State's Attorneys; and employees
16 of State's Attorneys' offices are included within the meaning of "State
17 employee";

18 * * *

19 (7) "Employer" means the State of Vermont, excluding the Legislative
20 and Judiciary Departments, represented by the Governor or ~~the Governor's~~
21 designee, the Office of the Defender General represented by the Defender

1 General or ~~the Defender General's~~ designee, and Vermont State Colleges,
2 represented by the Chancellor or ~~the Chancellor's~~ designee and, the University
3 of Vermont, represented by the President or ~~the President's~~ designee. With
4 respect to employees of State's Attorneys offices, "Employer" means the
5 Department of State's Attorneys and Sheriffs represented by the Executive
6 Director or designee, and each State's Attorney's office represented by the
7 respective State's Attorney or designee.

8 * * *

9 (10) "Person;" includes one or more individuals, the State of Vermont,
10 Vermont State Colleges, University of Vermont, Department of State's
11 Attorneys and Sheriffs, employee organizations, labor organizations,
12 partnerships, corporations, legal representatives, trustees, or any other natural
13 or legal entity whatsoever.

14 * * *

15 Sec. 4. 3 V.S.A. § 904 is amended to read:

16 § 904. SUBJECTS FOR BARGAINING

17 (a) All matters relating to the relationship between the employer and
18 employees shall be the subject of collective bargaining except those matters
19 ~~which~~ that are prescribed or controlled by statute. ~~Such~~ The matters
20 appropriate for collective bargaining to the extent they are not prescribed or
21 controlled by statute include:

- 1 (1) wages, salaries, benefits, and reimbursement practices relating to
- 2 necessary expenses and the limits of reimbursable expenses;
- 3 (2) minimum hours per week;
- 4 (3) working conditions;
- 5 (4) overtime compensation and related matters;
- 6 (5) leave compensation and related matters;
- 7 (6) reduction-in-force procedures;
- 8 (7) grievance procedures, including whether an appeal to the Vermont
- 9 Labor Relations Board or binding arbitration, or both, will constitute the final
- 10 step in a grievance procedure;
- 11 (8) terms of coverage and amount of employee financial participation in
- 12 insurance programs;
- 13 (9) rules ~~and regulations~~ for personnel administration, except the
- 14 following: rules ~~and regulations~~ relating to persons exempt from the classified
- 15 service under section 311 of this title and rules ~~and regulations~~ relating to
- 16 applicants for employment in State service and employees in an initial
- 17 probationary status, including any extension or extensions thereof, provided
- 18 such the rules and regulations are not discriminatory by reason of an
- 19 applicant's race, color, creed, sex, ~~or~~ national origin, sexual orientation, gender
- 20 identity, ancestry, place of birth, age, or physical or mental condition; and

1 (10) the manner in which to enforce an employee's obligation to pay the
2 collective bargaining service fee.

3 (b) This chapter shall not be construed to be in derogation of, or contravene
4 the spirit and intent of the merit system principles and the personnel laws.

5 (c) Notwithstanding subsection (a) of this section:

6 (1) The Department of State's Attorneys and Sheriffs and the deputy
7 State's Attorneys and other employees of the State's Attorneys' offices shall be
8 permitted to bargain collectively in relation to the following matters, to the
9 extent that they are not prescribed or controlled by statute:

10 (A) wages, salaries, benefits, and reimbursement practices relating to
11 necessary expenses and the limits of reimbursable expenses;

12 (B) overtime compensation and related matters;

13 (C) leave compensation and related matters;

14 (D) grievance procedures, including whether an appeal to the
15 Vermont Labor Relations Board or binding arbitration, or both, will constitute
16 the final step in a grievance procedure;

17 (E) terms of coverage and amount of employee financial participation
18 in insurance programs; and

19 (F) the manner in which to enforce an employee's obligation to pay
20 the collective bargaining service fee.

1 (2) Each State's Attorney or designee and the deputy State's Attorneys
2 and other employees employed in the respective State's Attorney's office shall
3 be permitted to bargain collectively in relation to the following matters, to the
4 extent that they are not prescribed or controlled by statute:

5 (A) minimum hours per week;

6 (B) working conditions;

7 (C) reduction-in-force procedures; and

8 (D) rules for personnel administration, provided the rules are not
9 discriminatory by reason of an applicant's or employee's race, color, creed,
10 sex, national origin, sexual orientation, gender identity, ancestry, place of birth,
11 age, or physical or mental condition.

12 Sec. 5. 3 V.S.A. § 905 is amended to read:

13 § 905. MANAGEMENT RIGHTS

14 (a) ~~The Governor, or a person or persons designated by the Governor,~~
15 designee for the State of Vermont, and the provost, Chancellor or a person or
16 ~~persons designated by the provost~~ designee for Vermont State Colleges and,
17 ~~the President, or a person or persons designated by the President~~ designee for
18 ~~the University of Vermont, the Executive Director or designee for the~~
19 Department of State's Attorneys and Sheriffs, and each State's Attorney or
20 designee for the respective State's Attorney's office shall act as the employer
21 representatives in collective bargaining negotiations and administration. The

1 representative shall be responsible for ~~insuring~~ ensuring consistency in the
2 terms and conditions in various agreements throughout the State service;
3 ~~insuring~~ and ensuring compatibility with merit system statutes and principles,
4 and shall not agree to any terms or conditions for which there are not adequate
5 funds available.

6 * * *

7 Sec. 6. 3 V.S.A. § 908 is added to read:

8 § 908. DESIGNATION OF STATE'S ATTORNEYS' EMPLOYEES;

9 STATEWIDE AND LOCAL BARGAINING RIGHTS

10 (a) Employees of the State's Attorney's offices shall be part of one or more
11 statewide bargaining units, as determined to be appropriate by the Board
12 pursuant to section 941 of this title, for the purpose of bargaining collectively
13 in relation to the matters set forth in subdivision 904(c)(1) of this subchapter.

14 (b) Following the election of a statewide representative, the members of the
15 bargaining unit that are employed at each State's Attorneys' office may elect to
16 have the bargaining unit's representative collectively bargain with the State's
17 Attorney for that office in relation to the matters set forth pursuant to
18 subdivision 904(c)(2).

19 Sec. 7. 3 V.S.A. § 925 is amended to read:

20 § 925. MEDIATION; FACT FINDING

21 * * *

1 (k) In the case of the State of Vermont or the Department of State's
2 Attorneys and Sheriffs, the decision of the Board shall be final, and the terms
3 of the chosen agreement shall be binding on each party, subject to
4 appropriations in accordance with subsection 982(d) of this title. In the case of
5 the University of Vermont ~~or~~, the Vermont State Colleges, or the State's
6 Attorneys' offices, the decision of the Board shall be final and binding on each
7 party.

8 * * *

9 Sec. 8. 3 V.S.A. § 982 is amended to read:

10 § 982. AGREEMENTS; LIMITATIONS, RENEGOTIATION, AND

11 RENEWAL

12 * * *

13 (c) Except in the case of the Vermont State Colleges or the University of
14 Vermont, agreements between the State or the Department of State's Attorneys
15 and Sheriffs and certified bargaining units ~~which~~ that are not arrived at under
16 the provisions of subsection 925(i) of this title shall, after ratification by the
17 appropriate unit memberships, be submitted to the Governor who shall request
18 sufficient funds from the General Assembly to implement the agreement. If
19 the General Assembly appropriates sufficient funds, the agreement shall
20 become effective at the beginning of the next fiscal year. If the General
21 Assembly appropriates a different amount of funds, the terms of the agreement

1 affected by that appropriation shall be renegotiated based on the amount of
2 funds actually appropriated by the General Assembly, and the agreement with
3 the negotiated changes shall become effective at the beginning of the next
4 fiscal year.

5 * * *

6 (g) In the event the State of Vermont, the Department of State's Attorneys
7 and Sheriffs, a State's Attorney, the University of Vermont, and the Vermont
8 State Colleges as employer and the collective bargaining unit are unable to
9 arrive at an agreement and there is not an existing agreement in effect, the
10 existing contract shall remain in force until a new contract is ratified by the
11 parties. However, nothing in this subsection shall prohibit the parties from
12 agreeing to a modification of certain provisions of the existing contract which,
13 as amended, shall remain in effect until a new contract is ratified by the parties.

14 * * *

15 Sec. 9. 13 V.S.A. § 5306 is amended to read:

16 § 5306. VICTIM ADVOCATES

17 In order to carry out the provisions of the victims assistance program,
18 ~~state's attorneys~~ State's Attorneys are authorized to hire victim advocates ~~who~~
19 ~~shall serve at their pleasure.~~

1 Sec. 10. 32 V.S.A. § 1185 is amended to read:

2 § 1185. OFFICE EXPENSES

3 * * *

4 (b) Secretaries shall be hired by ~~and shall serve at the pleasure of the~~
5 State's Attorney. Secretaries shall be State employees paid by the State, and
6 shall receive those benefits available to other classified State employees who
7 are similarly situated but they shall not be subject to the rules provided for
8 under 3 V.S.A. chapter 13. The compensation of each Secretary shall be
9 determined by the Commissioner of Human Resources with the approval of the
10 Governor or by collective bargaining pursuant to 3 V.S.A. chapter 27. In
11 fixing compensation, there shall be taken into consideration, among other
12 things, the volume of work requiring the services of the Secretary and whether
13 the services are on a full- or part-time basis.

14 * * * Effective Date * * *

15 Sec. 11. EFFECTIVE DATE

16 This act shall take effect on passage.