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Proposal of Amendment to S.131

* * * 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:

(A) Any regular officer or employee of the Vermont Historical Society or in a department other than a person included under subdivision (B) of this subdivision (9), who is employed for not less than 40 calendar weeks in a year. “Employee” includes deputy State’s Attorneys, victim advocates employed by a State’s Attorney pursuant to 13 V.S.A. § 5306, secretaries employed by a State’s Attorney pursuant to 32 V.S.A. § 1185, and other positions created within the State’s Attorneys’ offices that the State Treasurer determines meet the eligibility requirements for membership in the Retirement System.

(B) Any regular officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2001; but, irrespective of the member’s classification, shall not include any member of the General

1 Assembly as such, any person who is covered by the Vermont Teachers'
2 Retirement System, any person engaged under retainer or special agreement or
3 C beneficiary employed by the Department of Public Safety for not more than
4 208 hours per year, or any person whose principal source of income is other
5 than State employment. In all cases of doubt, the Retirement Board shall
6 determine whether any person is an employee as defined in this subchapter.
7 Also included under this subdivision are employees of the Department of
8 Liquor Control who exercise law enforcement powers, employees of the
9 Department of Fish and Wildlife assigned to law enforcement duties, motor
10 vehicle inspectors, full-time deputy sheriffs compensated by the State of
11 Vermont whose primary function is transports, full-time members of the
12 Capitol Police force, investigators employed by the Criminal Division of the
13 Office of the Attorney General, Department of State's Attorneys, Department
14 of Health, or Office of the Secretary of State, who have attained Level III law
15 enforcement officer certification from the Vermont Criminal Justice Training
16 Council, who are required to perform law enforcement duties as the primary
17 function of their employment, and who may be subject to mandatory
18 retirement permissible under 29 U.S.C. § 623(j), who are first included in
19 membership of the system on or after July 1, 2000. Also included under this
20 subdivision are full-time firefighters employed by the State of Vermont and the
21 Defender General.

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

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

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

* * *

(2)(A)(i) The As used in this section, the term “employees” as used in this section shall include among others includes any class or classes of elected or appointed officials, but it State’s Attorneys, sheriffs, employees of State’s Attorney’s offices whose compensation is administered through the State of Vermont payroll system, except contractual and temporary employees, and deputy sheriffs paid by the State of Vermont pursuant to 24 V.S.A. § 290(b). The term “employees” shall not include members of the General Assembly as such, ~~nor shall it include~~ any person rendering service on a retainer or fee basis, members of boards or commissions, or persons other than employees of the Vermont Historical Society, the Vermont Film Corporation, the Vermont

1 State Employees' Credit Union, Vermont State Employees' Association, and
2 the Vermont Council on the Arts, whose compensation for service is not paid
3 from the State Treasury, ~~nor shall it include~~ or any elected or appointed official
4 unless the official is actively engaged in and devoting substantially full-time to
5 the conduct of the business of his or her public office.

6 (ii) For purposes of group hospital-surgical-medical expense
7 insurance, the term "employees" shall include employees as defined in
8 subdivision (i) of this subdivision (2)(A) and former employees as defined in
9 this subdivision who are retired and are receiving a retirement allowance from
10 the Vermont State Retirement System or the State Teachers' Retirement
11 System of Vermont and, for the purposes of group life insurance only, are
12 retired on or after July 1, 1961, and have completed 20 creditable years of
13 service with the State before their retirement dates and are insured for group
14 life insurance on their retirement dates.

15 (iii) For purposes of group hospital-surgical-medical expense
16 insurance only, the term "employees" shall include employees as defined in
17 subdivision (i) of this subdivision (2)(A) and employees who are receiving a
18 retirement allowance based upon their employment with the Vermont State
19 Employees' Association, the Vermont State Employees' Credit Union, the
20 Vermont Council on the Arts, as long as they are covered as active employees
21 on their retirement date, and:

1 consequence of, or in connection with, any current labor dispute or because of
2 any unfair labor practice, but excluding an individual:

3 (A) exempt or excluded from the State classified service under the
4 provisions of section 311 of this title, except that the State Police in the
5 Department of Public Safety, ~~and~~; employees of the Defender General,
6 excluding attorneys employed directly by the Defender General and attorneys
7 contracted to provide legal services; deputy State’s Attorneys; and employees
8 of State’s Attorneys’ offices are included within the meaning of “State
9 employee”;

10 * * *

11 (7) “Employer” means the State of Vermont, excluding the Legislative
12 and Judiciary Departments, represented by the Governor or ~~the Governor’s~~
13 designee, the Office of the Defender General represented by the Defender
14 General or ~~the Defender General’s~~ designee, ~~and~~ Vermont State Colleges,
15 represented by the Chancellor or ~~the Chancellor’s~~ designee and, the University
16 of Vermont, represented by the President or ~~the President’s~~ designee. With
17 respect to employees of State’s Attorneys offices, “Employer” means the
18 Department of State’s Attorneys and Sheriffs represented by the Executive
19 Director or designee.

20 * * *

1 (7) grievance procedures, including whether an appeal to the Vermont
2 Labor Relations Board or binding arbitration, or both, will constitute the final
3 step in a grievance procedure;

4 (8) terms of coverage and amount of employee financial participation in
5 insurance programs, except that the Department of State's Attorneys and
6 Sheriffs and the deputy State's Attorneys and other employees of the State's
7 Attorneys' offices shall not bargain in relation to terms of coverage;

8 (9) rules ~~and regulations~~ for personnel administration, except the
9 following: rules ~~and regulations~~ relating to persons exempt from the classified
10 service under section 311 of this title and rules ~~and regulations~~ relating to
11 applicants for employment in State service and employees in an initial
12 probationary status, including any extension or extensions thereof, provided
13 ~~such~~ the rules and regulations are not discriminatory by reason of an
14 applicant's race, color, creed, sex, ~~or~~ national origin, sexual orientation, gender
15 identity, ancestry, place of birth, age, or physical or mental condition; and

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

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

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

2 § 905. MANAGEMENT RIGHTS

3 (a) The Governor, or ~~a person or persons designated by the Governor,~~
4 designee for the State of Vermont, ~~and the provost, Chancellor or a person or~~
5 ~~persons designated by the provost~~ designee for Vermont State Colleges ~~and,~~
6 the President, or ~~a person or persons designated by the President~~ designee for
7 the University of Vermont, and the Executive Director or designee for the
8 Department of State's Attorneys and Sheriffs shall act as the employer
9 representatives in collective bargaining negotiations and administration. The
10 representative shall be responsible for ~~insuring~~ ensuring consistency in the
11 terms and conditions in various agreements throughout the State service,
12 ~~insuring~~ and ensuring compatibility with merit system statutes and principles,
13 and shall not agree to any terms or conditions for which there are not adequate
14 funds available.

15 * * *

16 Sec. 6. 3 V.S.A. § 906 is added to read:

17 § 906. DESIGNATION OF MANAGERIAL, SUPERVISORY, AND
18 CONFIDENTIAL EMPLOYEES

19 (a) The Commissioner of Human Resources shall determine those positions
20 in the classified service whose incumbents the Commissioner believes should
21 be designated as managerial, supervisory, or confidential employees. Any

1 disputes arising ~~therefrom~~ from the determination shall be finally resolved by
2 the Board.

3 (b) The Executive Director of the Department of State's Attorneys and
4 Sheriffs may determine positions in the State's Attorneys' offices whose
5 incumbents the Executive Director believes should be designated as
6 managerial, supervisory, or confidential employees. Any disputes arising from
7 the determination shall be finally resolved by the Board.

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

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

10 STATEWIDE AND LOCAL BARGAINING RIGHTS

11 (a) Employees of the State's Attorney's offices shall be part of one or more
12 statewide bargaining units, as determined to be appropriate by the Board
13 pursuant to sections 927 and 941 of this title, for the purpose of bargaining
14 collectively pursuant to this chapter.

15 Sec. 8. 3 V.S.A. § 925 is amended to read:

16 § 925. MEDIATION; FACT FINDING

17 * * *

18 (k) In the case of the State of Vermont or the Department of State's
19 Attorneys and Sheriffs, the decision of the Board shall be final, and the terms
20 of the chosen agreement shall be binding on each party, subject to
21 appropriations in accordance with subsection 982(d) of this title. In the case of

1 the University of Vermont **or** the Vermont State Colleges, the decision of the
2 Board shall be final and binding on each party.

3 * * *

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

5 § 982. AGREEMENTS; LIMITATIONS, RENEGOTIATION, AND
6 RENEWAL

7 * * *

8 (c)(1) Except in the case of the Vermont State Colleges or the University of
9 Vermont, agreements between the State and certified bargaining units ~~which~~
10 that are not arrived at under the provisions of subsection 925(i) of this title
11 shall, after ratification by the appropriate unit memberships, be submitted to
12 the Governor who shall request sufficient funds from the General Assembly to
13 implement the agreement. If the General Assembly appropriates sufficient
14 funds, the agreement shall become effective at the beginning of the next fiscal
15 year. If the General Assembly appropriates a different amount of funds, the
16 terms of the agreement affected by that appropriation shall be renegotiated
17 based on the amount of funds actually appropriated by the General Assembly,
18 and the agreement with the negotiated changes shall become effective at the
19 beginning of the next fiscal year.

20 (2)(A) Agreements between the Department of State's Attorneys and
21 Sheriffs and the certified bargaining units that are not arrived at under the

1 provisions of subsection 925(i) of this title shall, after ratification by the
2 appropriate unit memberships, be submitted to the Governor and the General
3 Assembly.

4 (B) The Executive Director of the Department of State’s Attorneys
5 and Sheriffs shall request sufficient funds from the General Assembly to
6 implement the agreement. If the General Assembly appropriates sufficient
7 funds, the agreement shall become effective at the beginning of the next fiscal
8 year. If the General Assembly appropriates a different amount of funds, the
9 terms of the agreement affected by that appropriation shall be renegotiated
10 based on the amount of funds actually appropriated by the General Assembly,
11 and the agreement with the negotiated changes shall become effective at the
12 beginning of the next fiscal year.

13 * * *

14 (g) In the event the State of Vermont, the Department of State’s Attorneys
15 and Sheriffs, the University of Vermont, and the Vermont State Colleges as
16 employer and the collective bargaining unit are unable to arrive at an
17 agreement and there is not an existing agreement in effect, the existing contract
18 shall remain in force until a new contract is ratified by the parties. However,
19 nothing in this subsection shall prohibit the parties from agreeing to a
20 modification of certain provisions of the existing contract which, as amended,
21 shall remain in effect until a new contract is ratified by the parties.

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Sec. 10. 13 V.S.A. § 5306 is amended to read:

§ 5306. VICTIM ADVOCATES

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

Sec. 11. 32 V.S.A. § 1185 is amended to read:

§ 1185. OFFICE EXPENSES

* * *

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

1 Sec. 12. 24 V.S.A. § 367 is amended to read:

2 § 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

3 * * *

4 (c)(1) The Executive Director shall prepare and submit all budgetary and
5 financial materials and forms which are required of the head of a department of
6 State government with respect to all State funds appropriated for all of the
7 Vermont State's Attorneys and sheriffs. At the beginning of each fiscal year,
8 the Executive Director, with the approval of the Executive Committee, shall
9 establish allocations for each of the State's Attorneys' offices from the State's
10 Attorneys' appropriation. Thereafter, the Executive Director shall exercise
11 budgetary control over these allocations and the general appropriation for
12 State's Attorneys. The Executive Director shall monitor the sheriff's transport
13 budget and report to the sheriffs on a monthly basis the status of the budget.
14 He or she shall provide centralized support services for the State's Attorneys
15 and sheriffs with respect to budgetary planning, training, and office
16 management, and perform such other duties as the Executive Committee
17 directs. The Executive Director may employ clerical staff as needed to carry
18 out the functions of the Department.

19 (2) Biennially, the Executive Director shall prepare and submit a
20 funding request to the Governor and the General Assembly for the purpose of
21 securing General Fund appropriations for any increased costs related to a

1 collective bargaining agreement and to the Department's contract bargaining
2 and administration.

3 * * *

4 **Sec. 13. ADJUSTMENT FOR INITIAL CONTRACT**

5 For increased costs related to the initial collective bargaining agreement that
6 the Department of State's Attorneys and Sheriffs enters into pursuant to this
7 act, including the costs of bargaining, implementation, and contract
8 administration, the Department may prepare and submit a funding request to
9 the General Assembly during the budget adjustment process if the timing of
10 the implementation of the agreement does not permit the Department to secure
11 sufficient funding during the regular budgetary process.

12 **Sec. 14. EXISTING BARGAINING UNITS; DECERTIFICATION**

13 On the effective date of this act, the existing bargaining units for the deputy
14 State's Attorneys, victim advocates, and secretaries employed by the
15 Chittenden County State's Attorney and Franklin County State's Attorney
16 shall be dissolved and the members of those bargaining units shall be eligible
17 to organize and bargain collectively under the provisions of the State
18 Employees Labor Relations Act, 3 V.S.A. chapter 27.

19 * * * Effective Date * * *

20 **Sec. 15. EFFECTIVE DATE**

21 This act shall take effect on passage.