



STATE OF VERMONT

MEMORANDUM

To: Joint Committee on Legislative Management
From: Michael Jay Chernick, Legislative Counsel
Date: September 3, 2019
Subject: Personal Comment on Staff Restructuring

Thank you for the opportunity to testify before the committee. The potential reorganization of the General Assembly's staff structure will directly impact all legislative branch employees. As one of the smallest legislative staffs in the nation, the offices of the Vermont General Assembly are sparsely populated, in comparison to other jurisdictions. Attorneys, for example, are serving roles, such as regularly testifying before committees, preparing nonpartisan bill summations for the floor and post-enactment web posting, or occasionally responding to public inquires that our counterparts elsewhere do not necessarily perform. Furthermore, institutional services present in other legislatures, including a full-service legislative library, constituent assistance services, a press office, and professional staff exclusively for caucus support activities are lacking. While ideally, I believe these services would benefit the operation of the General Assembly, I recognize the history of frugality and observance of a traditional citizen legislature model that argues against their introduction.

Nevertheless, there was a recognition, in light of the increased workload of the General Assembly, that the current staffing model, dating from the 1970s, merited review, if not alteration. The NCSL report makes specific structural recommendations that I wish to address briefly.

First: The report proposes an overall executive director of legislative staff operations. I am strongly opposed to this proposal. Each of the primary staff units should remain operationally responsible directly to their respective oversight committees and not be reporting concurrently or exclusively to an Executive Director. I recognize other states have employed this model, and I have never found it ideal. From my perspective, an Executive Director could not be privy to confidential conversations and information exchanges between attorneys and members, at a minimum, short of a statutory amendment to Title 2. I also am concerned that an Executive Director's position would create a bureaucratic layer between members and staff. Additionally, as the parliamentary officers have no doubt mentioned, the Senate Secretary and Clerk of the House are elected officials of their respective chambers and their staffs are officers of the chamber. But, a formalized staff units' directors' committee, also including the House Clerk and Senate Secretary, which regularly interacts with the Joint Legislative Management Committee, is worth considering.

Second: The creation of a Human Resources (as opposed to an Executive Director's) office, in my opinion, has considerable merit. This office could centralize the administrative aspects of hiring, as well as accounts payable-receivable, and payroll. However, in supporting a central Human Resources office, I would note elements of caution. First, attorneys are hired through a process that has been refined and upgraded in the Office of Legislative Council. The substantive hiring decision for attorneys or fiscal analysts in JFO should be left as is currently practiced. Similarly, as already mentioned, the parliamentary officers are responsible for their own staffs and those decisions should not be delegated to a Human Resources office. Likewise, the Speaker and Pro Tempore each hire a staff person and in the case of the Speaker interns. Those hiring decisions need to remain with these chamber leaders. In each scenario, however, the administrative technicalities, what would have been referred to in the pre-digital age as the paperwork aspect of the process, could be assigned to the new office. Plus, the office can handle major personnel problems that arise with an appropriate discipline-dismissal process, subject to the aforementioned caveats.

Third: Splitting IT away from the Office of Legislative Council's structural umbrella makes eminent sense. It's a decision that should have been implemented a decade ago. IT serves everyone, members and staff, throughout the legislative branch. Its placement within LC dates from the original digital wiring of the State House that a legislative counselor conducted as an almost extracurricular activity, before any IT staff existed. The IT unit is increasingly operating as a semiautonomous unit within Legislative Council and it should be spun-off completely.

Fourth: The NCSL report recommends renaming the Office of Legislative Council as the Office of Legislative Services. There has long been an understandable confusion between reference to the Legislative Council and staff unit now referred to as the Office of Legislative Council. As an alternative, as the office as proposed would be primarily a legal services office. I would suggest either Office of Legislative Counsel (spelled Counsel) or perhaps Office of Legislative Legal Services. I strongly support a restructured office that would include the attorneys, drafting operations, (including drafting technicians and editors), and the committee assistance operation. Removing IT and creating a human resources unit would allow the reconstituted office to focus exclusively on legal-related activities. The head of drafting operations should be reporting either directly to the Chief Counsel or one of the two Deputy Chief Counsels. The same is true for the Chief Committee Assistant. However, the staff person now performing both the accounts' functions and assisting the Legislative Committee on Administrative Rules is the same individual. Consequently, I would envision a degree of overlap between the reconfigured legal and new human resources units in this instance.

Fifth, and lastly, the NCSL report recommends changing the legislatively elected Sargent at Arms to an appointed position. The long history of this office, as I wrote to the

committee in an official memo, has always been one of election. The General Assembly has, in recent years, developed an increasingly professionalized Capitol Police Department. Many of the security-related decisions and policies at the State House are now developed under the guidance and direction of the force's chief and officers. The non-security duties of the Sargent at Arms, directing the page program and room-space scheduling appear competently handled under the current arrangement. I would support retaining the post as elective. If there is a strong concern on qualifications, these could be specified statutorily.

Thank you for listening to my testimony.