The University of Vermont

August 27, 2020

VIA ELECTRONIC MAIL

Michael Sirotkin, Esq.
Chittenden County Senator
Vermont State House
115 State St.
Montpelier, VT 05633
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Re: S. 254

Dear Senator Sirotkin:

I am writing on behalf of The University of Vermont with regard to S. 254 (the "Bill"). As I was afforded the opportunity in February to testify at length to your Committee concerning this Bill (thank you), I will not repeat at length the points I already made then. Instead, I now raise concerns specific to the most recently proposed amendments to the State Employees' Labor Relations Act (SELRA) in the Bill.

The concerns I wish to raise are as follows:

Proposed Timelines are Unreasonable and Unnecessary

The proposed timelines outlined in the bill for producing excelsior lists, scheduling hearing, and holding elections are unreasonable and unnecessary. In particular, two business days to provide the so-called "excelsior list" of employees in the prospective bargaining unit is simply not enough time to gather up and communicate the information with a high confidence of accuracy and completeness. Likewise, four business days from the date the petition is filed is not sufficient for employers such as UVM to file objections to the proposed bargaining unit with the VLRB. It is unnecessary and counterproductive to dictate to the VLRB that it must schedule a unit determination hearing no more than eight days after the petition is filed if the employer raises any objections as to the composition of the bargaining unit. The VLRB is best situated to evaluate – based on the particular circumstances of each petition - how much time parties might reasonably need to respond to a petition, prepare for a hearing, produce an excelsior list, or hold an election. Therefore, UVM asks that the proposed timelines be removed from the Bill.

Proposed Limitations on Scope of the Hearing and Briefing are Unreasonable

The proposed limitations on the scope of the hearing and briefing by the parties is unfair and inconsistent with VLRB oversight of its own proceedings. Currently, the VLRB hearing creates an opportunity, with assistance from the VLRB, to resolve any issues of unit determination. This allows the employer and union to raise and resolve any disagreements over questions of whether or not the bargaining unit is appropriate but also whether or not individual employees or job positions are appropriately included in the proposed bargaining unit. It is not uncommon for unions to include, for example, supervisory or confidential employees, or to propose a bargaining unit that is too broad or over-fragmented. The proposals to prohibit discussion on whether or not individual employees/positions are appropriately included, and to eliminate the right to file post-hearing briefs, inappropriately limit the opportunity for the employer and the VLRB to weigh in and ensure that the bargaining unit is consistent with the requirements of SELRA.

The Appropriate Unit Should be Determined Prior to an Election

Finally, UVM opposes mandating that the election move forward in the face of employer objections and allowing employees about whom the employer raised objections to vote provisionally. UVM also opposes the requirement of a hearing no more than 30 days after the election to resolve any questions about whether individual employees or job positions should be in the unit. UVM fails to understand the logic or the judicial economy of requiring that a certification election be held before the appropriateness of the unit is determined. It would seem that this process will leave unresolved far too many questions that the parties and the VLRB typically resolve prior to the election.

We respectfully request that each of these concerns be rectified in connection with any determination to advance the Bill.

Respectfully yours,

Jes Kraus
Chief Human Resources Officer