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Agency of Administration

To: House and Senate Committees on Appropriations
From: Beth Fastiggi, Commissioner, DHR *B2*
Date: January 15, 2019
RE: Position Report - 2018 ACT 11, Sec. E.100 Executive Branch Position Authorizations d (7)

The enclosed report on the Position Pilot authority is hereby submitted in accordance with 2018 ACT 11 Sec. E.100 EXECUTIVE BRANCH POSITION AUTHORIZATIONS d (7):

On or before January 15, 2019 the Commissioner of Human Resources, in coordination with the Vermont State Employees' Association (VSEA), shall provide a report on the total number of positions created under the authority of this section to the House and Senate Committees on Appropriations. The report shall include a recommendation on whether this program should be expanded and continue and, if so, should it be extended but remain in session law or be made permanent by codification in statute.

Included in this report is a summary of the positions created under this authority, two tables from the Work Force Report showing the comparison against all positions in the Executive Branch, background and an analysis of how this authority has been used, a summary of Department of Corrections pilot usage with detail attached, and a recommendation from the Commissioner of Human Resources, and the VSEA's recommendation.

SUMMARY: A total of 286 positions have been created by the Position Pilot since 2014. No Pilot Positions were created in FY 2018. See Figure 1 below:

Figure 1

Department	Month/Year	Authorized	Total Authorized	Created	d	*	Transferred Out**
Buildings & General Services			0	0			
Total			0	0			
Children & Families	July 2014		27	27			
	September 2014		73	73			
	June 2015		9	9			
	September 2015		3	3			
	May 2016		35	35			
	August 2016		3	3			
	October 2016		2	2			
Total			152	152		1	62
Corrections	March 2017		29	29			
Total			29	29			
Environmental Conservation	September 2014		17	17			
	July 2016		3	3			
	December 2016		2	2			
Total			22	22		1	2
Fish & Wildlife	October 2016		8	8			
Total			8	8			
Forests, Parks & Recreation	November 2016		12	12			
	December 2016		7	7			
Total			19	19			
Labor			0	0			
Total			0	0			
Natural Resources - CO	October 2016		2	2			
Total			2	2			1
Public Safety			0	0			
Total			0	0			
State Attorneys and Sheriffs			0	0			
Total			0	0			
Transportation	November 2014		24	24			
	January 2016		22	22			
	March 2016		1	1			
	September 2016		5	5			
	April 2017		2	2			
Total			54	54			
Vermont Veterans' Home			0	0			
Total			0	0			
Grand Total			286	286		2	64

Source: Department of Human Resources

* Position transferred to Natural Resources - CO from Environmental Conservation.

** Position transferred from Environmental Conservation to Agriculture; 62 positions transferred from Children & Families to Vermont Health Access.

BACKGROUND AND ANALYSIS: Authorized by Sec. E.100.1 of Act 179 (2014); Sec. 74 of Act 4 (2015); Sec. E.100.2 of Act 172 (2016); Sec. E.100.2 of Act 85 (2017); and Sec. E.100 of Act 11 (2018 Special Session), the Position Pilot was created to assist participating departments in more effectively managing costs of overtime, compensatory time, temporary employees, and contractual work by removing the position cap with the goal of maximizing resources to the greatest benefit of Vermont taxpayers. The Position Pilot requires participating departments, as part of their annual budget testimony, to report on the number and type of positions created under the Position Pilot, the source of funds used to support the positions, and the performance and cost outcomes associated with the positions. Over the years, reporting on the outcomes of these positions as part of the budget process has been limited, and last year in the FY2019 budget process, most Departments were not able to effectively quantify the cost of the Position Pilot vs. the cost of temporary employees, overtime, and contracted services, nor could they definitively demonstrate if there are cost savings or cost neutrality for the Pilot positions. However, all departments reported that the Position Pilot had been programmatically and operationally successful and, in some cases, demonstrated the reduction of temporary workers.

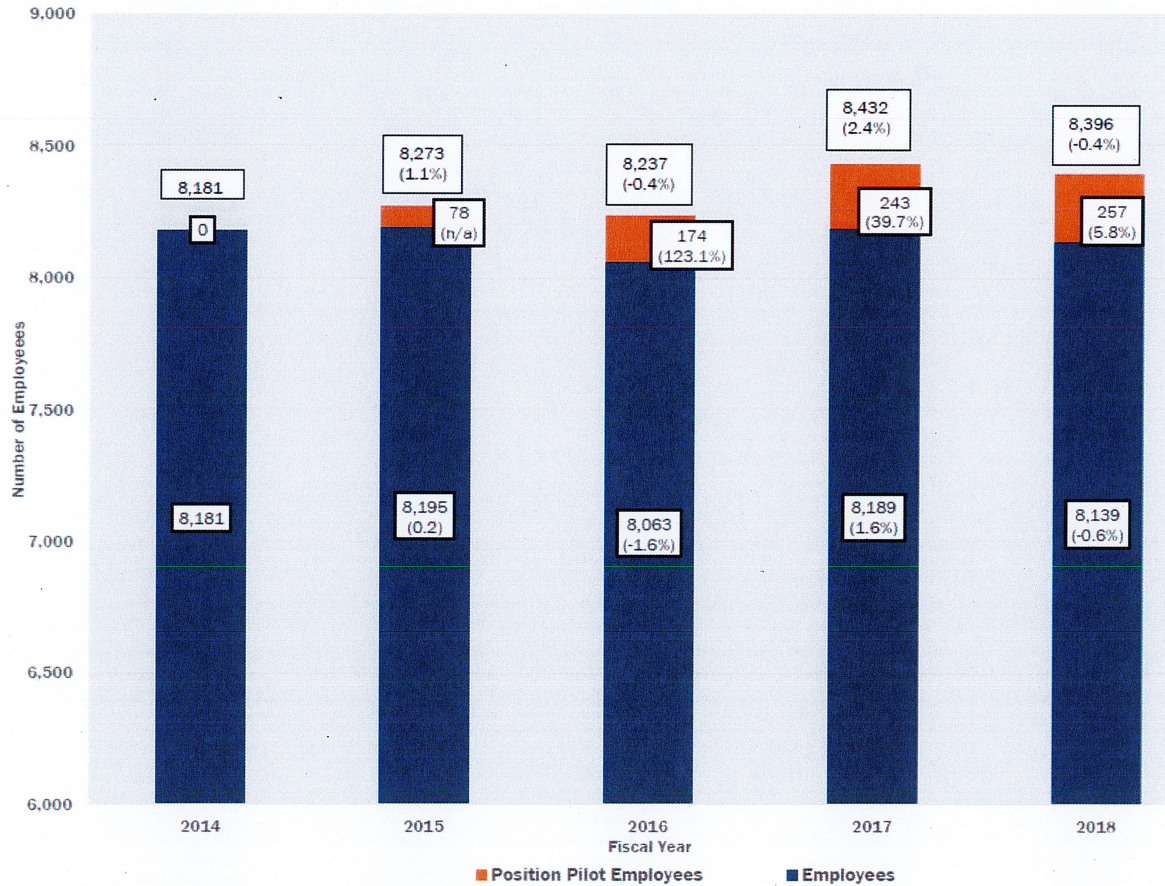
In FY2017, the Department of Corrections (DOC) was unable to fully report on the outcomes of their 29 Pilot positions because the positions had only begun to be filled in the last quarter of the fiscal year. For FY2018, the DOC made a concerted effort to measure the financial outcomes of positions related to the Position Pilot and report a savings of approximately \$30,000 related to the use of the pilot positions. For FY18, the total costs attributable to these DOC Pilot Positions was \$1,385,551 (including base salaries and all benefits). The DOC tracked the use of these positions for overtime replacement where these employees provided straight time coverage for employees on leave or “other” assignments where overtime would typically be used. The savings attributed to overtime replacement was \$1,058,652, representing the estimated amount that DOC would have otherwise spent on overtime were it not for the pilot positions. There was also a reduction of approximately \$357,000 in the use of temporary Correctional Officers in FY18 over FY17.

There are a number of variables related to these positions and the overall staffing needs of the correctional facilities. DOC also reports anecdotal and anticipated, positive operational outcomes related to quickly filling vacancies, improved staff retention, and reduction of staff fatigue across facilities. As many of the staff in these pilot positions were very quickly placed into vacant posts shortly after graduating from the Academy, there are costs attributed to the Pilot Position but, in many cases, the savings achieved (permanently filling a vacant position) does not get credited directly to the Pilot Positions. When there is a vacant correctional officer position, it takes between 8-14 weeks to recruit, hire, and train a new employee to fill that vacancy. One financial benefit of these Pilot Positions is that many of the new staff hired into these positions have been able to move directly into vacant posts and mitigate hundreds of hours of what would otherwise be overtime. For eight weeks of vacancy coverage, the State would spend an average of approximately \$13,200 of overtime costs vs. \$7,360 by having employees in the pilot positions to fill these vacant posts. While the increased staffing levels associated with these positions are expected to assist with staff retention, recruitment and retention of correctional officers has grown more challenging in recent years due to a variety of factors.

Because uniform and consistent reporting to demonstrate cost neutrality had not occurred in the past, and has proven difficult to measure, the Administration recommended sunseting the Position Pilot

last year. The growth in the number of state government employees has a direct impact on the overall state budget today and into the future, especially when associated pension and OPEB liabilities are considered. As seen in Figure 2 below, the net increase of 215 employees in the Executive Branch since FY2014 is directly attributable to the authorized pilot positions. Note: the numbers in this table vary from the previous table because the Figure 1 represents positions and the Figure 2 represents number of employees in those positions at the end of the fiscal year.

Figure 2



Source: The State's Human Resource Information System (VTHR). Data include all Executive Branch employees (classified and exempt) for FY 2018.

Fiscal Year	2014	2015	2016	2017	2018
Position Pilot Employees	0	78	174	243	257
% Change Previous FY		n/a	123.1%	39.7%	5.8%
Employees (Classified & Exempt)	8,181	8,195	8,063	8,189	8,139
% Change Previous FY		0.2%	-1.6%	1.6%	-0.6%
Total	8,181	8,273	8,237	8,432	8,396
% Change Previous FY		1.1%	-0.4%	2.37%	-0.4%

RECOMMENDATION: The Position Pilot was used as a tool in creating new positions, authorizing the Executive Branch to add positions above the authorized cap to specific departments and agencies [Section E.100(d) 2014 Act and Resolves No. 179)]. Initially, a financial and operational analysis is performed to demonstrate a need and a justification for the position, but the subsequent quantitative analysis and required reporting of how the program effectively helped to “manage costs of overtime, compensatory time, temporary employees, and contractual work” is inconsistent and extremely challenging. Therefore, the Administration does not recommend expanding or continuing this program except for maintaining the positions that have already been authorized and are funded in departmental budgets. The Administration expects to meet the position needs of State government through effective management of vacant positions or through the legislative budget or limited service processes.

The Department of Human Resources has shared the Administration’s view on the use of the Position Pilot with the VSEA. The Administration doesn’t expect to use the Position Pilot and recommends allowing the Position Pilot to sunset June 30, 2020. The Administration also recommends making permanent those pilot positions that are already authorized, provided they are included in the department’s budget. If the legislature determines the Position Pilot be permanently codified and/or expanded, the Administration recommends additional language to ensure budget neutrality and a reporting requirement to ensure expected budgetary and financial outcomes are met.

VSEA COORDINATION: VSEA Recommendation: VSEA recommends that the authorization for the Position Pilot Program be continued, be expanded to all Executive Branch departments, and permanently codified in statute. The Pilot Program’s cost-neutral conversions of temporary employees, contractors, and their associated costs allow Executive Branch departments to manage positions in a way that reflects the actual work force needs of Executive Branch departments. It helps resolve significant problems that result from a politicized position cap. That cap obscures reality and creates an illusion that State staffing levels are being controlled while, at the same time, effectively encouraging agencies to circumvent the law by hiring misclassified temporary employees to perform the ongoing functions of state government.

The Pilot Program thus frees budget writers from the penny-wise and pound-foolish employment of a constantly churning pool of temporary employees to meet the operational needs of their departments. The Position Pilot Program has helped cut the cost of temporary employee wages by nearly 10% in the past five years, while temporary employee overtime costs have fallen by over 40%. Furthermore, converting temporary employees performing the ongoing functions of state government into classified employees also eliminates the high cost of recruiting and training temporary employees, due to their high turnover rates. The Position Pilot’s continued operation and expansion is critical to bringing the Executive Branch into compliance with statute, which mandates that all ongoing and continuing functions of government be performed by classified employees.

The arbitrary position cap has effectively mandated that departments use temporary employees or contractors to fulfill continuing and ongoing functions of state government— even in instances where this work could be performed more efficiently and less expensively by classified employees. The position cap has been heavily politicized to the point where commissioners are prevented from managing their budgets and cannot address the operational needs of state government.

An independent study performed by the Association of State Correctional Administrators determined that the Vermont Department of Corrections, alone, was under-staffed by 103 FTE classified positions, forcing the Department to rely on temporary employees to maintain operations, in contravention of statute. After the closure of Southeast State Correctional Facility, the Department requires 90 new positions to fully, and safely, staff its prison facilities in accordance with this recommendation. The understaffing of this one department demonstrates the inadequacy of the position pool. As a first step to bringing the Executive Branch into compliance with the statute on temporary employees, the Position Pilot Program should be expanded to all Executive Branch departments, the position cap abolished, and commissioners be allowed to staff according to their budgetary capacity.