

## **Class Actions - Threshold for legislative review**

### **Summary**

**Issue:** Per the Collective Bargaining Agreements (“CBAs”), if a Request for Review (“RFR”) results in a financial impact of one percent (1%), or greater, of the wage and salary portion of the affected department’s current year budget (“1% threshold”), a legislative review is triggered:

- **If it is not a management request**, and if the legislature does not fully fund the costs of the change, the department must make the decision to either:
  - restructure the job duties so that the class returns to the original pay grade, or
  - By May 1<sup>st</sup> prospectively fund the increase from the date of the legislative decision not to fully fund the cost of the change.
- **If it is a management request**, regardless of the level of funding by the legislature, the department must fully fund any remaining cost.

### **History/background:**

- The 1% threshold and related language was negotiated in response to the Legislature expressing its extreme displeasure to both the Shumlin Administration and VTA/VSEA after a reclassification of the Vermont State Police caused a significant budget adjustment request by Department of Public Safety (DPS).
- Both Appropriation Committees were displeased that there were no limits on the reclassification process. They implied that they might address the issue through legislation if the State and the unions did not address the issue themselves.
- As a result, the 1% threshold and related language was agreed upon by the parties (State and VSEA/VTA, respectively) after significant back and forth negotiations, effective July 1, 2014.
- The idea was to allow the Legislature to decide whether or not to specifically fund these types of increases, especially in the case of requests submitted by the unions and/or employees. The “prospective vs. job-restructuring” language and the requirement that departments make sure that management-submitted RFRs are fully funded, even if the legislature declines to fund, or fully fund the change, was compromise language in order to obtain agreement from the unions.
- This 1% threshold and related language has only been tested once, in the FY19 budget cycle, with the Criminal Justice Training Council, however, it was a result of a planned-for management request and the department had the money in its budget.

### **Current State for FY19 budget adjustment (if necessary) and FY20 budget preparation**

Three classes met the 1% threshold:

- Correctional Officer I (367 positions), submitted by VSEA
- VSP Troopers (224), submitted by VTA and
- Emergency Communications Training Coordinator-911 (2)

**Reference information:** Article 16 section of (f) of VSEA CBA

Effective July 1, 2014, class action Requests for Review (RFR), regardless of whether initiated by the employer, individual employee(s), or VSEA, per subsection 3(b) above, may only be officially requested between July 1, and August 31 of each year. Such class action RFR will be considered and processed during the period – September 1 through December 31, following its submission. If either the classification review, or a classification grievance decision, for such class action RFR involves a financial impact of one percent (1%), or greater, of the wage and salary portion of the affected Department's budget, the decision will not be implemented until the Legislature has considered the matter and determined whether it will provide the requisite funding for such class action reclassification.

Thereafter, the following shall apply:

- 1) If the class action RFR was initiated by the employer, the classification decision will be implemented retroactive to the date specified in subsection (e), above, regardless of the level of-funding decision of the Legislature.
- 2) If the class action RFR was initiated by either an individual employee(s), or VSEA, the employer shall determine, no later than May 1st (next following the date of submission of the class action RFR), whether to:
  - a. implement and fund the reclassification decision prospectively through adjustments to the affected department's budget; or instead, to
  - b. immediately restructure the job duties of the impacted class(es) so that the classification would appropriately fall at the pay grade level assigned to the class(es) prior to the submission of this class action RFR.