



Vermont Department of State's Attorneys and Sheriffs  
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Memorandum

To: Commissioner Adam Greshin

From: John Campbell, Executive Director

Date: 3/11/2021

Re: Assistance with Costs of Collective Bargaining Agreement (SAS – VSEA 1<sup>st</sup> contract)

The Vermont Department of State's Attorneys and Sheriffs is requesting additional funding under the Pay Act requests under review by Finance and Management.

**Union Contract Impact in SAS FY21 Budget**

We have submitted our Pay Act request for the “normal” costs associated with Pay Act (i.e. increase in salaries and salary-driven costs such as FICA and retirement). However, the Department is requesting additional Pay Act funding due to the implementation of the first collective bargaining agreement for the employees of our Department. The Legislature passed S.131 in 2017 which allowed the employees of the State's Attorneys to organize and bargain. The VSEA filed an election petition on 12/31/18 and the certification by the VLRB was completed on 4/29/19. The VSEA did not seek to start negotiations until January 29, 2020 – nine months after the Labor Board certified the bargaining unit; and we did not settle the contract until the end of May 2020 – after the Legislature was finishing up the budget work. Therefore, the SAS FY21 budget was not able to incorporate the costs of this first collective bargaining agreement (CBA).

A key point to remember is that a first contract has to account for the entire cost of all new benefits; whereas increased salary and benefits in other State-VSEA contracts only need to budget for the increase since the ‘base costs’ of those benefits are already in those departments’ budget.

SAS will need \$287,000 in FY21 for the new contract implementation (breakdown, below):

1. Long Term Disability - \$25,000: Since the State of Vermont LTD policy will not allow employees who are covered by a collective bargaining agreement to be in the LTD program, our employees had to be omitted from the State plan, and covered by a separate plan. SAS responded in the exact way that the Defender General's Office did when their employees lost LTD coverage because they unionized. We went to the State's LTD carrier (Standard Insurance) and had them rate our employees for the exact same plan. Coverage commenced on 7/1/20 so that there was no break in coverage for the plan participants.
2. After Hours & Weekend Attorney Coverage - \$124,000 Deputy State's Attorneys (DSA) are required to cover calls after the office hours (M-F) and all weekend for purposes of reviewing search warrants and emergency care orders (juveniles); speaking with the judges for bail decisions; attending homicide reviews; motor vehicle fatality or serious injury; advice to law enforcement, DCF, DMH and victim advocate organizations; overseeing work related to aggravated and sexual assaults; and other. SAS had not increased the rate for many years, and had not kept comparative to the Defender General's rate. The impact of “after hours” to our DSA's personal and family time is substantial, and often cited by the DSA's as causing personal stress and family disharmony. We agreed in bargaining to match the DG's rate, as we felt this was fair and recognized the additional burden placed on the DSA's.
4. FLSA Overtime - \$20,000 The Department had been out of compliance with the overtime compensation requirements of the Fair Labor Standards Act. In order to ensure that we came into compliance, we worked to incorporate the correct FLSA language into the new CBA, with the notable difference from the other executive branch CBA's, in that our FLSA-covered employees do not get OT after 8 hours in a day, but only after 40 hours in a workweek.
5. Annual Leave payments - \$35,000: SAS had no budget for AL payments required under this contract when a deputy separates from service due to retirement or resign. In this CBA, the parties agreed to a graduated scale of payment based upon years of service and prior notice to the Department of intent to retire or resign.

(If not allowed to be charged to the Pay Act)

6. Deputy State's Attorneys' Stipend - \$53,000: The Deputy State's Attorneys are carrying workloads in excess of 300-400 criminal cases. The expectations of the 14 State's Attorneys are that the DSA's work whatever hours are needed to manage this workload, meet dead lines, handle dozens

of arraignments each week, and participate with community and stakeholder organizations and meetings that often take place in the evenings and weekends. DSA's are not eligible for overtime or comp time. They frequently forfeit annual leave days that will exceed the maximum cap because they cannot schedule the time off. We recognize that this workload may seem comparable to other positions in state government, and we do not mean any disrespect to their situations or work stress; however, many of those employees covered by long-existing CBA's have been getting OT or comp time for years, while our DSA's have received no extra compensation. We agreed in bargaining to give the DSA's a \$500 non-base-building stipend twice a year for all overtime hours.

We appreciate your consideration of these fiscal problems facing us in the current FY21 year. If you have questions, please feel free to reach out to Annie Noonan for details.

cc: Tim Metayer, F&M