

Agency of Administration Testimony for Senate Government Operations

S.96 – Privatization Contracts

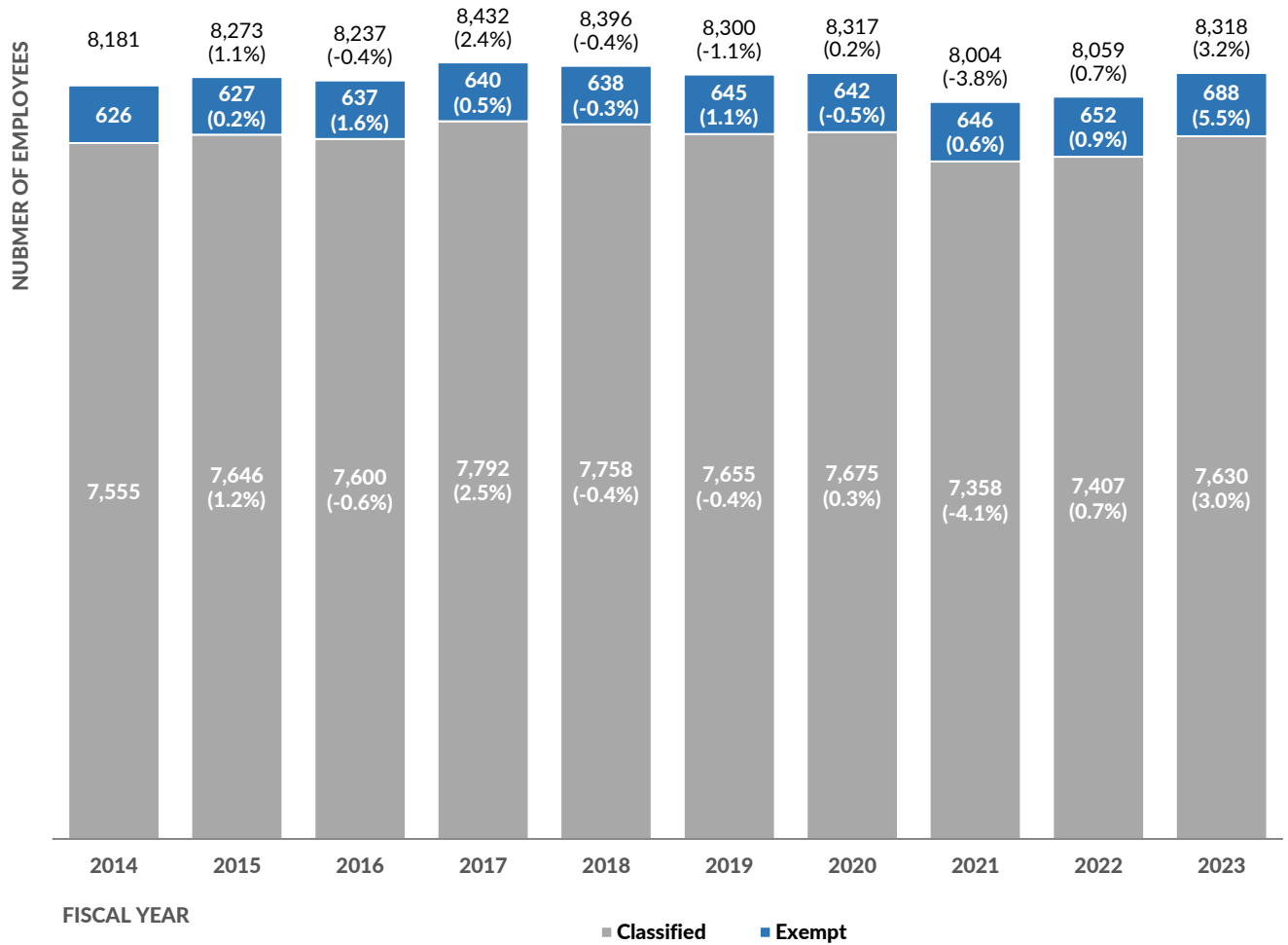
- Vermont State government is administering privatization contracts in alignment with statute. [3 VSA Chapter 14](#)
- Contrary to testimony in this committee, we are not shrinking State government to supplant State workers with private sector employees. We are supplementing when necessary – not supplanting.
- **John Berard, Director of Labor Relations, Human Resources**
 - Current statute defines privatization as not only the elimination of a filled position, but elimination of a vacant position covered by a collective bargaining agreement (CBA).
 - CBA requires notification to the Vermont State Employees’ Association (VSEA) any time bargaining unit work is being contracted out regardless of privatization.
 - The use of “exploitation” makes it seem that workers in the current market are indentured servants and don’t have any say in where they work. Potential candidates for State employment make decisions based upon more than salary and benefits.
 - No loophole to close. We are not reducing our workforce to supplant it with private business.
 - Proposed language is likely to lead to less bidders, thereby decreasing competition and driving up costs. Additionally, winning bidders will likely just pass the increase on to the State by increasing costs for work performed.
 - Any language that potentially decreases competition and drives up costs seems counterintuitive and counterproductive.
 - State employees are already provided job security by existing language.
 - The Administration has negotiated several Side Letters of Agreement to enhance recruitment and/or retention of employees, including, but not limited to, Corrections, the Department for Children and Families, Agency of Transportation, Department for Buildings and General Services and Department of Public Safety.
 - The CBAs that will go into effect on July 1, 2024, contain the largest Across the Board Increases in the nineteen years I have been employed by the State.
 - The Corrections Unit salary plan, monetary incentives and schedules were completely reworked to increase pay for all employees and create a better work life balance for employees in the traditionally hard to fill Correctional Officer positions.
- **Commissioner Greshin, Finance and Management**
 - Vacancy savings direction as provided in the annual [budget instructions](#).
“The salary and benefits budget figures provided by the Vantage Salaries and Benefits Forecasting System (SBFS) represent the sum of all salary and benefit costs for all positions defined within an organization. The budgeting of Vacancy Savings should reflect a best possible estimate of savings (salary and benefit costs combined) resulting from positions in SBFS that are not expected to be filled for part (or all) of FY 2025 (please see section “b” below for guidance on benefit rate assumptions).

 - If Vacancy Savings budget submissions appear to be inconsistent with your department’s historical trend of savings related to position vacancies, please be prepared to justify your assumptions during budget review.”*
 - Have NOT given direction to hold positions vacant to meet a budgetary target. Encourage departments to fill vacancies.
 - Even despite tight financial circumstances, the Governor’s budget did not include Reductions in Force (RIFs).

- **Rebecca White, Director of Operations, Risk Management**
 - Discussion on Tuesday indicated that there is only 7% savings on workers comp contract – that is not accurate, and I will discuss the analysis done which found a 20% savings in FY 2018.
 - Act 174 of 2018 Session was signed into law on May 25, 2018. The law requires that an agency shall not enter into a privatization contract unless the contract contains performance measures, that the compliance with the performance measures is included in the State’s Workforce Report issued by the Department of Human Resources, and to not renew the contract if the contractor fails to comply with the performance measures.
 - In addition, before an agency may renew a privatization contract for the first time, the Auditor of Accounts shall review the contract to analyze whether it is achieving a 10% cost savings and met the performance measures contained in the contract.
 - The Agency of Administration entered into a 2-year contract with PMA Companies of New England on 8/21/16 to provide third party workers’ compensation (WC) and liability claims administration for the State’s self-insured programs as well as workplace safety and loss control.
 - Performance guarantees were included in the contract in the areas of claims administration, compliance with claim review, safety training and stewardship meetings and submission of claim reports, stewardship reports and service organization control. These performance guarantees cover the directives in Act 174 concerning quantity, quality, results and guarantees. PMA complied with the performance guarantees and exceeded the 10% cost savings.
 - Agency of Administration followed the statutory guidance in [VSA 343 \(a\) \(3\)](#) in analyzing the costs of having services provided by classified State employees versus obtaining the service through a contractor. Costs were compared over the life of the contract.
 - Costs in FY 2016 (when state employees worked in claims, nurse case management and workplace safety) for WC, General Liability (GL) program was \$2,737,928. Costs in FY 2018 (when PMA handled claims, nurse case management and workplace safety) for WC, GL program was \$2,183,778. Savings of \$554,150 or 20%.
 - PMA contract in effect from 8/21/16 to 12/31/20. Corvel contract, awarded after Request for Proposal (RFP) process, in effect from 1/1/21 to 12/31/24.
 - PMA and Corvel contracts have annual performance guarantee measures that are monitored and discussed at annual audits. These performance guarantees cover the statutory directives in VSA 3 § 343 (b) (1) concerning “quantity, quality, results and guarantees regarding the services performed.” Audit results are based on review of random claim files, determination that various workplace safety training meetings were held, and that SOC 1 and SOC 2 Independent Audit reports were performed and sent to the State. Performance guarantee goals are set at 95%. Goals are met or exceeded in the majority of categories every year.
 - PMA and Corvel contracts require compliance with federal and state employment laws. Attachment C provisions requiring compliance with laws such as false claims act, whistleblower protection, Fair Employment Practices and Americans with Disabilities Act, state tax laws, debarment, and confidentiality. Attachment D is included in the contracts as well.

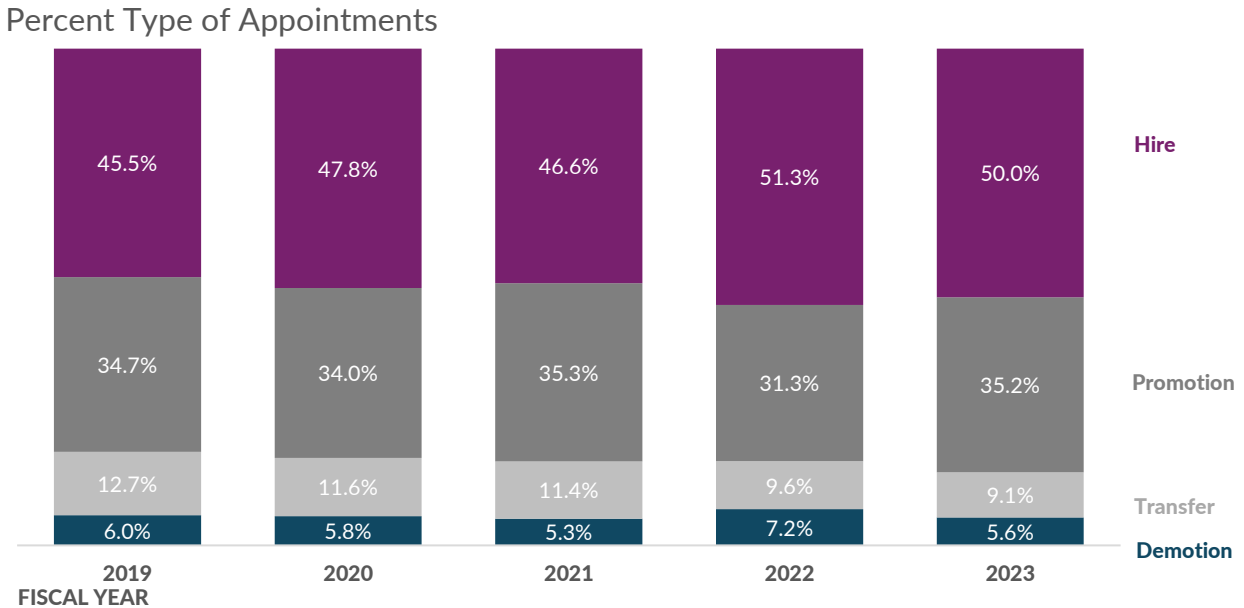
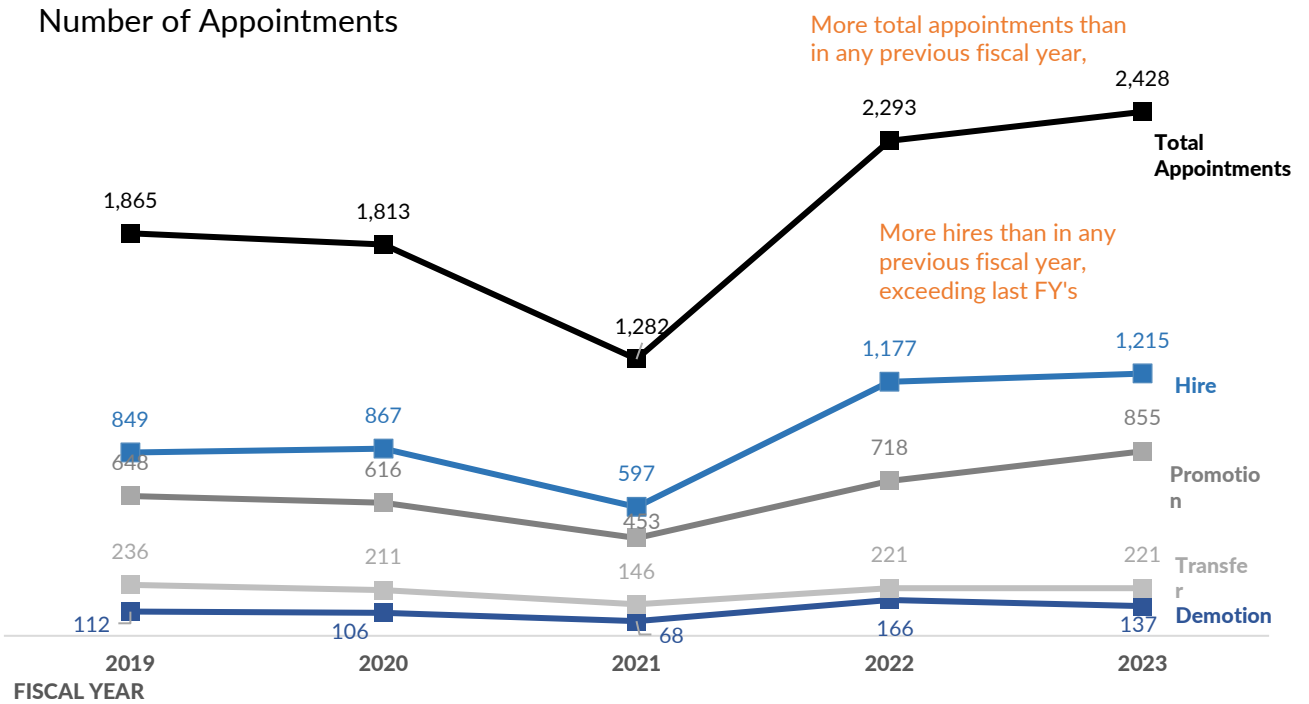
Data related to the State Workforce – we are governed by a position cap and require legislative approval to create new positions. There are currently eight positions in the pool not currently assigned. Please see the tables below for additional workforce-related data. In addition, the [State of Vermont Workforce Report](#) and Department of Human Resources [Dashboard](#) has relevant data.

Number of Executive Branch Employees by Fiscal Year



Source: The State’s Human Resource Information System (VTHR). Data includes all Executive Branch employees (classified and exempt) for Fiscal Years 2014 to 2023. The percentages noted in parentheses reflect the percent change from the previous fiscal year.

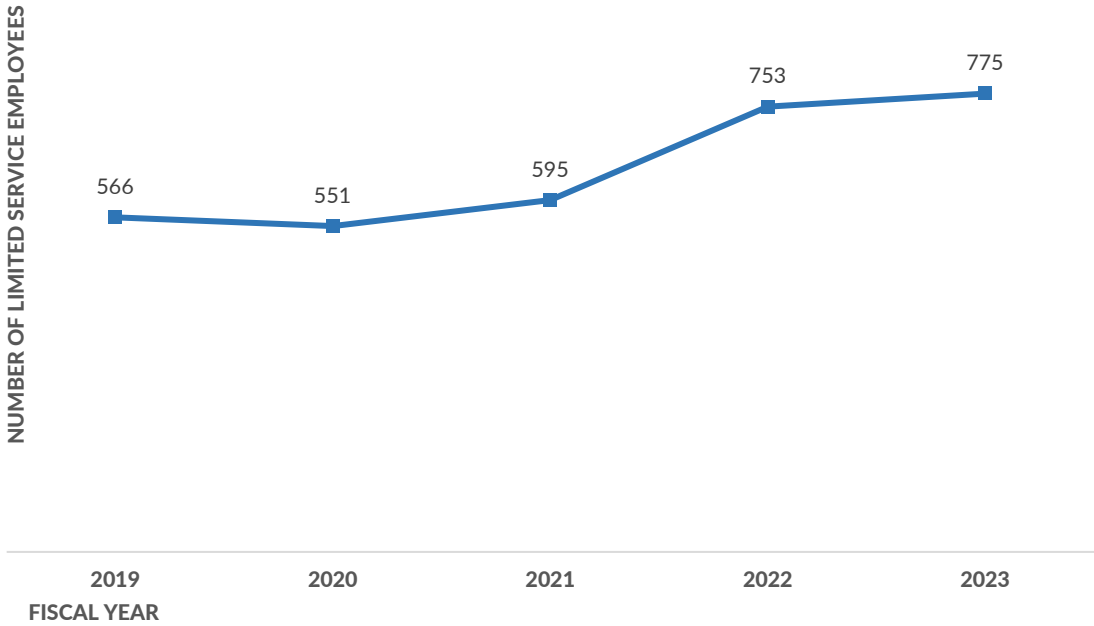
Total Appointments by Type by Fiscal Year



Source: The State's Human Resource Information System (VTHR). Data includes only classified employees of the Executive Branch for Fiscal Years 2019 to 2023. **Hire** includes new hires, rehires and transfer to classified. **Promotion** is the movement of an employee from a position of one class to a different position of another class at a higher pay grade. **Transfer** is the movement of an employee from one position to a different position at the

same pay grade, and **demotion** is the movement of an employee from one pay grade to another pay grade at a lower rate of pay. **RIF rehire** is the reemployment of an employee following Reduction in Force.

Number of Limited-Service Employees by Fiscal Year



Source: The State’s Human Resource Information System (VTHR). Data includes only classified employees of the Executive Branch for Fiscal Year 2019 to Fiscal Year 2023.

Total Positions by Fiscal Year filled vs. vacant

