

1 S.264

2 Introduced by Senators Ram Hinsdale and Vyhovsky

3 Referred to Committee on

4 Date:

5 Subject: Executive; State Employees Labor Relations Act; Assistant Attorneys

6 General

7 Statement of purpose of bill as introduced: This bill proposes to allow

8 Assistant Attorneys General to organize and bargain collectively.

9           An act relating to collective bargaining for Assistant Attorneys General

10          It is hereby enacted by the General Assembly of the State of Vermont:

11          Sec. 1. 3 V.S.A. § 902 is amended to read:

12          **§ 902. DEFINITIONS**

13          As used in this chapter:

1

\* \* \*

10 (A) exempt or excluded from the State classified service under the  
11 provisions of section 311 of this title, except that the State Police in the  
12 Department of Public Safety; employees of the Defender General, excluding  
13 attorneys employed directly by the Defender General and attorneys contracted  
14 to provide legal services; Assistant Attorneys General; deputy State's  
15 Attorneys; employees of State's Attorneys' offices; and full-time deputy  
16 sheriffs paid by the State pursuant to 24 V.S.A. § 290(b) are included within  
17 the meaning of "State employee";

18 (B) employed in the Office of the Lieutenant Governor;

19 (C) employed as the legal assistant to the Attorney General

20 authorized by section 155 of this title;

5 (E) employed by any other person who is not an employer as defined  
6 in subdivision (7) of this section;

7 (F) employed as a managerial employee;

8 (G) employed in the classified service as a private secretary within  
9 the meaning of subdivision 311(a)(3) of this title;

10 (H) employed in the Department of Human Resources;

11 (I) employed in the Department of Finance and Management as a  
12 budget and management analyst, a revenue research analyst, director of bud-  
13 and management operations, director of program formulation and evalua-  
14 and director of State information systems;

15 (J) determined after hearing by the Board, upon petition of any  
16 individual desiring exclusion, of the employer, or of a collective bargaining  
17 unit, to be in a position that is so inconsistent with the spirit and intent of this  
18 chapter as to warrant exclusion; or

19 (K) employed as a confidential employee.

20 \* \* \*

8 \* \* \*

14 \* \* \*

15 Sec. 2. 3 V.S.A. § 905 is amended to read

## 16 § 905. MANAGEMENT RIGHTS

17 (a) The Governor or designee for the State of Vermont, the Chancellor or  
18 designee for the Vermont State Colleges, the President or designee for the  
19 University of Vermont, ~~and~~ the Executive Director or designee for the  
20 Department of State's Attorneys and Sheriffs, and the Attorney General or  
21 designee for the Office of the Attorney General shall act as the employer

1 representatives in collective bargaining negotiations and administration. The  
2 representative shall be responsible for ensuring consistency in the terms and  
3 conditions in various agreements throughout the State service and ensuring  
4 compatibility with merit system statutes and principles and shall not agree to  
5 any terms or conditions for which there are not adequate funds available.

6 \* \* \*

7 Sec. 3. 3 V.S.A. § 906 is amended to read:

8 § 906. DESIGNATION OF MANAGERIAL, SUPERVISORY, AND  
9 CONFIDENTIAL EMPLOYEES

10 (a) The Commissioner of Human Resources shall determine those positions  
11 in the classified service whose incumbents the Commissioner believes should  
12 be designated as managerial, supervisory, or confidential employees. Any  
13 disputes arising from the determination shall be finally resolved by the Board.

14 (b)(1) The Executive Director of the Department of State's Attorneys and  
15 Sheriffs may determine positions in the State's Attorneys' offices whose  
16 incumbents the Executive Director believes should be designated as  
17 managerial, supervisory, or confidential employees. Any disputes arising from  
18 the determination shall be finally resolved by the Board.

19 (2) The Executive Director of the Department of State's Attorneys and  
20 Sheriffs may designate as a confidential employee not more than one deputy  
21 sheriff paid by the State pursuant to 24 V.S.A. § 290(b) who is assigned to the

1 Department of State's Attorneys and Sheriffs' central office to serve as the  
2 coordinator for the other State-paid deputies.

7 Sec. 4. 3 V.S.A. § 912 is added to read:

§ 912. DESIGNATION OF ASSISTANT ATTORNEYS GENERAL;

## STATEWIDE BARGAINING RIGHTS

10        Assistant Attorneys General shall be part of one or more statewide  
11        bargaining units, as determined to be appropriate by the Board pursuant to  
12        sections 927 and 941 of this chapter, for the purpose of bargaining collectively.

13 Sec. 5. 3 V.S.A. § 925 is amended to read:

## § 925. MEDIATION; FACT FINDING

15 \* \* \*

1 under seal and shall be unsealed and placed in the public record only when  
2 both parties' last best offers are filed with the Board. The Board shall hold one  
3 or more hearings. Within 30 days of after the certifications, the Board shall  
4 select between the last best offers of the parties, considered in their entirety  
5 without amendment.

6 (2)(A) In the case of the State of Vermont or, the Department of State's  
7 Attorneys and Sheriffs, or the Office of the Attorney General, if the dispute  
8 remains unresolved 20 days after transmittal of findings and recommendations  
9 to the parties or within a time frame mutually agreed upon by the parties that  
10 may be not more than an additional 30 days, each party shall submit as a single  
11 package its last best offer on all disputed issues to the Board, or upon the  
12 request of either party, to an arbitrator mutually agreed upon by the parties. If  
13 the parties cannot agree on an arbitrator, the American Arbitration Association  
14 shall appoint a neutral third party to act as arbitrator.

15 (B)(i) Each party's last best offer shall be filed with the Board or the  
16 arbitrator under seal and shall be unsealed and placed in the public record only  
17 when both parties' last best offers are filed with the Board or the arbitrator.

18 (ii) A party's last best offer shall not include a proposal to:  
19 (I) provide alternative health coverage to retired State  
20 employees that has not been agreed to pursuant to the provisions of subdivision  
21 479(a)(2) of this title; or

9 (j) Notwithstanding the provisions of subsection (i) of this section:

1 the arbitrator may select the recommendation of the fact finder under  
2 subsection (g) of this section as to those disputed issues submitted to the Board  
3 or the arbitrator in the last best offers.

4 (k)(1) In the case of the University of Vermont or the Vermont State  
5 Colleges, the decision of the Board shall be final and binding on each party.

6 (2) In the case of the State of Vermont ~~or~~, the Department of State's  
7 Attorneys and Sheriffs, or the Office of the Attorney General, the decision of  
8 the Board or the arbitrator shall be final, and the terms of the chosen agreement  
9 shall be binding on each party, subject to appropriations in accordance with  
10 subsection 982(d) of this title.

11 (l) Nothing herein shall be construed to permit an arbitrator or the Board to  
12 issue an order under subsection (i) of this section binding upon the parties that  
13 is in conflict with any statute or any rule or regulation that is not bargainable.

14 Sec. 6. 3 V.S.A. § 982 is amended to read:

15 § 982. AGREEMENTS; LIMITATIONS, RENEGOTIATION, AND  
16 RENEWAL

17 \* \* \*

18 (c)(1) Except in the case of the Vermont State Colleges or the University of  
19 Vermont, agreements between the State and certified bargaining units that are  
20 not arrived at under the provisions of subsection 925(i) of this title shall, after  
21 ratification by the appropriate unit memberships, be submitted to the Governor

1 who shall request sufficient funds from the General Assembly to implement  
2 the agreement. If the General Assembly appropriates sufficient funds, the  
3 agreement shall become effective at the beginning of the next fiscal year. If  
4 the General Assembly appropriates a different amount of funds, the terms of  
5 the agreement affected by that appropriation shall be renegotiated based on the  
6 amount of funds actually appropriated by the General Assembly, and the  
7 agreement with the negotiated changes shall become effective at the beginning  
8 of the next fiscal year.

9 (2)(A) Agreements between the Department of State's Attorneys and  
10 Sheriffs and the certified bargaining units that are not arrived at under the  
11 provisions of subsection 925(i) of this title shall, after ratification by the  
12 appropriate unit memberships, be submitted to the Governor and the General  
13 Assembly.

14 (B) The Executive Director of the Department of State's Attorneys  
15 and Sheriffs shall request sufficient funds from the General Assembly to  
16 implement the agreement. If the General Assembly appropriates sufficient  
17 funds, the agreement shall become effective at the beginning of the next fiscal  
18 year. If the General Assembly appropriates a different amount of funds, the  
19 terms of the agreement affected by that appropriation shall be renegotiated  
20 based on the amount of funds actually appropriated by the General Assembly,

1 and the agreement with the negotiated changes shall become effective at the  
2 beginning of the next fiscal year.

3 (3)(A) Agreements between the Office of the Attorney General and the  
4 certified bargaining units that are not arrived at under the provisions of  
5 subsection 925(i) of this title shall, after ratification by the appropriate unit  
6 memberships, be submitted to the Governor and the General Assembly.

7 (B) The Attorney General shall request sufficient funds from the  
8 General Assembly to implement the agreement. If the General Assembly  
9 appropriates sufficient funds, the agreement shall become effective at the  
10 beginning of the next fiscal year. If the General Assembly appropriates a  
11 different amount of funds, the terms of the agreement affected by that  
12 appropriation shall be renegotiated based on the amount of funds actually  
13 appropriated by the General Assembly, and the agreement with the negotiated  
14 changes shall become effective at the beginning of the next fiscal year.

15 (d) When the parties are unable to reach agreement on a collective  
16 bargaining agreement, and the Vermont Labor Relations Board recommends  
17 an agreement in accordance with subsection 925(k) of this title, the Board shall  
18 determine the cost of the agreement selected and request the General Assembly  
19 to appropriate the amount determined to be necessary to implement the  
20 selected agreement. If the General Assembly chooses to appropriate sufficient  
21 funds, the agreement shall become effective at the beginning of the next fiscal

1 year. If the General Assembly appropriates less than the amount requested, the  
2 terms of the agreement affected by the lesser appropriation shall be  
3 renegotiated based on the amount of the funds actually appropriated, and the  
4 agreement with the negotiated changes shall become effective at the beginning  
5 of the next fiscal year.

6 \* \* \*

7 (g) In the event the State of Vermont, the Department of State's Attorneys  
8 and Sheriffs, the Office of the Attorney General, the University of Vermont,  
9 and the Vermont State Colleges as employer and the collective bargaining unit  
10 are unable to arrive at an agreement and there is not an existing agreement in  
11 effect, the existing contract shall remain in force until a new contract is ratified  
12 by the parties. However, nothing in this subsection shall prohibit the parties  
13 from agreeing to a modification of certain provisions of the existing contract  
14 that, as amended, shall remain in effect until a new contract is ratified by the  
15 parties.

16 \* \* \*

17 Sec. 7. 3 V.S.A. § 153 is amended to read:  
18 § 153. GENERAL POWERS; DEPUTY, ASSISTANTS

19 \* \* \*

20 (c) The Attorney General may appoint such Assistant Attorneys General  
21 and Special Assistant Attorneys General as may be necessary for the proper

1 and efficient performance of ~~his or her~~ the department, and with the approval  
2 of the Governor, fix their pay, including through collective bargaining pursuant  
3 to chapter 27 of this title, if applicable, remove them at pleasure, and be  
4 responsible for their acts. They shall have the same obligations, power, and  
5 authority as the Deputy Attorney General except those relating to the absence  
6 or disability of the Attorney General and vacancy in the Office of Attorney  
7 General. Their appointments and the revocation thereof shall be in writing and  
8 recorded in the Office of the Secretary of State. All Assistant Attorneys  
9 General and Special Assistant Attorneys General shall be attorneys at law.

10        (d) The Attorney General shall prepare and submit a funding request to the  
11        Governor and General Assembly for the purpose of securing General Fund  
12        appropriations for any increased costs related to a collective bargaining  
13        agreement and to the Office of the Attorney General's contract bargaining and  
14        administration.

15        Sec. 8. ADJUSTMENT FOR INITIAL CONTRACT

16        For increased costs related to the initial collective bargaining agreement that  
17        the Office of the Attorney General enters into pursuant to this act, including  
18        the costs of bargaining, implementation, and contract administration, the  
19        Attorney General may prepare and submit a funding request to the General  
20        Assembly during the budget adjustment process if the timing of the

1        implementation of the agreement does not permit the Office of the Attorney  
2        General to secure sufficient funding during the regular budgetary process.  
3        Sec. 9. EFFECTIVE DATE  
4        This act shall take effect on passage.