

**Supreme Court of Vermont
Office of State Court Administrator**

THERESE M. CORSONES, ESQ.
State Court Administrator
therese.corsones@vtcourts.gov

OFFICE OF COURT ADMINISTRATOR
109 State Street
Montpelier, VT 05609-0701
Telephone: (802) 828-3278



LAURIE CANTY, Chief, Trial Court Operations
laurie.canty@vtcourts.gov
GREGG MOUSLEY, Chief, Finance & Administration
gregg.mousley@vtcourts.gov
SCOTT GRIFFITH, Chief, Planning and Court Services
scott.griffith@vtcourts.gov
MARCIA SCHELS, Chief Technology Innovation Officer
marcia.schels@vtcourts.gov

www.vermontjudiciary.org

To: Rep. Martin LaLonde, Chair
House Committee on Judiciary

From: Teri Corsones

Re: S.125

Date: May 6, 2025

Thank you for the opportunity to comment on Section 5 of S.125, which proposes to create a bargaining unit for Judiciary supervisory employees by striking the word “supervisory” from 3 VSA §1011(8)(C). The Judiciary strongly opposes the proposal for the reasons summarized below. Because there was a question when the bill was introduced in the House Committee on General and Housing as to whether the Judiciary has had a chance to comment on the bill in the past, this memo will also address that question at the outset.

I. Judiciary Opportunity to Comment

Some reference has been made to the proposal having been made in last year’s session and no opposition voiced at that time. If the proposal was made in last year’s session, the Judiciary was not aware of the proposal and was not asked to testify about it. We haven’t been able to find a record of the proposal being made in last year’s session, but wanted to clarify that if the proposal was made and had we had the opportunity to comment on it we would have certainly expressed opposition.

When we learned of the proposal being made this session in the Senate Committee on Economic Development, Housing and General Affairs, I asked for the opportunity to testify and it was recommended that due to the timing of the bill’s introduction shortly before cross-over, to seek time to testify when the bill would be in the House. In response to the question in this Committee as to whether the Judiciary testified in the Senate, that is why we did not. We very much appreciate the opportunity to testify today.

II. There are Four Supervisory Employees in the Vermont Judiciary

Vermont law has historically exempted several categories of Judiciary employees from collective bargaining, including judicial officers, managers, supervisors, law clerks, attorneys and confidential employees. Of all the Judiciary exempt employees only four have “supervisor” in their job title. It’s our understanding that no mention was made in the Senate that there are but four supervisors in the Vermont Judiciary.

S.125 proposes that a separate bargaining unit be set up for what amounts to four employees. We are at a loss to understand the wisdom of bargaining for and administering a contract for four employees, especially when a comprehensive Personnel Policy exists for those employees as well as for all other exempt employees. The Personnel Policy for exempt employees includes many (if not all) of the same rights and benefits that the Collective Bargaining Agreement provides for non-exempt employees.

It’s unclear what value a separate bargaining agreement would offer the four supervisory employees that they do not already enjoy under the Personnel Policy. The four supervisors enjoy identical compensation terms as those negotiated with the hourly employee bargaining unit. The terms cover wage increases, step equivalents, paid days off, and pension. Bargaining a separate contract would require substantial resources that the Judiciary presently lacks.

III. Labor Relations Law Tenets Support Exempting Supervisors from Bargaining Units

Attorney Joe McNeil is a Vermont labor lawyer with over 40 years’ experience in the field. Attorney McNeil helped negotiate the first contract covering hourly employees in the Judiciary. He will testify regarding a basic tenet of labor law that holds that supervisors have been historically exempt from bargaining units for “division of loyalty” reasons. All supervisory employees are expected to represent the interest of the Judiciary in their supervisory roles. If they have a self-interest in supporting and complying with competing union interests it would make it difficult to fulfill their supervisory roles. We would disagree that “it is not unusual to allow supervisors to organize”, as has been suggested in recent testimony.

IV. Distinctions Between Executive Branch Supervisors and Judiciary Branch Supervisors

The Judiciary Branch includes approximately 400 employees and 4 supervisors. In stark contrast, the Executive Branch includes approximately 10,000 employees and approximately 1,250 supervisors. Due to its sheer size, leadership in the Executive Branch is much more diffuse, with different layers of management structure. The Judiciary relies on managers and supervisors to directly implement management policies and procedures. There would be an inherent conflict in supervisors representing the interests of management, and at the same time supervisors being part of a union that could well have different interests than Judiciary management.

V. Conclusion

The first opportunity that the Judiciary had to comment on the proposed amendment in S.125 to remove Judiciary supervisors from the list of exempt employees was after cross-over. The Judiciary strongly opposes the proposed amendment given that only four employees are in the supervisory category, and it makes little sense to negotiate a separate collective bargaining unit for four employees, especially when a Personnel Policy already exists that provides similar if not identical rights to supervisory employees. Labor law tenets historically preclude supervisors from being included in a bargaining unit due to inherent conflicts and competing interests. 1,250 Vermont Executive Branch supervisors being included in a bargaining unit are an exception to that tenet, which we respectfully submit does not justify including 4 Judiciary supervisors in a separate bargaining unit. Thank you again for the opportunity to comment.

cc: Rep. Thomas Burditt, Vice Chair
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