



STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

To: Sen. Alison Clarkson, Chair – Senate Committee on Economic Development, Housing and General Affairs

From: Todd W. Daloz, Assistant Attorney General;  
Sarah E.B. London, Chief Assistant Attorney General

Date: March 10, 2025

Re: 25-0654 - An act relating to labor relations – Written Testimony

---

In follow-up to testimony before the Committee on Thursday, February 27, 2025, at the Chair’s request, the Attorney General’s Office (AGO) submits the following written testimony regarding a draft bill (25-0654 draft 1.1), which proposes to amend 3 V.S.A § 902(5) to include Assistant Attorneys General (AAG) within the definition of “State Employee.” Included in this testimony is additional information for the Committee’s consideration related to the potential impacts from this proposed amendment, offered in previous testimony before the House Committee on General and Housing on April 24, 2024 ([link](#)).

The current draft bill would make the Governor, as opposed to the Attorney General, the employer of Assistant Attorneys General. This is because “state employees” as defined in the State Employees Labor Relations Act are employees of the Governor, unless otherwise noted.<sup>1</sup> This is a choice the Legislature can make. It would necessitate additional changes to various statutes and involves the uniquely complicated question of who can and should be the “employer” of AAGs for purposes of collective bargaining, as explained below. The financial impact of potentially moving position numbers should also be considered.

The AGO appreciates the Committee’s review of this topic. As requested last session, we respectfully ask that review of these questions also include the Government Operations committees. Examples of government operational considerations are below.

### **Structural, Resource, and Policy Considerations**

- Many AAGs implement policy of the Attorney General, including advocacy related to reproductive rights, LGBTQ+ rights, and environmental and consumer protection.

---

<sup>1</sup> Under the State Employees Labor Relations Act, the “Employer” is defined as “the State of Vermont, . . . represented by the Governor or designee, the Office of the Defender General represented by the Defender General or designee, [and for the State’s Attorneys and Sheriffs] the Department of State’s Attorneys and Sheriffs represented by the Executive Director or designee.” 3 V.S.A § 902(7).

- Lawyers working in policy are typically excluded from collective bargaining.
- The AGO requests that the Legislature assist in identifying policy positions and ensuring the Attorney General has resources to implement policy if some AAGs are removed from this work due to collective bargaining.
- Many AAGs advise and defend the State in labor and employment matters.
  - To avoid conflicts of interest, lawyers working in these areas are typically excluded from collective bargaining.
  - The AGO requests that the Legislature assist in clarifying how to ensure there will be adequate resources to ensure the State is represented in labor and employment matters in the context of collective bargaining of certain AAGs.
- No law requires agencies to employ AAGs. Statute has long provided that the pay of AAGs is set by the Attorney General in consultation with the Governor.<sup>2</sup> That said, the Attorney General does not control agency funds or whether an agency employs AAGs.
  - The State Treasurer and Agency of Digital Services have recently opted to retitle lawyer positions from AAGs to in-house counsel.
  - Many AAGs and non-AAG state lawyers perform the same or similar work.
  - The AGO requests that the Legislature assist in clarifying how to ensure AAG positions are not lost in the context of collective bargaining.
- The Attorney General does not control the “working conditions” (e.g., assigned cases, whether the AAG has an office) of the many AAGs in agency position numbers.
  - The AGO asks that the Legislature assist in clarifying how “working conditions” can be bargained in this context, including for embedded AAGs.

### **Unique Structure of AGO Across Vermont State Agencies**

The Attorney General’s Office has roughly 150 “employees.” Almost 100 (97) are AAGs, reflecting the largest group of state lawyers in state government. AAGs represent the State of Vermont in contexts ranging from consumer protection, to criminal prosecution, to defense of state statutes and officials, to complex contract negotiations.

Importantly, of the 97 AAGs, 45 are “embedded” in other agencies in state government (see attached diagrams), providing direct legal services to these executive branch entities, with the remainder working directly for the Attorney General.<sup>3</sup> “Embedded” here means that they are in agency position numbers, are funded through agency budgets, and sit with their agency “employer” outside of the AGO “main office” at 109 State Street.

---

<sup>2</sup> See 3 V.S.A § 153(c) (“The Attorney General may appoint such Assistant Attorneys General and Special Assistant Attorneys General as may be necessary for the proper and efficient performance of his or her department, and with the approval of the Governor, fix their pay, remove them at pleasure and be responsible for their acts.”).

<sup>3</sup> Many of the AAGs who work directly for the AGO are funded through memoranda of understanding with 15 client agencies/departments across government. This funding is represented in the AGO budget under the Inter-Departmental Transfer spending authority. For example, some members of the AGO Civil Division are paid for by the Office of Risk Management in the Agency of Administration.

Like other attorneys in state government, the AGO follows the Department of Human Resources Attorney Pay Plan ([link](#) FY25), which identifies salary ranges for attorneys based on years of experience and scope of duties. As of February 2025:

- Median salary for all AAGs: \$118,602.
- Median salary for non-management AAGs: \$112,726.
- Lowest salary for an AAG (admitted to practice in 2024): \$64,230.
- Highest salary for an AAG, non-management (admitted in 1988): \$135,075.
- In addition to any merit increases to salaries, the AGO has provided Across the Board Increases (ABI), annually, following other exempt salary increases across the Executive Branch. For example, since 2022, the AGO has increased AAG salaries by nearly 13% in addition to ABI. (The many state agencies with AAGs in their position numbers have also implemented ABIs across AAGs.)

### **Appointment and Pay**

Because roughly half of all AAGs are embedded in client agencies, the AGO itself is the “appointing authority” for many purposes for roughly half of all AAGs. Each of the 11 hosting agencies hold the position numbers for their embedded AAGs and pay their respective salaries through the agency’s payroll (not AGO payroll).

Each AAG is officially sworn into their position by the Attorney General, and the AGO oversees the selection of candidates (in partnership with the hosting agency). Currently, for these embedded AAGs, the AGO proposes the salary, including promotions and any raises via ABI or merit, to the appointing authority of the hosting agency for approval. While an informal system built on collaboration, this structure remains effective at ensuring relatively uniform pay for AAGs across state government based on years of experience. That said, for the purposes of any potential future collective bargaining for AAGs, the Legislature will likely need to clarify who is the “appointing authority,” and/or whether it is a unique and new combination of the Governor and the Attorney General.

### **Work Location and Assignments**

Like the varied nature of who appoints AAGs and formally authorizes their pay, the Attorney General exercises direct control only over the work location and hours of those AAGs who are physically stationed at 109 State Street in Montpelier.

For example, over 30 AAGs work for the Agency of Human Services and are located at the Waterbury State Office Complex; the AGO has little control over where those employees work or what their in-office days are. AAGs embedded at the Agency of Transportation, the Agency of Education, the Department of Taxes, and the Department of Buildings and General Services, operate under similar conditions.

Similarly, the assignment of work is generally driven by the client. That client is also typically the “appointing authority” for HR purposes. While some agencies are statutorily required to have the AGO represent them, e.g., Medical Practice Board, 23 V.S.A. § 1353 (requiring referrals to AGO); DVHA/Medicaid recoveries, 33 V.S.A. § 1910(j) (AGO “shall be responsible for initiating actions on behalf of the Agency”), no statute requires an agency to employ an AAG.

## **Ethical Concerns**

Finally, it is important to flag potential ethical conflicts were AAGs to enter into a bargaining unit.

Many AAGs currently provide legal advice on matters directly impacting the State's classified workforce. The AGO regularly litigates labor cases before the Vermont Labor Relations Board in opposition to unionized employees and the Vermont State Employees' Association (VSEA). Some AGO position numbers are paid for by the Department of Human Resources or Risk Management with the expectation that attorneys in these positions may have to represent the State across from the VSEA.

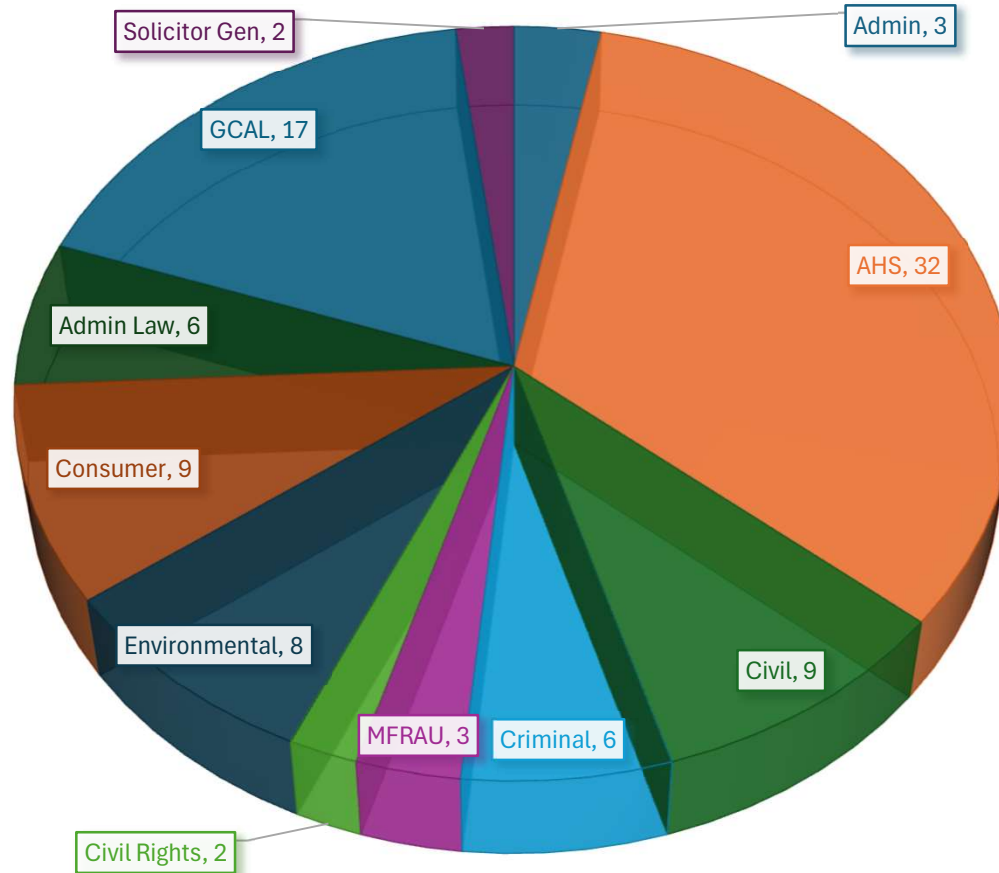
Many embedded AAGs also offer legal opinions and recommend legal strategy related to personnel issues impacting specific classified employees and the broader classified workforce in general. Though superficially similar to "confidential employees," *see* 3 V.S.A § 902(17), AAGs also have a duty of loyalty to their client and requirements to avoid conflicts of interest, including conflicts that may arise out of personal interest.<sup>4</sup> This potentially divided loyalty creates further complexity when determining how a potential bargaining unit could form.

---

<sup>4</sup> *See* Vermont Rules of Professional Conduct 1.7, 1.11.

OFFICE OF THE ATTORNEY GENERAL  
 BREAKDOWNS OF ATTORNEYS AND EMBEDDED STAFF

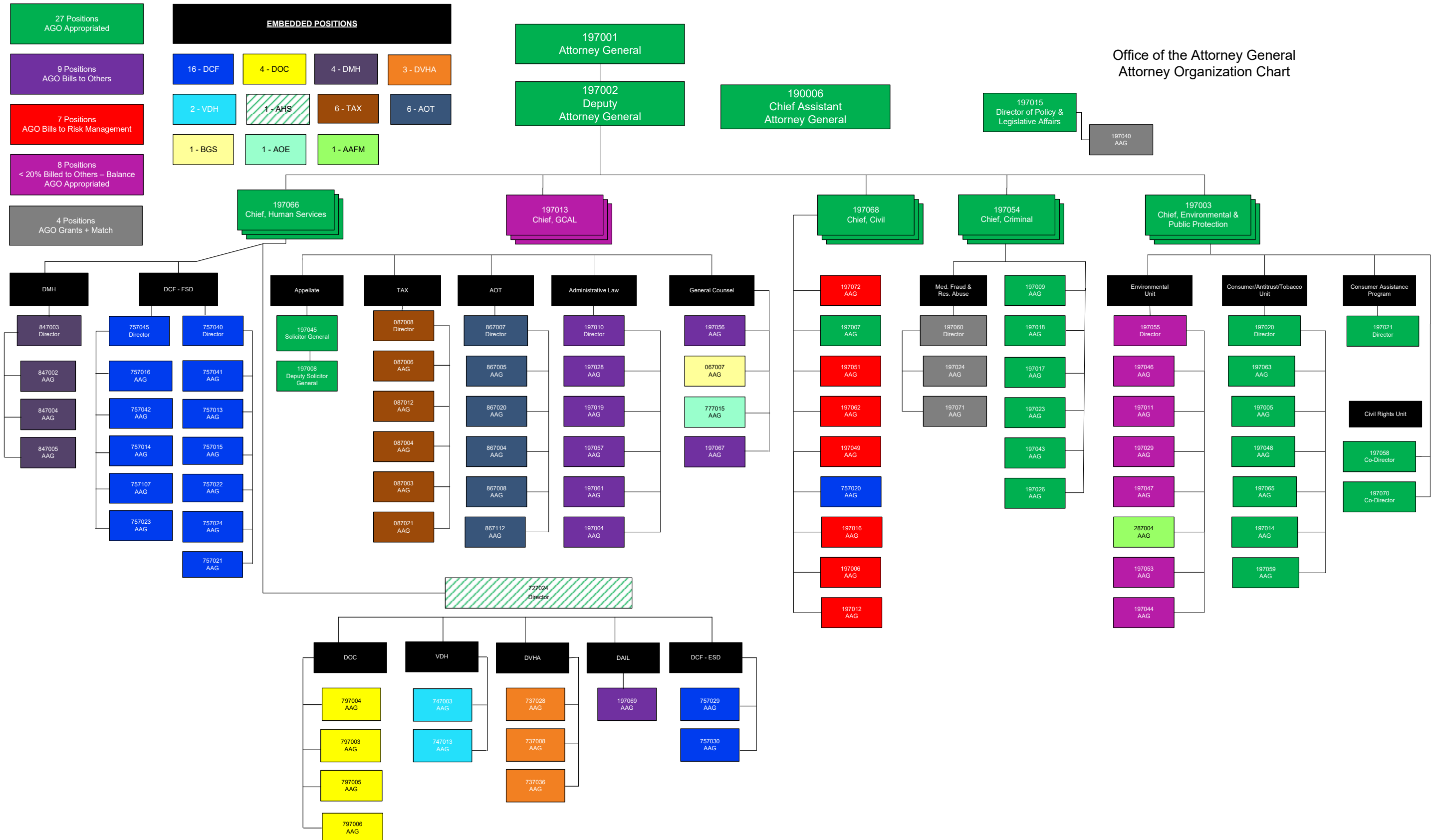
**ASSIGNMENT OF 97 AAGS**



**TOTAL EMBEDDED STAFF ACROSS THE STATE**

	AHS	AHS	DCF	DMH	DOC	DVHA	VDH	EPP	AAFM	GCAL	AOE	AOT	BGS	Tax	Total
<b>AAGs</b>	<b>30</b>	1	16	4	4	3	2	<b>1</b>	1	<b>14</b>	1	6	1	6	<b>45</b>
<b>Other</b>	<b>6</b>	-	2	3	1	-	-	-	-	<b>4</b>	-	2	-	2	<b>10</b>
<b>Total</b>	<b>36</b>							<b>1</b>		<b>18</b>					<b>55</b>

Office of the Attorney General  
Attorney Organization Chart



**EMBEDDED POSITIONS**

16 - DCF	4 - DOC	4 - DMH	3 - DVHA
2 - VDH	1 - AHS	6 - TAX	6 - AOT
1 - BGS	1 - AOE	1 - AAFM	

- 27 Positions AGO Appropriated
- 9 Positions AGO Bills to Others
- 7 Positions AGO Bills to Risk Management
- 8 Positions < 20% Billed to Others – Balance AGO Appropriated
- 4 Positions AGO Grants + Match