



House of Representatives

General Assembly

File No. 522

February Session, 2000

House Bill No. 5164

House of Representatives, April 11, 2000

The Committee on Appropriations reported through REP. DYSON of the 94th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

An Act Concerning Collective Bargaining For State Managers.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 5-270 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 When used in sections 5-270 to 5-280, inclusive:

4 (a) "Employer" means the state of Connecticut, its executive and
5 judicial branches, including, without limitation, any board,
6 department, commission, institution, or agency of such branches or
7 any appropriate unit thereof and any board of trustees of a state-
8 owned or supported college or university and branches thereof, public
9 and quasi-public state corporation, or authority established by state
10 law, or any person or persons designated by the employer to act in its
11 interest in dealing with employees, but [shall] does not include the
12 State Board of Labor Relations or the State Board of Mediation and
13 Arbitration.

14 (b) "Employee" means any employee of an employer, whether or not
15 in the classified service of the employer, except elected or appointed
16 officials other than special deputy sheriffs, board and commission
17 members, [managerial employees] bureau heads and confidential
18 employees.

19 (c) "Professional employee" means: (1) Any employee engaged in
20 work (A) predominantly intellectual and varied in character as
21 opposed to routine mental, manual, mechanical or physical work; (B)
22 involving the consistent exercise of discretion and judgment in its
23 performance; (C) of such a character that the output produced or the
24 result accomplished cannot be standardized in relation to a given time
25 period; (D) requiring knowledge of an advanced type in a field of
26 science or learning customarily acquired by a prolonged course of
27 specialized intellectual instruction and study in an institution of higher
28 learning or a hospital, as distinguished from a general academic
29 education or from an apprenticeship or from training in the
30 performance of routine mental, manual or physical processes; or (2)
31 any employee who has completed the courses of specialized
32 intellectual instruction and study described in subsection (c)(1)(D) and
33 is performing related work under the supervision of a professional
34 person to qualify [himself] to become a professional employee as
35 defined in subsection (c)(1).

36 (d) "Employee organization" means any lawful association, labor
37 organization, federation or council having as a primary purpose the
38 improvement of wages, hours and other conditions of employment
39 among state employees.

40 (e) "Confidential employee" means any public employee who would
41 have access to confidential information used in collective bargaining.

42 (f) "Supervisory employee" means any individual in a position in
43 which the principal functions are characterized by not fewer than two
44 of the following: (1) Performing such management control duties as

45 scheduling, assigning, overseeing and reviewing the work of
46 subordinate employees; (2) performing such duties as are distinct and
47 dissimilar from those performed by the employees supervised; (3)
48 exercising judgment in adjusting grievances, applying other
49 established personnel policies and procedures and in enforcing the
50 provisions of a collective bargaining agreement; and (4) establishing or
51 participating in the establishment of performance standards for
52 subordinate employees and taking corrective measures to implement
53 those standards, provided in connection with any of the foregoing the
54 exercise of such authority is not merely of a routine or clerical nature,
55 but requires the use of independent judgment. [, and such] Such
56 individuals [shall be] are employees within the meaning of subsection
57 (b) of this section. The above criteria for supervisory positions [shall]
58 does not necessarily apply to police or fire departments.

59 (g) "Managerial employee" means (1) any individual in a position in
60 which the principal functions are characterized by not fewer than two
61 of the following, provided for any position in any unit of the system of
62 higher education, one of such two functions shall be as specified in
63 subparagraph (D) below: (A) Responsibility for direction of a subunit
64 or facility of a major division of an agency or assignment to an agency
65 head's staff; (B) development, implementation and evaluation of goals
66 and objectives consistent with agency mission and policy; (C)
67 participation in the formulation of agency policy; (D) a major role in
68 the administration of collective bargaining agreements or major
69 personnel decisions, or both, including staffing, hiring, firing,
70 evaluation, promotion and training of employees; or (2) Department of
71 Correction employees at the level of lieutenant or above. Such
72 individuals, other than any individuals who are bureau heads, as
73 defined in subsection (h) of this section, are employees within the
74 meaning of subsection (b) of this section.

75 (h) "Bureau head" means any individual who heads a major division
76 of an agency and reports to the agency head or deputy agency head,

77 provided: (1) The number of bureau heads in any agency shall not
78 exceed the greater of (A) one, or (B) one-half of one per cent of the total
79 number of permanent full-time employees in the agency, rounded to
80 the next lowest whole number, (2) the number of bureau heads in the
81 state executive branch shall not exceed one-half of one per cent of the
82 total number of permanent full-time employees in the branch, rounded
83 to the next lowest whole number, and the number of bureau heads in
84 the state judicial branch shall not exceed one-half of one per cent of the
85 total number of permanent full-time employees in the branch, rounded
86 to the next lowest whole number, and (3) if an agency has more major
87 divisions than the number of bureau heads permitted in the agency by
88 this subsection, the major division shall be ranked by the number of
89 permanent full-time employees in each, and any individual heading a
90 major division with a smaller number of permanent full-time
91 employees shall be excluded from being classified as a bureau head
92 before any individual heading a major division with a larger number
93 of permanent full-time employees.

94 Sec. 2. Subsection (b) of section 5-275 of the general statutes is
95 repealed and the following is substituted in lieu thereof:

96 (b) The board shall determine the appropriateness of a unit which
97 shall be the public employer unit or a subdivision [thereof] of the
98 public employer unit. In determining the appropriateness of the unit,
99 the board shall: (1) Take into consideration, but shall not be limited to,
100 the following: (A) Public employees must have an identifiable
101 community of interest, and (B) the effects of overfragmentation; (2) not
102 decide that any unit is appropriate if such unit includes both
103 professional and nonprofessional employees, unless a majority of such
104 professional employees vote for inclusion in such unit; (3) decide that a
105 unit is not appropriate if the unit includes both managerial and
106 nonmanagerial employees; (4) take into consideration that when the
107 state is the employer, it will be bargaining on a state-wide basis unless
108 issues involve working conditions peculiar to a given governmental

109 employment locale; [(4)] (5) permit the faculties of (A) The University
110 of Connecticut, (B) the Connecticut State University system, and (C)
111 the state regional vocational-technical schools to each comprise a
112 separate unit, which in each case shall have the right to bargain
113 collectively with its respective board of trustees or its designated
114 representative; and [(5)] (6) permit the community college faculty and
115 the technical college faculty as they existed prior to July 1, 1992, to
116 continue to comprise separate units which in each case shall have the
117 right to bargain collectively with its board of trustees or its designated
118 representative. Nonfaculty professional staff of the above institutions
119 may by mutual agreement be included in such bargaining units, or
120 they may form a separate bargaining unit of their own. This section
121 shall not be deemed to prohibit multiunit bargaining.

LAB Committee Vote: Yea 8 Nay 4 JF C/R APP

APP Committee Vote: Yea 28 Nay 18 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Indeterminate

Affected Agencies: Various

Explanation

State Impact:

This bill would allow state managerial employees, other than bureau heads, to bargain collectively. Any costs associated with this bill would depend on the outcome of collective bargaining negotiations. This bill would impact approximately 2,750 managers in the executive branch, 200 managers in the judicial branch, and 300 non-unionized managers in higher education.

OLR Bill Analysis

HB 5164

AN ACT CONCERNING COLLECTIVE BARGAINING FOR STATE MANAGERS.**SUMMARY:**

This bill allows state managers to bargain collectively, but bars bureau heads from doing so. A bureau head is defined as anyone who heads a major division of an agency and reports to the agency commissioner or deputy commissioner.

The bill establishes certain protections to ensure that managerial employees are not reclassified as bureau heads.

The bill requires the State Board of Labor Relations to determine that a collective bargaining unit is inappropriate if it includes both managerial and nonmanagerial employees.

EFFECTIVE DATE: October 1, 2000

PROTECTIONS AGAINST RECLASSIFICATION

The bill bars an agency from having (1) more than one bureau head or (2) bureau heads numbering more than .5% of its permanent, full-time employees (whichever is greater).

It bars the executive and judicial branches from having bureau heads who number more than .5% of the branch's permanent, full-time employees.

It appears that if the number of an agency's major divisions exceeds the number of bureau heads allowed, a major division head who has many permanent, full-time employees must be designated bureau head before one who has fewer employees.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Change of Reference

Yea 8 Nay 4

Appropriations Committee

Joint Favorable Report

Yea 28 Nay 18