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## HB 7372

### **AN ACT CONCERNING RECOMMENDATIONS CONTAINED IN THE FINAL REPORT OF THE COCHAIRPERSON AND VICE-CHAIRPERSON OF THE GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE REGARDING EVENTS SURROUNDING STATE ELECTIONS ENFORCEMENT COMMISSION FILE NO. 2005-311.**

Section 7 of this bill exempts the State Elections Enforcement Commission, Freedom of Information Commission and the Office of State Ethics from following the statewide rules relating to the hiring of employees and setting employee salaries.

All agencies and departments throughout state service are required to comply with a number of laws and provisions that provide protections to state employees and ensure a fair, open and competitive process for awarding state jobs. The Department of Administrative Services, through its statewide human resources division, administers and enforces the vast majority of these laws and rules.

For example:

- The State Personnel Act, among other things, requires that all classified state jobs are posted in advance, and are filled through an open, competitive process;
- Provisions negotiated through SEBAC (the State Employee Bargaining Agent Coalition) require that laid-off state employees be offered vacancies in state service for which they are qualified before such positions are offered to individuals outside state service;
- State positions are also subject to laws and provisions that ensure that "managers" are not actually performing bargaining-unit work;
- State laws require that there is pay equity among employees across state agencies performing the same job;
- State laws and provisions also mandate that employees who are asked to perform duties at a higher level than their job classification encompasses are properly compensated for those higher-level duties; and
- Countless other rules and protections ensuring that all state employees are treated fairly and even-handedly.

**HB 7372 exempts the SEEC, FOIC and OSE from all such laws and rules.**

The expressed purpose of Section 7 of this bill is to eliminate a "conflict" between DAS and the 3 listed agencies – that SEEC, FOIC and OSE should be exempt from DAS oversight over its positions and salaries because those agencies are responsible for enforcing their rules against DAS and hearing/adjudicating complaints brought against DAS.

However,

- SEEC, FOIC and OSE enforce their rules and hear/adjudicate complaints made against the state Commission on Human Rights & Opportunities; should the three agencies be exempt from the state harassment and discrimination laws, or be entitled to bypass the CHRO, which has authority to hear those complaints because of an actual or potential conflict?
- SEEC, FOIC and OSE enforce their rules and hear/adjudicate complaints made against the Workers' Compensation Commission; should the agencies be exempt from the workers' compensation laws of Connecticut, or be entitled to opt out of the WCC's adjudicatory process because of an actual or apparent conflict?
- The three agencies also have authority to oversee the Legislative Branch's compliance with campaign finance reform laws, the Freedom of Information Act, and the State Code of Ethics, and to hear and adjudicate complaints against legislators; is it not a conflict that the SEEC, FOIC and OSE must seek approval of its budget and legislative priorities from the Legislative branch at the same time it may be hearing complaints against the legislature or one of its members?

**DAS respectfully submits that all agencies should be responsible for following statewide rules and standards relating to the fair and even-handed treatment of state positions, compensation for state jobs, and promotions, and that even the "watchdog agencies" should not be exempt from these rules.**

DAS has submitted some questions about the implementation of Section 7 of HB 7372 on the following page.

## Operational Issues and Questions Raised by HB 7372

- What About the Unionized Employees? HB 7372 states that SEEC, FOIC and OSE “each may employ executive, managerial and confidential employees as may be necessary to carry out the duties and responsibilities of such agency . . . .” **As written, HB 7372 appears to sanction an FOIC, SEEC and OSE that no longer employs bargaining-unit employees.**

If this bill does not affect the unionized employees the watchdog agencies, it appears that these agencies will still have to work with DAS and OPM to address position and salary concerns of its unionized staff.

- Open Competitive Process for Filling State Jobs. HB 7372 exempts the SEEC, FOIC and OSE jobs from statewide rules that all agencies must follow regarding the posting of open positions and the competitive process for hiring into those positions. Is this the legislature’s intent?
- Protections for Laid-Off State Employees. DAS approval over hiring into state jobs also ensures that, before an opening in state service is filled, SEBAC rights of laid-off state employees are protected. Is it the legislature’s intent to exempt SEEC, FOIC and OSE from these SEBAC rules?
- HB 7372 Provides that SEEC, FOIC and OSE are to Establish Their Own Positions. These agencies will not be able to use the statewide job titles, specifications or examinations created by DAS. Do these agencies have any expertise in the creation of job titles and specifications? Does the legislature intend there to be any guidelines or restrictions applicable to their creation of these jobs?

Currently, a DAS unit of human resource professionals establishes exams for classified state job titles to determine who is qualified to fill those positions, and to ensure fair competition for state positions and promotions. These exams must be carefully crafted to ensure they are job related and consistent with business necessity, so they are legally defensible. Will SEEC, FOIC and OSE prepare exams for the job titles they create? If not, does the legislature intend there to be any guidelines for the agencies to fairly assess the qualifications of applicants for their positions?

DAS now works closely with the Office of Labor Relations to ensure that DAS does not create nominally “managerial” or “confidential” positions that actually fall within the scope of collective bargaining. How will the three agencies manage such issues?

- The Agencies will also Create their Own Pay Scales. The statewide pay scales applicable to job titles established by DAS will not apply to the jobs established by SEEC, FOIC or OSE. Will there be any statewide oversight over their decisions regarding pay plans established by these agencies? How will the state ensure that employees performing the same work in different agencies are paid similarly?

Employees outside of the established pay plans are not subject to the rules and benefits that accompany those pay plans, e.g., PARS bonuses and longevity payments.

