



**STATE OF CONNECTICUT  
OFFICE OF POLICY AND MANAGEMENT**

**TESTIMONY OF SANDRA FAE BROWN-BREWTON  
ASSISTANT DIRECTOR OF LABOR RELATIONS  
BEFORE THE LABOR & PUBLIC EMPLOYEES COMMITTEE  
OF THE GENERAL ASSEMBLY**

**Raised Bill No. 5058 An Act Concerning The Right to Organize for Certain State Employees.**

This Bill proposes to accomplish a few goals. First it endows certain managerial employees with the right to collectively bargain, and it gives the Legislature the status of employer under the State Employees Relations Act for the purposes of negotiating with a single group of its employees—the Capitol Police. It also dilutes the definition of a “professional” employee under the State Bargaining Act. For the following reasons, this Bill should be rejected.

Collective bargaining consists of negotiations between the employer and a group of employees to determine the conditions of employment of that group of employees. Managers working for the State of Connecticut represent management in the collective bargaining process. Managers are responsible for ensuring that the rights of the employees, as negotiated, are protected, while establishing the means and methods by which an agency carries out its mission. Labor and management usually have different goals which may result in conflict.

Conflicts often arise over the application and interpretation of the negotiated agreement. Managers must resolve these conflicts on a daily basis. These conflicts are resolved, most often, through compromise. This Bill would upset the balance between labor and management. If managers were allowed to bargain collectively, an enormous and inevitable conflict of interest would result. In any employment dispute, labor would control because the hierarchy of an agency would almost be entirely on the labor side of the table. In considering this Bill, a reflection on the history of SERA, specifically its managerial exclusion, is worth review.

In 1975, the General Assembly enacted the State Employees’ Relations Act (SERA) which, for the first time, gave state employees the right to collectively bargain the terms and conditions of employment. Under that recently enacted collective bargaining law, an organization filed a petition with the State Board of Labor Relations indicating its desire to

represent managers. That organization was called the State Management Association of Connecticut (SMAC). Through its petition, SMAC sought certification from the State Board of Labor Relations to be the exclusive representative of managers. The State objected to SMAC's petition, but the Board overruled the State's objection and ordered an election. In 1981, SMAC was certified as the representative of state managerial employees.

Within months of that election, the General Assembly passed legislation (Public Act 81-475), supported by both sides of the isle, which specifically excluded managers from SERA's coverage. A review of the legislative history of the 1981 General Assembly's deliberation of the managerial exclusion is instructive. It can probably be summarized by saying that the primary concern appeared to be ensuring that managers were available, without divided loyalty, to provide effective management of the various agencies. While this raised Bill excludes "Bureau Heads" from the collective bargaining process, it is unrealistic to expect that such a limited number would be able to ensure the effectiveness of an entire agency especially in light of the fact that supervisors currently have the right to collectively bargain.

The Connecticut General Assembly determined that managers should not have collective bargaining rights because of their unique status and purpose in the State service. The Connecticut Supreme Court outlined the contours of this distinction and status when it considered the State Labor Relations Act. The Court noted that:

A review of the legislative history of No. 81-457 of the 1981 Public Acts, the origin of General Statutes § 5-270(g) which excludes managerial employees, reveals that, in enacting the statute, the legislators were also concerned with efficiency in state government: "The purpose of [§ 5-270(g)] is to ensure that there are people available to act as managers for the state system to provide effective management of state government." 24 H.R. Proc., Pt. 24, 1981 Sess., p. 7874, remarks of Representative Gardner Wright. "It is important that we allow the state to deal with some system for being able to pick the people who will be classified as managers so that everyone knows what the responsibility is, what the assignments are and who has to take responsibility for action whether something is done correctly and can take credit or whether something is done badly and have to take the blame." 24 S. Proc., Pt. 17, 1981 Sess., p. 5624, remarks of Senator Marcella Fahey. Related to this legislative purpose was the concern for the security and safety of those people under the care of various state agencies in strike situations. ... If we do not exclude anyone and call anyone a manager, how do we operate? We all look to someone who is a

manager for the administrative functions. . . ." 24 S. Proc., Pt. 17, 1981 Sess., pp. 5623-24.<sup>1</sup>

These words are relevant to the instant matter, and this Legislature should also be just as concerned with efficiency of state government.

This country's labor movement originated as an interest group seeking to overcome the exploitation of workers caused by an unyielding and unrestrained exercise of employer power. Employee organizations sought to provide fairness and security for otherwise powerless individual employees. This Bill swings the pendulum too far and upsets the already delicate balance between labor and management that is absolutely essential for maintaining good employee relations. It uses an arbitrary numerical equation to reduce the number of managers who are in the position to make the decisions described in the above quote.

Using the most conservative estimates, the number of Bureau Heads, as set forth in the Bill would be 167 within the executive branch at this writing. We arrive at that number by using the mathematical equation provided based upon 33,574 full time permanent employees. It should be noted that there are a considerable number of part time employees that have to be managed by someone as well. Since the Bill ignores those employees, for purposes of this discussion, so will I. Thus, approximately 165 managers would be on management's side of the bargaining table and everyone else (more than 33,000 full time employees) would be unionized.

I refer to the figure as "arbitrary," because its rationale is not apparent. Thus, this arbitrary percentage limit on the number of Bureau Heads excluded from bargaining can only prove to be an inherent hot-bed of litigation. For example, if an agency was by operation of this Bill limited to six (6) Bureau Heads, but had eight (8) employees actually met the statutory definition, who then would the agency exclude? The employees who were denied the right to bargain because of their numerical arbitrary exclusion may challenge the exclusion on equal protection or similar grounds. These are issues that the private sector does not concern itself with because; only non-supervisory employees in the private sector have the right to organize. Supervisors and Managers manage.

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<sup>1</sup> Dept. of Admin. Services v. Employees' Review Board, 226 Conn. 670, 755-56 (1993).

Management in state government must contend with the issues that arise as a result of its supervisors often times occupying the same bargaining units as the employees they supervise. If managers are permitted to bargain collectively, they will regularly be faced with situations where their interests as a manager are in conflict with their interests as a bargaining unit member. Without managers who are free from such divided loyalties, the State management's effectiveness in collective bargaining will be substantially and severely limited. The State relies on managers for information vital to effective preparation and presentations in negotiations. Managers play key roles in interpreting and enforcing labor agreements. The Legislature should maintain the status quo of placing managers on the management side of the bargaining table and avoid the potential of divided loyalties.

As noted above, this Bill also purports to give bargaining rights to employees within the Office of the State Capitol Police and no other legislative employee. Many of the privileges and immunities currently afforded to their organized counterparts, such as the State Police and University Police, are already extended the Capitol State Police, such as hazardous duty retirement. The Bill exempts from coverage, all managers, except Bureau Heads, and employees in the Office of State Capitol Police above the rank of Lieutenant. It is curious that the law would exclude those supervisory personnel when there is a law suit currently in the Courts involving employees in the ranks of Captain and Lieutenant within the Division of the State Police. The State maintains that those personnel are managers, although not Bureau Heads under this definition, but absent said managers, there would only be a hand-full of personnel to manage the entire State Police force.

Finally, the Bill dilutes the definition of "professional," by including employees who have not achieved that status based upon the current definition that has stood the test of time. The definition of professional has served the State, Employee Organizations, and its employees well in excess of thirty years. There is no reason to blur the distinctions that the parties have come to understand and accept without question.

For the foregoing reasons, I humbly implore this esteemed Committee to reject this Bill that is simply fraught with problems.