

Connecticut General Assembly
Testimony Before the
Finance, Revenue and Bonding Committee

Council 4 AFSCME

Good morning Chairman Daily, Chairman Widlitz and members of the Finance, Revenue and Bonding Committee. My name is Peter Thor. I am the Director of Policy and Planning at Council 4 AFSCME, a union representing more than 35,000 employees throughout Connecticut.

I am here to address House Bill 6388, An Act Implementing the Governor's Recommendations Regarding the Office of Policy and Management and in particular proposed amendments to section 5-270, subsection (g) of the Connecticut General Statutes. We urge that this provision be stricken from the bill.

Currently, subsection (g) establishes a basis to determine whether a particular position is managerial and thus excluded from collective bargaining. It contains four criteria of which two must be met to be excluded. The bill before you would change that to a single criterion. It also removes a provision that requires that the fourth criterion must be one of the two for higher education employees. These amendments are ill advised.

Allowing a single criterion to be the basis of an exclusion may sound logical, but when the criteria are examined it becomes immediately apparent that is not the case. For example, criterion #3 is "participation in the formulation of agency policy." That could exclude an employee who participated in any agency policy – even a minor one – from collective bargaining even though the employee manages no one. The drafters of the current statute clearly saw this problem and required at least two criteria be met. The requirement, at least for some, that criterion #4 be one of the two makes sense as #4 directly addresses what we universally identify as the core duties of management: "staffing, hiring, firing, evaluation, promotion and training," as well as participation in collective bargaining itself. The State Board of Labor Relations, the agency responsible for interpreting this statute, agrees.

In a decision rendered in 2007 involving Division of State Police lieutenants and captains, the labor board found "easily" (to use their word) that criterion #4 did not apply as the positions in question had no authority over staffing, hiring, firing, discipline or promotion: The labor board went right to the core of what a manager really is. Then they turned to the three remaining criteria. In the course of their examination it becomes clear that those three criteria are almost subsets of the fourth.

The statute has been tested by litigation. It clearly works, if a rational conclusion is the goal. We respectfully urge you to not to repair what is not broken.

Thank you.