

Senate Bill #59

AN ACT CONCERNING STATE SERVICE RETIREMENT CREDIT
February 14, 2014

Mark DeCaprio written testimony

Dear Labor Committee Members,

Thank you for taking the time to hear and consider Senate Bill #59. I am requesting that legislation be created, supported and passed that would allow staff members who currently serve in the small group within DEP Emergency Response and Spill Prevention Division's Emergency Response Unit to be able to retain their hazardous duty retirement benefit when promoted into the Assistant Director or Director managerial positions.

I have worked for the Department of Environmental Protection's Emergency Spill Response program since 1986. Prior to working at DEP (now DEEP), I served in the US Navy Submarine Service and later attended undergraduate college at Eastern Connecticut State University where I studied biology & chemistry, and later graduated with a Master of Public Health from the University of Connecticut.

While serving at DEP, I came up through the ranks and was promoted into management as a "leadership apprentice" in 1998. I was the first and the last person to date from the Emergency Response program that had the hazardous duty retirement benefit to make this transition into management. Taking the above management position meant I had to give up the Tier 2 hazardous duty (HD) retirement benefit. I still took the promotion, as I thought I could better serve the agency and our state in this new position. With that said, and as a new manager, I believed that this request to retain the hazardous duty benefit would be given fair consideration for future inclusion and would be granted based on merit when considering the type of work that is done on a day to day basis.

Due to very small size of the ERU, which currently has two emergency response coordinator supervisors and ten emergency response coordinators, this unit reports directly to me and I often act in an on-site managerial and supervisory capacity responding as required. Due to attrition over the past 10+ years, the size of the ERU has shrunk by almost 50% since the mid 1990's. Also, since losing a significant number of staff due to this attrition, it has become necessary that I currently serve (and have the last ~ five years) in the after-hours ON-CALL roster as the ON-CALL Supervisor 20% of the time 24/7. It is the policy of the ERU that the ON-CALL Supervisor must also be ready to respond to any environmental emergency that might occur. Historically, managers from ERU have always served as backup supervisor / responder as needed, but the loss of personnel from attrition, this situation has really become exasperated.

Enclosed are three different letters from recent DEP Commissioners requesting these positions be included in hazardous duty retirement. The commissioners letters help describe the expectations placed on division managers in this small unit. Managers also authorize the spending from the state spill account for emergency response removals and cleanups as required. This is a critical point, in that, having knowledgeable individuals in these positions can help the state use these funds in the most efficient way, potentially saving thousands of dollars on a single incident. Also, succession of qualified trained employees is very important, because we want our most knowledgeable employees to represent the state and department during a crisis that could impact our state.

As already stated, non-managerial responder staff are all eligible for the hazardous duty retirement, the current situation poses a significant disincentive for staff to take on the managerial role because they cannot retain this benefit. In recent years, when there was an opening, no one from ERU even applied for the Assistant Director position because of this very issue. The fact that we have to have managers serving in a supervisory role, exposed to the same risks and hazards', doing the same necessary work, this is a matter that should be rectified. I am hopeful that legislation could be passed to correct this situation. It would be good for the moral of DEEP ERU staff that sacrifice so much 24/7, routinely take time away from their families, and work in very hazardous work areas and conditions to be able to have a path of advancement within the ranks to be tomorrow's leaders in the Emergency Response and Spill Prevention Division. Thank you for your time and consideration in this very significant operational matter.

Respectfully submitted,



Mark DeCaprio, MPH, RS
Director

DEEP Emergency Response and Spill Prevention Division—Emergency Response Unit

Enclosures:

- Letter from Commissioner Amey Marrella
- Letter from Commissioner Gina McCarthy
- Letter from Commissioner Arthur Rocque, Jr.
- Statement of Purpose MD testimony
- Supplemental Memo Fiscal Savings
- Office of Fiscal Analysis Prior 2008 HB5117
- Summary of Hazardous Duty Appendix

Senate Bill # 59

AN ACT CONCERNING STATE SERVICE RETIREMENT CREDIT

February 14, 2014

Supplemental Memo Fiscal Savings

Section 1. Attrition:

Since the mid 1990's, the following can be said if you consider the savings from attrition and subsequent reduction in 9 emergency response employees which have resulted in the following conservative estimated reduced unit costs:

9 employees x ~ \$60,000 salary/overtime = \$540,000 plus fringe benefits savings annually

Training / Health monitoring: \$1000 per employee = \$9000

Vehicle rental \$300x12mon.x9employees = \$32,400

Vehicle fuel/maint.: ~\$900x9 employees = \$8100

Section 1: Sub-total= \$589,000 (not including fridge benefits)

Section 2. On-call & Standby Readiness

Currently one manager serving on-call receives no standby pay (beeper pay) as is received by all other bargaining unit staff. If you consider the hours current manager is on-call, this is a savings is based on one dollar per hour and is **\$1388 per year savings to the state.** The other ~ 6800 hours of manager coverage after-hours coverage is free (~\$6000 annually) to the state, which includes backup coverage for the other two emergency supervisors along with necessary notifications to senior management and other state and federal agencies, including Department of Homeland Security officials.

Section 2: Sub-total ~ \$7,388

Section 3. Use of State Funds

Managers in this unit administer the Emergency Spill Account which has **thousands of dollars of state funds** which may be used to secure the services of emergency permitted cleanup contractors and vendors. Having knowledgeable individuals in these leadership positions **ensures this program and agency to expend these state funds wisely, reducing and eliminated waste.** Improvements to the contract with contractor vendors are ongoing.

Section 3: This section is also hard to quantify for savings \$ annually. Hundreds to thousands of dollars could be saved on one jobsite. We open the state fund between 100-200 times annually. Receive ~ 8000 calls per year and physically respond to about 20% of this number.

Respectfully submitted,

Mark DeCaprio, MPH, RS
Division Director

DEEP Emergency Response and Spill Prevention Division—Emergency Response Unit

Senate Bill #59

February 18, 2014

Mark DeCaprio testimony cont.

Statement of Purpose:

To allow for employees serving in the DEEP ERU to maintain their hazardous duty retirement credit when promoted to either the assistant director or director of the Department of Energy & Environmental Protection Emergency Response and Spill Prevention Division. This act will improve and ensure that a higher number of qualified employees are retained in this critical statewide emergency response unit. **Employee retention and succession planning** are two important outcomes of this legislation.

Note: This is the response team that would respond to an incident like the one that recently occurred with 4-methylcyclohexane methanol on Jan. 9, 2014 in the **Elk River in Charleston, West Virginia**. This incident that leaked an estimated 10,000 gallons of chemical caused a major statewide disruption with **environmental, public health and public safety** concerns.

Challenge: Currently, any employees promoted into either of these managerial positions must switch out of hazardous duty retirement and go to normal retirement. This situation has caused numerous very qualified employees not to even consider these positions thereby not apply for promotion opportunities within the unit. In other words, the current situation has created a employee retention and succession disincentive within this work unit.

Historical brief:

Three recent DEP commissioners (**letters in packet**) had each requested formally to DAS OPM three different times add these positions administratively, along with two prior legislative initiatives (2008: HB5117 and 2010: HB5203).

The ER unit manager's duties are very similar to that of a fire chief but also currently provides direct after hour's response supervisory coverage **20% of time**, which equates to being on call nights, weekends, holidays 24/7 ~ **73 days / year**. This coverage has been performed by current director in this fashion for the last 5 years.

Cost Savings:

The one affected employee (director) does not receive beeper pay, and when considering the above time on-call, this is a **savings to the state of \$1388 year**. Currently, this employee is available 24/7/365 providing **free to the state** back up coverage for supervisors / responders in the event illness or if a large scale chemical or biological emergency occurs, **this standby coverage equates to another savings of ~ \$6000 a year**.

Last 15 years the Emergency Response Unit has shrunk by attrition by ~40% with a savings to the state just from salaries of greater than \$600,000 annually. To ensure proper response DEEP has needed to use the only qualified manager for coverage due to this loss of personnel.



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



79 ELM STREET HARTFORD, CT 06106-5127

PHONE: 860-424-3001

Gina McCarthy
Commissioner

May 26, 2006

Linda Yelmini
Commissioner
Department of Administrative Services
State Office Building
165 Capitol Avenue
Hartford, CT 06106

Dear Commissioner Yelmini:

In 1998, the Department of Environmental Protection (DEP) submitted a request to the Department of Administrative Services (DAS) that the positions of Assistant Director and Director of the Oil and Chemical Spill Response Division, since renamed the Emergency Response and Spill Prevention Division (ERSPD) of the Bureau of Waste Management be included in the Hazardous Duty Retirement Program. Unfortunately, this request to include these two management positions in the program was never granted. I write today asking you to reconsider that request based on the following justification.

The DEP ERSPD's Emergency Response Unit (ERU) operates in the same fashion as a fire department and responds to all types of environmental and public health emergencies involving accidental and sometimes deliberate releases of hazardous chemicals, oil, sewage, biological agents and weapons of mass destruction. Members of this unit are on call twenty-four hours per day, seven days per week. Since the Early Retirement Incentive Program in 2003, this division has been operating without an Assistant Director, and we have only recently filled that position.

Due to the public health implications and the potential environmental impacts, it is not unusual for this division's response to an emergency to require the on-site presence of a division manager. On many of the larger, more significant incidents described below, it is my expectation that a member of management will be on-scene for such incidents to serve as state on-scene coordinator or state incident commander. More recent incidents of this type include the explosion and chemical release that resulted at the Pfizer facility, the I-95 overpass fire in Bridgeport, the chemical fire that occurred at Naamco in Manchester, the mill fire in Plainfield, the gasoline tanker on RT8 in Ridgefield and the barge spill of gasoline into New Haven Harbor. These are the types of incidents that can disrupt an entire region and have statewide significance and interest.

At times managers must perform on-site supervisory duties including when supervisors are unavailable (e.g., illness, scheduled time off, responding to another incident), when the magnitude of the incident warrants it, and there is a need to communicate face-to-face with other state, federal or regional agencies.

Over the last two years, the state has taken significant steps to improve its homeland security capability and managers in DEP's ERU have helped with these initiatives both in the planning phases and with the actual response to incidents that have occurred in the state. At times, the urgency of a situation demands that communication with the highest levels of the division take place at the site in order to ensure that public health, safety and the environment are adequately protected. In addition, the managers of this division often assume the incident command role for significant emergencies.

In light of the need to have managers from this division actively involved in the major incidents throughout the state, these managers continue to be certified as Hazmat Technicians and Incident Commanders so that their actions, and the overall response, can be carried out safely and in conformance with all applicable OSHA requirements. Their safety, and the safety of others, often depends on that training.

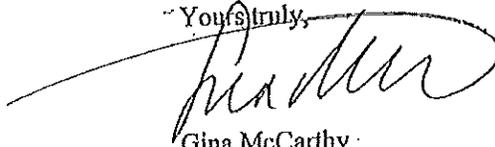
In addition to the above response related reasons for this request, there is another important factor to consider -- management succession in the division. The non-managerial members of the ERU are all eligible for considerable overtime in addition to the hazardous duty retirement, neither of which is available to the managers. Without at least the assurance that they would have the benefit of that retirement plan, no one from this program would have any reason to apply for the managerial positions, virtually eliminating a pool of internal candidates, including some highly qualified staff.

Granting this request would also create equity between the ERSFD ERU and our Law Enforcement Division, whose Director and four Captains have been included in the Hazardous Duty Retirement program. The managers in this division, much like the law enforcement personnel in the department, are often put in dangerous, sometimes life-threatening situations. However, they perform their jobs professionally, accepting the risks that they cannot control without question.

Lastly, I should mention that managers in this Division are responsible for oversight of spending on emergency cleanups and removals and we rely heavily on the individual's field emergency response experience to ensure that we utilize these state funds wisely. Currently, the director has a response background and understands what expenditures are necessary. It is this kind of experience that can save the taxpayers of Connecticut thousands of dollars on one removal operation. A recent case in point is the Plainfield InterRoyal Mill site that OPM and DEP have worked on together with EPA Region 1 and local officials.

I would ask that we work together to expeditiously include the positions of Director and Assistant Director of DEP's Emergency Response and Spill Prevention Division in the Hazardous Duty Retirement Program. I believe these positions entail critical skills that place these employees in situations of considerable risk and it is more than appropriate to offer this benefit. I have given considerable thought to the appropriate eligibility criteria that would distinguish these positions; a draft list is attached for your consideration. Please let me know if you would like any other information to support this request and I thank you in advance for your efforts to help us resolve this matter.

Yours truly,



Gina McCarthy
Commissioner

GM/mf



CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION
79 ELM STREET
HARTFORD, CT 06106

**BUREAU OF WASTE MANAGEMENT
EMERGENCY RESPONSE AND SPILL PREVENTION DIVISION**

Date: April 3, 2006

Subject: DRAFT Criteria for Hazardous Duty Retirement Program

This request applies to ONLY those managerial members that have direct oversight of emergency operations of the DEP Emergency Response Unit. Non-bargaining unit or managerial members considered for this benefit will have or perform all of the following in order to be considered for inclusion into this program:

Individuals shall have direct oversight of emergency response field operations

Individuals shall have a minimum of 10 years credit in a hazardous duty position.

Individuals shall participate in the required medical monitoring program and shall maintain all necessary training qualifications.

Individuals shall respond to incident sites as required by senior management to perform any of the necessary response or coordination functions that are required to successfully manage the incident.



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



December 28, 2009

The Honorable Brenda Sisco
Commissioner
Department of Administrative Services
State Office Building
165 Capitol Avenue
Hartford, CT 06106

Dear Commissioner Sisco,

In 1998 and 2006 DEP Commissioners Arthur Rocque and Gina McCarthy requested DAS consider the positions of Assistant Director and Director of the Oil and Chemical Spill Response Division, since renamed the Emergency Response and Spill Prevention Division (ERSPD), be included in the Hazardous Duty Retirement Program. Unfortunately, both prior DEP Commissioner requests for these positions to be included in the above program were not granted. I am requesting this matter be reviewed again, considering the following justification. To clarify further, I am requesting employees, who are promoted into ERSPD management positions from the DEP's emergency response program, be granted the option to maintain the same retirement benefit they had while serving in their staff positions.

The DEP ERSPD's Emergency Response Unit (ERU) is charged with protecting the general public and the environment in the event of emergencies resulting from the discharge, spillage, uncontrolled loss, seepage or filtration of substances, hazardous materials or materials or wastes and responds to all types of environmental and public health emergencies involving accidental and sometimes deliberate releases of hazardous chemicals, oil, sewage, biological agents up to and including those materials used for weapons of mass destruction. Members of this unit have specialized training and expertise and provided a key role and a critical public safety - homeland security service for our state. This small unit has its members on call 24/7, 365 days a year.

Historically and currently, managers from this program have had emergency response site involvement for the more serious or complex incidents that have occurred in Connecticut. These managers have also responded as needed for other types of incidents due to manpower issues. Over the last years this specialized unit of emergency responders has shrunk down to almost half the size it was since the mid-1990s. Since the Retirement Incentive Program this year, the ERU is operating with even less resources and the division director that directly oversees this program is performing supervisory and response duties during and after normal business hours. It has also become necessary that the ERSPD director serve on the unit's afterhour's on-call rotation schedule and routinely fill in for the emergency response supervisors that cannot work due to illness or some other reason. The division director continues to be certified as a Hazardous Materials Technician and Incident Commander so that our actions and overall responses are carried out safely and in conformance with applicable OSHA safety requirements.

The manager positions are not merely administrative in nature. As noted herein, direct involvement by ERU managers is fairly routine and on-site response activities can range from several times a month to more frequently depending on staff availability. Similar to our Law Enforcement Division director position (which is eligible for hazardous duty benefits), the ERU director has been and continues to be on

the front line for hazardous material emergencies with all the associated hazards and I feel that it is appropriate to allow members that are promoted from the ERU to managerial positions to have the option to retain this benefit.

It is also worth mentioning that management succession in the division is likely to be adversely affected by the inability to participate in the Hazardous Duty Retirement program. The managers in the ERU have typically come up through the ranks and we have been fortunate to have longevity in our ERU management. But based on informal discussions with ERU staff, these individuals are not interested in these managerial positions because of the fact they will have to leave the Hazardous Duty Retirement program. Leaving the situation unchanged as it is virtually eliminates a pool of qualified staff with the hands-on field experience that we really want for these positions in the future.

One of my last points is that as you are aware, Connecticut continues to strive to improve its homeland security capability and the director of the ERU has been an active in this effort. The director has been a valuable resource in the planning and exercise process along with providing support and participation for actual emergency incidents that have occurred. Past and current Department of Emergency Management and Homeland Security (DEMHS) commissioners could verify that this individual plays a valuable role for homeland security and for the protection of our citizens.

In conclusion, I am requesting that serious consideration be given for the inclusion of both BRSPD management positions into this retirement program. This action would allow emergency responder staff that might consider promotion in the division to retain and maintain their retirement benefit. Utilizing some form of the suggested guidelines submitted to DAS by Commissioner McCarthy with her 2006 letter (see enclosed) might be one approach that will allow us to do this. I believe the attachment sent by Commissioner McCarthy provides reasonable criteria and addresses prior concerns that have been raised by your department. I believe granting this request will not only be good for positive succession of outstanding employees, but also will potentially save our state tax dollars because we will have experienced knowledgeable individuals in these leadership positions that also routinely make significant financial decisions for site activities. If you find that you are unable to grant inclusion for both positions at this time, I would urge that we at least include the current director in this program as he continues to do this necessary work for the state. Please let me know if we can provide you with any additional information or answer any questions regarding this request. Thank you for your consideration.

Yours truly,



Amy Marrella,
Commissioner

AM:md

Enclosures: -



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



December 24, 1998

Barbara Waters, Commissioner
Department of Administrative Services
165 Capitol Avenue
Hartford, CT 06106

Dear Commissioner Waters,

I am writing to request that the Assistant Director and Director of the DEP Waste Management Bureau's Oil and Chemical Spill Response Division (OCSR) be included in the Hazardous Duty Retirement Program. At this time, only the bargaining unit staff assigned to the division are authorized to receive hazardous duty retirement benefits.

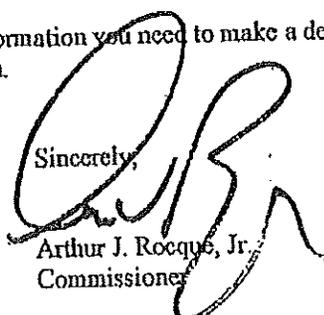
The division is composed of Emergency Response Coordinators who all participate in the Hazardous Duty Retirement Program. Including both the OCSR Director and Assistant Director would create agency consistency both within the division and with the Director of the DEP Law Enforcement Division, which was recently made eligible for hazardous duty retirement benefits.

The OCSR operates in a similar fashion to a fire department. Personnel from this division respond to all of the many types of spill emergencies, wear chemical protective equipment and clothing, fire fighting clothing, and are the front line for the State Of Connecticut for all hazardous material emergencies. Our managers in this division assume the incident command role on large spill emergencies.

It is my feeling that the managers serving in this division should be eligible for this benefit and should be given the same consideration as other classifications listed in Management personnel Policy No. 89-3. In this Department, our directors and assistant directors are assigned E.P. Division Director and E.P. Assistant Division Director generic classifications. In the case of the Director of Law Enforcement, inclusion in the Hazardous Duty Retirement Program was granted only to the E.P. Division Director serving in the capacity of Director of Law Enforcement. I would recommend and request that the same approach be applied to the Assistant Director and Director positions for the DEP's OCSR.

We will be happy to provide you with any additional information you need to make a determination regarding this request. Thank you for your consideration.

Sincerely,


Arthur J. Rocque, Jr.
Commissioner

AJR/md

Enclosure

MANAGEMENT PERSONNEL POLICY NO. 89-3 (REVISED)

DATE: April 2, 1991
TO: AGENCY HEADS
FROM: Raymond A. Meany, Deputy Commissioner
Bureau of Personnel and Labor Relations
SUBJECT: Hazardous Duty Retirement

In accordance with Connecticut General Statute 5-200(r), the Commissioner of Administrative Services with the approval of the Secretary of the Office of Policy and Management approves the following classes as eligible for Hazardous Duty Retirement under the State Employees Retirement Act, effective March 27, 1991:

- Criminal Justice Chief Inspector
- Capitol Police Officer
- Senior Capitol Police Officer
- Supervising Capitol Police Officer
- State University Director of Public Safety
- Assistant Vice President for Public Safety
- * Executive Director of Public Safety
- * Director of Police Services and Administration and Chief of Police
- Mental Health Director of Safety and Security
- Police Lieutenants
- Children and Youth Services Superintendent (Long Lane)
- Children and Youth Services Assistant Superintendent (Long Lane)
- * Children and Youth Services Superintendent 2 (Long Lane)
- State School Principal 2 (Long Lane)
- State School Principal 1 (Long Lane)
- Director of Nursing (Long Lane)
- Associate Director of Police Services (University of Connecticut)
- Director of Emergency Services and Chief of Fire Department,
(University of Connecticut).
- Director of Public Safety (University of Connecticut)
- * Juvenile Detention Supervisor
- * Juvenile Detention Assistant Supervisor

* The 5 (five) additional non-bargaining/unit classes added to the Hazardous Duty Retirement provisions of the State Employees Retirement Act.