

Senate Bill # 439

An Act Concerning State Service Retirement Credit
February 25, 2015

Mark DeCaprio written testimony.

Dear Labor Committee Members,

Thank you for taking the time to hear and consider Senate Bill #439. The main purpose of this bill is to allow members of the DEEP Emergency Response and Spill Prevention Division's Emergency Response Unit (ERU) to be able to retain their hazardous duty retirement when promoted to either the Assistant Director or Director managerial positions. Passage of this bill will ensure that a higher number of qualified employees are retained in this critical statewide emergency response program.

Division Manager Activities and Duties include:

- The manager's duties have similarities to that of a fire chief, overseeing and directing on site operations in the larger more complex hazardous material release emergency incidents.
- Authorize expenditures of state emergency spill funds and other state or contractual resources for emergency site mitigation, public safety and critical environmental protection concerns.
- Routinely provide backup emergency response supervisor coverage 24/7 as required.
- Actively serving as on-call supervisor in the afterhours 24/7 on call response team (including nights, weekends & holidays), which has been done for the last 6 years due to shrinking staff resources. ERU has shrunk by almost 50% since the mid 1990's down to a current staffing level of 13 members for statewide 24/7 response coverage.
- Utilize emergency response experience to help protect Connecticut citizenry from petroleum, chemical & biological release incidents or other industrial / transportation type accidents.
- Utilize experience for public safety from deliberate Homeland Security threats.
- Manage and supervise the ERU which has all its members in the Hazardous Duty program.

Current policy on this matter acts as a significant disincentive for employee retention and succession for qualified emergency response personnel. The result of this situation is that division staff do not desire to seek promotional opportunities in the unit / division and are leaving state service for other opportunities.

Please refer to the attached three letters below that were sent to DAS from prior DEP commissioners (Amey Marrella, Gina McCarthy & Arthur Rocque) requesting these positions be allowed to be included in the Hazardous Duty Retirement program. These letters help frame and further explain this matter from the department's perspective.

These three formal administrative requests by DEP had all been denied by DAS in the past as they had indicated that this retirement program is reserved for law enforcement and correction officials. After a cursory look at the Hazardous Duty Appendix, I found there is approximately 68 managerial job classification titles in this program today. The Hazardous Duty Appendix document can be viewed on the DAS Website at: <http://www.osc.state.ct.us/rbsd/hazduty/classitle.asp>.

I am hopeful this current situation can be changed through this legislative effort. Thank you for your time and consideration in very significant operational matter.

Respectfully submitted,



Mark DeCaprio, MPH, RS
Director, Emergency Response and Spill Prevention- Emergency Response Unit

Enclosures:

Letter DEP Commissioner Marrella
Letter DEP Commissioner McCarthy
Letter DEP Commissioner Rocque



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 Rooque 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 provide 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



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.

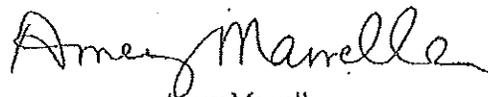
the front line for hazardous material emergencies with all the associated hazards and I feel that it is appropriate to allow members that are promoted from the ERU to managerial positions to have the option to retain this benefit.

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,


Ainey Marrella,
Commissioner

AM:md

Enclosures:

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.

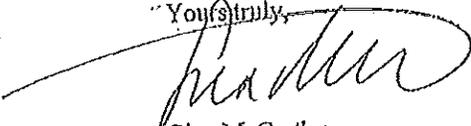
In addition to the above response related reasons for this request, there is another important factor to consider – management succession in the division. The non-managerial members of the ERU are all eligible for considerable overtime in addition to the hazardous duty retirement, neither of which is 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 ERSPD 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 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 (OCSRSD) 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.

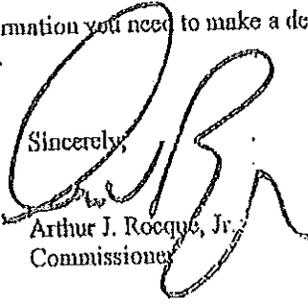
The division is composed of Emergency Response Coordinators who all participate in the Hazardous Duty Retirement Program. Including both the OCSRSD Director and Assistant Director would create agency consistency both within the division and with the Director of the DEP Law Enforcement Division, which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

The OCSRSD 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 OCSRSD.

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.