
OLR Bill Analysis

HB 5315

AN ACT CONCERNING RAILS.

SUMMARY

This bill allows the Central New England Railroad Company (CNERC) to establish a railroad police department (see COMMENT). It requires CNERC police to be certified as police officers by the Police Officer Standards and Training Council. The bill also authorizes CNERC police to enforce the laws of any jurisdiction in which CNERC owns or leases property to protect:

1. the company's employees, passengers, and patrons;
2. property, equipment, and facilities that the company owns, leases, operates, or maintains;
3. property being transported in interstate or foreign commerce by the company; and
4. personnel, equipment, and material being transported by rail that are vital to national defense.

Under existing law, certain corporate entities involved in transportation, including railroad companies like CNERC, may employ police to work on the property they use, own, or control, subject to the Department of Emergency Services and Public Protection (DESPP) commissioner's authorization. The commissioner must notify the superior court clerk for each judicial district in which the police will work each time an authorization is issued or revoked.

It is not clear (1) how the CNERC railroad police department will be structured and administered, (2) whether the CNERC department is subject to the existing legal requirements that apply to other types of police departments, (3) whether CNERC must obtain authorization

from the DESPP commissioner consistent with existing law, and (4) whether the authority of CNERC police to enforce the laws of any jurisdiction in which the company owns or leases property applies to all possible jurisdictions (e.g., local, state, federal).

EFFECTIVE DATE: October 1, 2018

COMMENT

Public Emolument

The bill could be vulnerable to a legal challenge on the grounds that granting only CNERC the authority to establish a railroad police department violates the Connecticut Constitution's prohibition against exclusive public emoluments. Article First, Section 1 of the state constitution provides: "All men when they form a social compact, are equal in rights; and no man or set of men are entitled to exclusive public emoluments or privileges from the community." The Connecticut Supreme Court has held that this constitutional provision invalidates state laws that grant personal gain or advantage to an individual unless there is a legitimate public purpose (See, e.g., *Kelly v. Univ. of Connecticut Health Ctr.*, 290 Conn. 245 (2009); *Kinney v. State*, 285 Conn. 700 (2008)).

COMMITTEE ACTION

Transportation Committee

Joint Favorable

Yea 35 Nay 0 (03/23/2018)