



House of Representatives

General Assembly

File No. 364

February Session, 2018

House Bill No. 5315

House of Representatives, April 10, 2018

The Committee on Transportation reported through REP. GUERRERA of the 29th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING RAILS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-19 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2018*):

3 (a) The Commissioner of Emergency Services and Public Protection
4 may, upon the application of any electric distribution, gas, telephone
5 or water company owning, leasing, maintaining, managing or
6 controlling any property, plant or equipment in this state, commission,
7 during his pleasure, one or more persons designated by such company
8 who, having been sworn, may act at the expense of such company as
9 policemen upon the premises used or occupied by such company in its
10 business, or upon any highway adjacent to such premises, for the
11 proper protection of such plant or property, and each policeman so
12 appointed may arrest and take before some proper authority any
13 person in his precinct for any offense committed therein. Said
14 commissioner may exercise such supervision and direction over any
15 policeman appointed as herein provided as he deems necessary. When

16 any such commission is issued or revoked, said commissioner shall
17 notify the clerk of the superior court for each judicial district in which
18 it is intended that such policeman shall act.

19 (b) Said commissioner may, upon application of any railroad,
20 express company or steamboat company, engaged in the business of
21 transportation in this state, or upon the application of any corporation
22 owning or having control of the roads in any private residence park,
23 commission, during his pleasure, one or more persons designated by
24 such company or by such corporation, who, having been sworn, may
25 act, at the expense of such company or corporation, as policemen upon
26 the premises used by such company in its business, or upon its cars or
27 vessels, or upon the roads and land owned by or under the control of
28 such corporation, and each policeman so appointed may arrest and
29 take before some proper authority any person in his precinct for any
30 offense committed therein. When any such commission is issued or
31 revoked, said commissioner shall notify the clerk of the superior court
32 for each judicial district in which it is intended that such policeman
33 shall act. Each such policeman shall, when on duty, wear in plain view
34 a shield bearing the words "railroad police", "steamboat police",
35 "express company police" or "special police", as the case may be, and
36 the name of the company for which he is commissioned.

37 (c) Central New England Railroad Company may establish a
38 railroad police department. A policeman who is employed by said
39 company shall be certified as a police officer by the Police Officer
40 Standards and Training Council pursuant to sections 7-294a to 7-294e,
41 inclusive. Such policeman may enforce the laws of any jurisdiction in
42 which the Central New England Railroad Company owns or leases
43 property to protect (1) employees, passengers or patrons of the
44 company; (2) property, equipment and facilities owned, leased,
45 operated or maintained by the company; (3) property moving in
46 interstate or foreign commerce in the possession of the company; and
47 (4) personnel, equipment and material moving by rail that are vital to
48 national defense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	29-19

TRA *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

There is no fiscal impact resulting from the bill, which authorizes the Central New England Railroad Company to establish a police department and hire officers certified by the Police Officers Standards and Training Council.

The Out Years***State Impact:*** None***Municipal Impact:*** None

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)