
OLR Bill Analysis

sHB 5441

AN ACT ADOPTING THE RECOMMENDATIONS OF THE TASK FORCE TO STUDY THE STATE WORKFORCE AND RETIRING EMPLOYEES.

SUMMARY

This bill makes various changes in the laws concerning state employees.

For state employees who are not covered by collective bargaining agreements (i.e., “nonunion employees”), the bill:

1. requires nonunion executive or judicial branch employees to receive at least the same wages as those granted to employees covered by collective bargaining agreements (§ 5);
2. broadens the range of state employees who may collectively bargain by tightening the definition of “managerial employee” (i.e., those who may not collectively bargain) (§ 6); and
3. repeals a law that allows nonunion state employees to be charged more for their health insurance premiums than employees covered by collective bargaining agreements (§ 9).

The bill also requires each state agency to (1) fill all open positions to levels appropriated in the 2022-2023 biennial budget and (2) adopt continuous recruitment practices to fill critical shortage positions, as appropriated in the 2022-2023 biennial budget, with no approval from the Department of Administrative Services (DAS) or Office of Policy and Management (OPM) needed to fill them (§ 7). (The bill does not define “critical shortage position.”)

It creates a chief diversity, equity, and inclusion officer position and an Equity Advisory Committee to monitor certain recruitment goals (§ 3).

Lastly, the bill sets various study and analysis requirements related to, among other things, state employee retirements, retention rates, diversity, and training programs (§§ 1-4 & 8).

EFFECTIVE DATE: Upon passage, except that provisions on (1) state managers and nonunion wages are effective July 1, 2022, and (2) health insurance premiums are effective October 1, 2022.

§§ 5, 6 & 9 — NONUNION STATE EMPLOYEES

Wages (§ 5)

Current law requires the DAS commissioner to issue orders that grant nonunion executive or judicial branch employees at least the same rights and benefits as those granted to employees covered under collective bargaining agreements. The bill requires that the orders also grant these nonunion employees the same wages (presumably, wage increases), with movement within salary ranges, as those granted to employees under the agreements.

Current law similarly allows (but does not require) the board of trustees of any constituent unit of the state higher education system to issue orders that grant its nonunion employees the same rights and benefits as those granted to its employees covered under a prevailing bargaining unit contract. The bill expands this authority to also allow granting nonunion employees the same wages as those employees.

The bill also removes a provision that (1) subjects these orders to approval by the OPM secretary and (2) requires the secretary to forward a copy of the order to the Labor and Public Employees Committee if it conflicts with any state statute. Under current law and the bill, if these orders conflict with a state statute, the order prevails.

State Managers (§ 6)

The bill broadens the range of state employees who may collectively bargain by tightening the criteria used to determine whether an employee is a “managerial employee” who, by law, cannot collectively bargain. To be considered a managerial employee under current law, the principal functions of an employee’s position must involve at least

two of the following four responsibilities:

1. directing a subunit or facility of a major division of an agency or assignment to an agency head's staff;
2. developing, implementing, and evaluating goals and objectives consistent with agency mission or policy;
3. participating in formulating agency policy; or
4. having a major role in administering collective bargaining agreements or major personnel decisions, or both, including staffing, hiring, firing, evaluating, promoting, and training employees.

To be considered a managerial employee under the bill, an employee instead must play a major role in administering collective bargaining agreements or major personnel decisions (number four above), plus have one of the other three responsibilities. Current law, unchanged by the bill, uses these same criteria to determine managerial employee positions in the state's higher education system.

Health Insurance (§ 9)

The bill repeals a statute that allows the DAS commissioner and OPM secretary to require nonunion state employees to pay health insurance premiums of up to 18% of the total premium. Existing law, unchanged by the bill, otherwise requires that (1) nonunion executive and judicial branch employees receive benefits that are at least equal to those provided under unionized employees' CBAs and (2) legislative employees and elected state officials receive the same benefits provided under unionized employees' CBAs (CGS § 5-200).

§ 3 — DIVERSITY POSITIONS

Chief Diversity, Equity, and Inclusion Officer

The bill establishes the chief diversity, equity, and inclusion officer position to oversee a transformative hiring process in state government. The officer must be appointed by the governor, with legislative approval, and report to the governor and the Equity Advisory

Committee established by the bill. (It is unclear how the officer could report to two separate entities and “transformative” is not defined in the bill.)

Equity Advisory Committee

The bill establishes the Equity Advisory Committee and charges it with monitoring whether the bill’s diversity assessment goals (see below) are being met by state agencies (the bill does not specify where the committee is administratively housed).

Under the bill, the 11-member committee consists of seven members appointed by representatives of each constituent union in the State Employee Bargaining Agent Coalition (SEBAC), and four other members appointed from the current Task Force to Study the State Workforce and Retiring Employees. (However, this task force terminated upon submitting its final report to the legislature on February 6, 2022.)

Of the four members appointed from the task force, one must be appointed by each chairperson (presumably, of the task force), and one must be appointed by each ranking member. (It is unclear who must make the ranking member appointments, as the task force did not have ranking members. By law, its members included the four ranking members of the Labor and Public Employees and Government Administration and Elections committees.)

Under the bill, the chairpersons of the Labor and Public Employees Committee must appoint the Equity Advisory Committee’s chairpersons. The committee must meet as required by its chairpersons, and the Labor and Public Employees Committee’s administrative staff serve as its administrative staff.

§§ 1-4 & 8 — STUDY & ANALYSIS REQUIREMENTS

Retirements (§ 1)

The bill requires the state comptroller (or her designee) and the representatives of each SEBAC constituent union to estimate how many state employees are expected to retire in each position at each state

agency, including all three branches of government and the higher education system. (The bill does not specify a deadline for them to do so, a timeframe that the estimate must cover, or what must be done with the results.)

Retention Rates (§ 1)

The bill requires each state agency commissioner to analyze the agency's employee retention rates and compare it to the state's year-to-year data and findings in the "The State of Connecticut Workforce: An Analysis of Representation and Compensation Equity Across Gender and Race-Ethnicity" report (see BACKGROUND). The agencies must then jointly report their findings to the governor, the Labor and Public Employees Committee, and chief diversity, equity and inclusion officer, which the bill creates. (The bill does not specify a deadline for them to do so, or the frequency with which it must be done.)

Exit Survey (§ 1)

The bill also requires the human resources (HR) departments across all branches of state government, encompassing all state agencies, to develop a universal exit survey with specific data points to help inform an overall view of the state's workplace conditions. The HR departments must (1) develop, distribute, and collect the surveys; (2) analyze the survey results; and (3) report to the chief diversity, equity, and inclusion officer. (The bill does not specify an entity to grant final approval for the survey or what specific data points must be included in it. It also does not specify a deadline for these actions or the frequency with which they must be done.)

Position Replacement (§ 2)

The bill requires the commissioner of each state agency to formally engage in a strategic plan to examine the (1) positions and position types that they recommend be refilled; (2) positions they recommend be replaced with a different type of position because the function has changed; and (3) positions they recommend be replaced with a different position because the need has changed, based on the agency's current needs, workforce capacity, and ability. (The bill does not specify what the plan must consist of or a deadline for this to occur.)

Under the bill, the above process must involve representative of each SEBAC constituent union under the SEBAC agreement's savings and transformation provisions.

Diversity Review & Assessment (§ 3)

The bill requires the commissioner of each state agency to address its diversity needs by reviewing "The State of Connecticut Workforce: An Analysis of Representation and Compensation Equity Across Gender and Race-Ethnicity" and assessing the agency. They must use the assessment to determine where action plans may be needed to address any racial or gender disparities, including a review of recruitment strategies.

The assessment must at least include the agency's (1) success over the past five years in recruiting and retaining women and people of color into various positions and (2) plan for achieving an appropriate and fair balance in replacing vacancies left by retiring employees. The assessments must be submitted to the governor, legislature, and the chief diversity, equity, and inclusion officer within three months after the assessments start. (The bill does not specify a deadline by which the assessments must start or how often they must be done.)

Training Programs (§ 4)

The bill requires each state agency commissioner to provide (1) a list of the agency's current training and professional development programs; (2) the extent of employee engagement in those programs over the previous three years, including the number of employees who enrolled and completed the programs; and (3) a description of the agency's plans to create or increase engagement in the programs in the near future.

The bill also requires the Department of Labor (DOL) to provide a list of existing career pathway programs modeled after other federal and state programs that encourage the training-to-workforce or college-to-workforce transition for a range of state employee classes and positions. These must include high school-to-career programs, vocational-technical school pathways, internships, and post-graduate fellowships.

The list must also include the participating agencies and number of people involved in the programs.

In addition, the bill requires the DAS commissioner to study the feasibility of developing a paid internship program for high school and college students. In conducting the study, she may consult with community advocates and leaders of nonprofit agencies.

(In all three cases, the bill does not specify to whom the applicable commissioner must give the specified information, a deadline by which it must be done, or how often it must be done.)

Retirement Deadline (§ 8)

Under the current agreement between the state and SEBAC, state employees who retire after July 1, 2022, will no longer have a minimum annual cost of living adjustment to their pension benefit, and those who are not covered by Medicare will have to pay a higher health insurance premium share.

The bill requires the OPM secretary to consult with SEBAC to:

1. allow all employees to continue working beyond July 1, 2022, without the applicable cost of living adjustment or retiree health care changes, until one month after their replacement has been hired, to train and transition the new employee in the position, and
2. reduce the retirement incentive caused by the 2022 changes in a way that would not materially decrease the savings attributable to those changes.

BACKGROUND

The State of Connecticut Workforce: An Analysis of Representation and Compensation Equity Across Gender and Race-Ethnicity

The Governor’s Council on Women and Girls issued “The State of – Connecticut Workforce: An Analysis of Representation and Compensation Equity Across Gender and Race-Ethnicity” in July 2019.

The report reviewed data on approximately 32,693 executive branch employees to identify any disparities in representation and compensation across gender and racial-ethnic identities.

Related Bills

sSB 419, reported favorably by the Labor and Public Employees Committee, establishes the “state employee training account” to provide funds for state employee career development programs and initiatives.

SB 420, reported favorably by the Labor and Public Employees Committee, establishes an Office of the Racial Justice Ombudsperson and charges it with, among other things, (1) implementing an initiative that requires that certain minorities be prioritized for interviews for state employee positions and (2) submitting a plan for eliminating systemic racism in state government.

HB 5445, reported favorably by the Labor and Public Employees Committee, requires the commissioners of each state agency and superintendent of the technical high school system to automatically refill all vacant positions.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/24/2022)