



# House of Representatives

General Assembly

**File No. 418**

February Session, 2022

Substitute House Bill No. 5441

*House of Representatives, April 12, 2022*

The Committee on Labor and Public Employees reported through REP. PORTER of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

1 Section 1. (NEW) (*Effective from passage*) (a) The State Comptroller, or  
2 the State Comptroller's designee, and the representatives of each State  
3 Employee Bargaining Agent Coalition constituent union shall conduct  
4 an estimate of the number of state employees who are expected to retire  
5 in each position type at each state agency, including each agency that is  
6 part of the executive, legislative or judicial branch and the higher  
7 education system.

8 (b) The commissioner of each state agency shall conduct an analysis  
9 of employee retention rates within the commissioner's agency. Such  
10 analysis shall be compared to the state's year-to-year data as well as the  
11 findings in the report entitled "The State of Connecticut Workforce: An  
12 Analysis of Representation and Compensation Equity Across Gender

13 and Race-Ethnicity". Such agencies shall jointly report their analysis to  
14 the Governor, the joint standing committee of the General Assembly  
15 having cognizance of matters relating to public employees and the Chief  
16 Diversity, Equity and Inclusion Officer, as established in section 3 of this  
17 act.

18 (c) The human resources departments across all branches of state  
19 government, therefore encompassing all state agencies, shall develop a  
20 universal exit survey with specific data points to help inform an overall  
21 view of the state's workplace conditions. Such surveys shall be  
22 developed, distributed and collected by agency human resources  
23 departments which shall analyze the results of the surveys and report  
24 to the Chief Diversity, Equity and Inclusion Officer.

25 Sec. 2. (NEW) (*Effective from passage*) (a) The commissioners of each  
26 state agency shall formally engage in a strategic plan to examine: (1) The  
27 positions and position types they recommend to be replaced as they are;  
28 (2) the positions they recommend be replaced with a different type of  
29 position because the function has changed; and (3) the positions they  
30 recommend be replaced with a different position because the need has  
31 changed, based on current state agency needs and current workforce  
32 capacity and ability.

33 (b) The process shall involve representatives of each State Employee  
34 Bargaining Agent Coalition constituent union under the savings and  
35 transformation provisions of the State Employee Bargaining Agent  
36 Coalition agreement.

37 Sec. 3. (NEW) (*Effective from passage*) (a) There shall be established a  
38 Chief Diversity, Equity and Inclusion Officer position to oversee a  
39 transformative hiring process in state government. The Chief Diversity,  
40 Equity and Inclusion Officer shall be appointed by the Governor, with  
41 the approval of the General Assembly. Said officer shall report to the  
42 Governor and the Equity Advisory Committee, established pursuant to  
43 subsection (c) of this section.

44 (b) The commissioner of each state agency shall address its diversity

45 needs by reviewing the report entitled: "The State of Connecticut  
46 Workforce: An Analysis of Representation and Compensation Equity  
47 Across Gender and Race-Ethnicity" and conducting an assessment of the  
48 commissioner's agency. Such assessment shall be used to determine  
49 where action plans may be necessary to address any racial or gender  
50 disparities, including a review of recruitment strategies. The assessment  
51 shall include, but shall not be limited to: (1) An agency's success in the  
52 last five years in recruiting and retaining women and people of color  
53 into various positions; and (2) an agency's plan for achieving an  
54 appropriate and fair balance in replacing vacancies left by retiring  
55 employees. Each such assessment shall be submitted to the Governor,  
56 the General Assembly and the Chief Diversity, Equity and Inclusion  
57 Officer not later than three months of commencing such assessment.

58 (c) (1) There shall be established an Equity Advisory Committee  
59 responsible for monitoring whether the assessment goals pursuant to  
60 subsection (b) of this section are being met by state agencies. The  
61 committee shall consist of the following members: (A) Seven members  
62 appointed by representatives of each State Employee Bargaining Agent  
63 Coalition constituent union, and (B) four members appointed from the  
64 current task force to study the state workforce and retiring employees,  
65 consisting of (i) one member appointed by each chairperson, and (ii) one  
66 member appointed by each ranking member.

67 (2) The chairpersons of the committee shall be appointed by the  
68 chairpersons of the joint standing committee of the General Assembly  
69 having cognizance of matters relating to labor.

70 (3) The administrative staff of the joint standing committee of the  
71 General Assembly having cognizance of matters relating to labor shall  
72 serve as administrative staff of the committee.

73 (4) The committee shall meet as required by the chairpersons of the  
74 committee.

75 Sec. 4. (*Effective from passage*) (a) The commissioner of each state  
76 agency shall provide a list of training and professional development

77 programs currently in existence within the commissioner's agency, the  
78 extent of engagement of employees in those programs during the  
79 previous three years, including the number of employees enrolled, and  
80 the number of employees who completed such programs. The  
81 commissioner shall also provide a description of the agency's plans to  
82 create or increase engagement in such programs in the near future.

83 (b) The Labor Department shall provide a list of existing career  
84 pathway programs, including high school-to-career pathway programs,  
85 vocational-technical school pathways, internships and post-graduate  
86 fellowships, modeled after other federal and state programs that  
87 encourage the training-to-workforce or college-to-workforce transition  
88 for a range of state employee classes and positions. The Labor  
89 Department shall include in such list agencies participating and the  
90 number of people involved in these programs.

91 (c) The Commissioner of Administrative Services shall study the  
92 feasibility of developing a paid internship program for high school and  
93 college students. In conducting such study, the commissioner may  
94 consult with leaders of nonprofit agencies and community advocates.

95 Sec. 5. Subsection (p) of section 5-200 of the 2022 supplement to the  
96 general statutes is repealed and the following is substituted in lieu  
97 thereof (*Effective July 1, 2022*):

98 (p) When such authority is not otherwise conferred by statute, the  
99 commissioner shall issue orders to provide that (1) executive or judicial  
100 department employees exempt from the classified service or not  
101 included in any prevailing bargaining unit contract, except unclassified  
102 employees of any board of trustees of the constituent units of higher  
103 education, be granted rights, [and] benefits and wages, with movement  
104 within salary ranges, not less than those granted to employees in the  
105 classified service or covered under such contracts, or (2) retirement  
106 benefits for state employees exempt from the classified service or not  
107 included in any prevailing bargaining unit contract be adjusted to  
108 provide retirement benefits for such employees which are the same as  
109 those most frequently provided under the terms of approved bargaining

110 unit contracts in effect at the time of such adjustment. When such  
111 authority is not otherwise conferred by statute, the board of trustees of  
112 any constituent unit of the state system of higher education may issue  
113 orders to provide that the unclassified employees of such board be  
114 granted rights, [and] benefits and wages not less than those granted to  
115 employees of the board who are covered under a prevailing bargaining  
116 unit contract. Where there is a conflict between an order granting such  
117 rights, [and] benefits and wages and any provision of the general  
118 statutes, such order shall prevail. [Such orders shall be subject to the  
119 approval of the Secretary of the Office of Policy and Management. If the  
120 secretary approves such order, and such order is in conflict with any  
121 provision of the general statutes, the secretary shall forward a copy of  
122 such order to the joint committee of the General Assembly having  
123 cognizance of labor matters.]

124 Sec. 6. Subsection (g) of section 5-270 of the general statutes is  
125 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
126 *2022*):

127 (g) "Managerial employee" means any individual in a position in  
128 which the principal functions are characterized by not fewer than two  
129 of the following, provided [for any position in any unit of the system of  
130 higher education,] one of such two functions shall be as specified in  
131 subdivision (4) of this subsection: (1) Responsibility for direction of a  
132 subunit or facility of a major division of an agency or assignment to an  
133 agency head's staff; (2) development, implementation and evaluation of  
134 goals and objectives consistent with agency mission and policy; (3)  
135 participation in the formulation of agency policy; or (4) a major role in  
136 the administration of collective bargaining agreements or major  
137 personnel decisions, or both, including staffing, hiring, firing,  
138 evaluation, promotion and training of employees.

139 Sec. 7. (NEW) (*Effective from passage*) Each state agency shall fill all  
140 open positions to levels appropriated in the 2022-2023 biennial budget.  
141 Each agency shall also adopt continuous recruitment practices to fill  
142 critical shortage positions, as appropriated in the biennial budget for the

143 fiscal years commencing July 1, 2022, and July 1, 2023. Such positions  
144 shall not require approval from the Department of Administrative  
145 Services or the Office of Policy and Management in order to fill.

146 Sec. 8. (*Effective from passage*) The Secretary of the Office of Policy and  
147 Management shall consult with the State Employees Bargaining Agent  
148 Coalition in order to: (1) Allow all employees to continue working  
149 beyond the July 1, 2022, deadline for retirement without the applicable  
150 cost-of-living adjustment or retiree health care changes until one month  
151 following the hiring of the employee's replacement for the purpose of  
152 training and transitioning the new employee in the position; and (2) to  
153 reduce the retirement incentive caused by the 2022 changes in a way that  
154 would not materially decrease the savings attributable to such changes.

155 Sec. 9. Section 5-259f of the general statutes is repealed. (*Effective*  
156 *October 1, 2022*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>July 1, 2022</i>	5-200(p)
Sec. 6	<i>July 1, 2022</i>	5-270(g)
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>October 1, 2022</i>	Repealer section

**Statement of Legislative Commissioners:**

In Section 1(c), "and shall analyze" was changed to "which shall analyze" for clarity.

**LAB** Joint Favorable Subst.

*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:** See Below

**Municipal Impact:** None

### **Explanation**

This bill 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.

Requiring the state to refill all open positions in the biennial budget may preclude a potential savings to the state associated with turnover and attrition. Additionally, the state may incur administrative costs (including the hiring of additional HR Specialists), to adopt continuous recruitment practices to fill critical shortage positions.

The bill establishes the chief diversity, equity, and inclusion officer position to oversee a transformative hiring process in state government. It is estimated that the annual salary for this position would be at least \$150,000. Further, three additional staff members would be needed to help the chief diversity, equity, and inclusion officer fulfill the bill's requirements at total salary cost of an estimated \$300,000.

The bill also repeals a statute that allows DAS and OPM to require nonunion state employees to pay health insurance premiums of up to 18% of the total premium. This would result in an annual cost to the state estimated to be \$3.5 million - \$4.5 million.

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. This bill requires OPM to consult with SEBAC to 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. Depending on how many employees work past their retirement date, this will preclude the state from realizing potentially significant turnover savings.

Lastly, the bill sets various study and analysis requirements related to, among other things, state employee retirements, retention rates, diversity, and training and internship programs. The state will need a consultant to assist with these provisions. It is estimated that contracting with an outside consultant will result in a one-time cost of \$500,000 - \$1 million.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.



**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 by 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)