



THE STATE UNIVERSITY *of* NEW YORK

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MEMORANDUM FOR TERRYL BROWN CLEMENS, ACTING COUNSEL
FROM NICHOLAS ROSTOW

SUBJECT: S.6780-B - AN ACT to amend the civil service law and the education law, in relation to the authority of the civil service commission to designate positions as unclassified

RECOMMENDATION: Oppose.

The current text of S.6780-B amends section 35 of the civil service law to establish a procedure for posting and notice of position vacancies for the titles of staff assistant, staff associate, professional staff assistant and professional staff associate. Please note that the latter two positions do not exist in the SUNY Professional Service title series. The bill proposes to establish a lengthy notification and review process whereby the local union chapter presidents (four classified service unions and one unclassified service union) essentially debate whether the title selected by campus management is in fact appropriate to the attendant anticipated duties and responsibilities of the position. Resolution at the local level requires mutual agreement by all local union chapter presidents. Furthermore, any local bargaining unit representatives or any employee can at any time request a Public Employment Relations Board (PERB) review. Such position must remain unfilled until such time as there is mutual agreement by all unions or a final determination by the PERB board. The latter can take in excess of one year.

The State University of New York remains opposed to S.6780-B.

Last year, the Governor issued Veto 145 indicating that enactment of similar intended legislation would “interfere with SUNY’s ability to recruit and hire personnel, or otherwise restrict its ability to strengthen its educational standards” and that “the mechanism set forth in this bill is overly harsh and restrictive, particularly in relation to a problem whose scope and ill effects on the public welfare are at best unclear”.

Those same concerns outlined in Veto 145 of 2007 are embodied in S.6780-B.

Full implementation of S.6780-B would cause vacant positions of staff assistant, staff associate, professional staff assistant and professional staff associate (note,

“professional staff assistant” and “professional staff associate” do not exist in the SUNY Professional Service Title series) remain vacant for extraordinarily long periods of time, particularly where the matter is submitted to PERB for adjudication. This can have not only a negative impact on the operations of a campus, but would also prevent a qualified current or prospective employee from attaining an employment opportunity. The differentiation between the classified service and the unclassified service also creates bargaining unit determination issues. United University Professions (UUP) has been certified as the Professional Services Unit representative, such unit encompasses all unionized unclassified service positions. There are, however, multiple bargaining units (7) and unions (4) representing University employees in the classified service. Regardless of agreement by the local unions as to appropriate placement of the position, the decision regarding community of interest and unit determination remains the exclusive province of PERB.

S.6780-B proposes to prevent filling vacancies in the staff assistant and staff associate titles pending completion of a review process at the campus, University and ultimately labor board (PERB) levels. It is estimated that more than 550 Staff Assistant and 125 Staff Associate positions turn over annually across the system. It is readily apparent that the system-wide hiring in these titles would be paralyzed during the pendency of the review process. Local agreement would not settle the matter, as jurisdiction over unit placement rests solely with PERB. Any dissatisfied person could seek redress in that forum regardless of an agreement between the unions and management.

In addition, we believe the bill is technically deficient in several regards. First, as stated above, it refers to two titles, “professional staff assistant” and “professional staff associate” that do not exist in SUNY Professional Service Title series. Second, it proposes to extend the same appointment limitations to the community colleges, with a review by the University-wide Office of Human Resources. However, that SUNY System office does not review position vacancies or otherwise participate in the county-based community college appointment process.

It should also be noted that the “Title of Bill”, “Purpose”, “Summary of Provisions” and “Justification” as stated in the sponsor’s memo simply do not pertain to the actual subject matter of this legislation. The information contained in each of these items was originally submitted in conjunction with a prior version of legislation that was subsequently significantly changed so as to render such comments irrelevant.

In conclusion, S.6780-B would have the effect of severely delaying hiring in titles that have a comparatively high rate of turnover, particularly the staff assistant title and allow for local resolution of bargaining unit issues which is the exclusive province of PERB, leaving such resolution as illusory at best.

It is of critical importance that the University maintains the authority and flexibility to hire professional and managerial staff when they are needed and as enrollment increases demand. It cannot be stressed enough, that when issues arise as a result of filling certain titles, the matter is more appropriately addressed (as it has been) under the jurisdiction of PERB and Article 14 of the Civil Service Law.

The State University of New York respectfully requests that S.6780-B not be approved.