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H.624

Introduced by Representatives Townsend of South Burlington, Buxton of
Tunbridge, Christie of Hartford, Cole of Burlington, Cross of
Winooski, Davis of Washington, Krowinski of Burlington,
Macaig of Williston, McCormack of Burlington, Moran of
Wardsboro, O'Sullivan of Burlington, Poirier of Barre City,
Spengler of Colchester, Terenzini of Rutland Town, Weed of
Enosburgh, and Wizowaty of Burlington

Referred to Committee on

Date:

Subject: Executive; classification of State personnel; temporary employees

Statement of purpose of bill as introduced: This bill proposes to decrease the
number of temporary employees in the workforce by making permanent any
State employee who works more than 1,040 hours in a 365-day period.

An act relating to temporary employees

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 331 is amended to read:

§ 331. TEMPORARY EMPLOYEES

(a) The ~~state~~ State shall not employ any person in a temporary capacity
except in accordance with the provisions of this section.

1 (b)(1) On request of the appointing authority, the ~~commissioner of human~~
2 ~~resources~~ Commissioner of Human Resources may approve, in writing, the
3 creation of a temporary position and the hiring of a person to fill such
4 temporary position only if the position and person are needed:

5 (A) ~~to~~ To meet a seasonal employment need of ~~state~~ State
6 government;

7 (B) ~~to~~ To respond to a bona fide emergency;

8 (C) ~~to~~ To fill in for the temporary absence of an existing employee,
9 or a vacancy in an existing position;

10 (D) ~~to~~ To perform a governmental function that requires only
11 intermittent, sporadic, or ongoing employment that averages less than 20 hours
12 per week during any ~~one calendar year~~ 365-day period, provided that such
13 employment does not exceed ~~1,520~~ 1,040 hours in any ~~one calendar year~~
14 365-day period. An employee who works more than 1,040 hours in any
15 365-day period shall become a permanent classified employee.

16 (2)(A) Except as provided in subdivision (1) of this subsection, the
17 ~~commissioner~~ Commissioner shall not approve the creation of a temporary
18 position or the hiring of a person to fill such temporary position if the
19 governmental function is ongoing and continuing.

20 (B) The ~~commissioner~~ Commissioner shall not approve the creation
21 of a temporary position or the hiring of a person to fill such temporary position

1 if approval is intended to circumvent, or has the effect of circumventing, the
2 policies and purposes of the classified service under this chapter.

3 (c) The ~~commissioner~~ Commissioner may authorize the continued
4 employment of a person in a temporary capacity for more than ~~1,520~~ 1,040
5 hours in any ~~one calendar year~~ 365-day period if the ~~commissioner~~
6 Commissioner determines, in writing, that a bona fide emergency exists for the
7 appointing authority that requires such continued employment, but in no event
8 shall that employment continue beyond 1,520 hours in a 365-day period
9 without the prior approval of the General Assembly or the Joint Fiscal
10 Committee.

11 (d) The ~~commissioner~~ Commissioner may transfer and convert existing,
12 vacant positions in the ~~executive branch of state~~ Executive Branch of State
13 government to replace the temporary positions of long-term temporary
14 employees who are performing ongoing and continuing functions of ~~state~~ State
15 government for more than an average of 20 hours per week during any ~~one~~
16 ~~calendar year~~ 365-day period or for more than ~~1,520~~ 1,040 hours in any ~~one~~
17 ~~calendar year~~ 365-day period.

18 (e) Any party aggrieved by a decision of the ~~commissioner~~ Commissioner
19 under this section may request that the ~~commissioner~~ Commissioner reconsider
20 his or her decision. Such party may appeal the ~~commissioner's~~
21 Commissioner's reconsideration to the Vermont ~~labor relations board~~ Labor

1 Relations Board pursuant to the rules of the ~~board~~ Board. Within 90 days of
2 the filing of an appeal, the ~~board~~ Board shall determine if the ~~commissioner of~~
3 ~~human resources~~ Commissioner of Human Resources abused his or her
4 discretion under this section. If the ~~board~~ Board determines that there has been
5 an abuse of discretion, the ~~board~~ Board shall remand the decision back to the
6 ~~commissioner~~ Commissioner and order that corrective action be taken within
7 90 days of the ~~board's~~ Board's order. The ~~commissioner~~ Commissioner, in his
8 or her sole discretion, may replace the temporary ~~employee~~ employee's
9 position with a permanent position, or eliminate the temporary position and
10 grant reemployment rights if those rights would have been provided to a
11 classified employee under the relevant collective bargaining agreement.

12 (f) All temporary employees shall be provided coverage by the State
13 employees' health care plan commensurate with the coverage provided to a
14 permanent classified State employee. All temporary employees shall be
15 provided six paid sick days.

16 Sec. 2. 3 V.S.A. § 1022 is added to read:

17 § 1022. TEMPORARY EMPLOYEES

18 (a) The Judiciary shall not employ any person in a temporary capacity
19 except in accordance with the provisions of this section.

20 (b)(1) On request of the appointing authority, the Court Administrator may
21 approve, in writing, the creation of a temporary position and the hiring of a

1 person to fill such temporary position only if the position and person are
2 needed:

3 (A) To meet a seasonal employment need of the Judiciary.

4 (B) To respond to a bona fide emergency.

5 (C) To fill in for the temporary absence of an existing employee, or a
6 vacancy in an existing position.

7 (D) To perform a governmental function that requires only
8 intermittent, sporadic, or ongoing employment that averages fewer than 20
9 hours per week during any 365-day period, provided that such employment
10 does not exceed 1,040 hours in any 365-day period. An employee who works
11 more than 1,040 hours in any 365-day period shall become a permanent
12 classified employee.

13 (2)(A) Except as provided in subdivision (1) of this subsection, the
14 Court Administrator shall not approve the creation of a temporary position or
15 the hiring of a person to fill such temporary position if the governmental
16 function is ongoing and continuing.

17 (B) The Court Administrator shall not approve the creation of a
18 temporary position or the hiring of a person to fill such temporary position if
19 approval is intended to circumvent, or has the effect of circumventing, the
20 policies and purposes of the classified service under this chapter.

1 (c) The Court Administrator may authorize the continued employment of a
2 person in a temporary capacity for more than 1,040 hours in any 365-day
3 period if the Court Administrator determines, in writing, that a bona fide
4 emergency exists for the appointing authority that requires such continued
5 employment, but in no event shall that employment continue beyond 1,520
6 hours in a 365-day period without the prior approval of the General Assembly
7 or the Joint Fiscal Committee.

8 (d) The Court Administrator may transfer and convert existing, vacant
9 positions in the Judiciary to replace the temporary positions of long-term
10 temporary employees who are performing ongoing and continuing functions of
11 the Judiciary for more than an average of 20 hours per week during any
12 365-day period or for more than 1,040 hours in any 365-day period.

13 (e) Any party aggrieved by a decision of the Court Administrator under this
14 section may request that the Court Administrator reconsider his or her
15 decision. Such party may appeal the Court Administrator's reconsideration to
16 the Vermont Labor Relations Board pursuant to the rules of the Board. Within
17 90 days of the filing of an appeal, the Board shall determine if the Court
18 Administrator abused his or her discretion under this section. If the Board
19 determines that there has been an abuse of discretion, the Board shall remand
20 the decision back to the Court Administrator and order that corrective action be
21 taken within 90 days of the Board's order. The Court Administrator, in his or

1 her sole discretion, may replace the temporary employee's position with a
2 permanent position, or eliminate the temporary position and grant
3 reemployment rights if those rights would have been provided to a classified
4 employee under the relevant collective bargaining agreement.

5 (f) All temporary employees shall be provided coverage by the State
6 employees' health care plan commensurate with the coverage provided to a
7 permanent classified State employee. All temporary employees shall be
8 provided six paid sick days.

9 Sec. 3. EFFECTIVE DATE

10 This act shall take effect on July 1, 2014.