

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 218 entitled “An act relating to temporary employees” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

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

8 § 331. TEMPORARY EMPLOYEES

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

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

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

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

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

20 (D) ~~to~~ To perform a governmental function that requires only
21 intermittent, sporadic, or ongoing employment that averages less than 20 hours

1 per week during any ~~one calendar year~~ 365-day period, provided that such
2 employment does not exceed ~~4,520~~ 1,040 hours in any ~~one calendar year~~
3 365-day period. An employee who works more than 1,040 hours in any
4 365-day period shall become a permanent classified employee.

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

9 (B) The ~~commissioner~~ Commissioner shall not approve the creation
10 of a temporary position or the hiring of a person to fill such temporary position
11 if approval is intended to circumvent, or has the effect of circumventing, the
12 policies and purposes of the classified service under this chapter.

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

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

8 (e) Any party aggrieved by a decision of the ~~commissioner~~ Commissioner
9 under this section may request that the ~~commissioner~~ Commissioner reconsider
10 his or her decision. Such party may appeal the ~~commissioner's~~
11 Commissioner's reconsideration to the Vermont ~~labor relations board~~ Labor
12 Relations Board pursuant to the rules of the ~~board~~ Board. Within 90 days of
13 the filing of an appeal, the ~~board~~ Board shall determine if the ~~commissioner of~~
14 ~~human resources~~ Commissioner of Human Resources abused his or her
15 discretion under this section. If the ~~board~~ Board determines that there has been
16 an abuse of discretion, the ~~board~~ Board shall remand the decision back to the
17 ~~commissioner~~ Commissioner and order that corrective action be taken within
18 90 days of the ~~board's~~ Board's order. The ~~commissioner~~ Commissioner, in his
19 or her sole discretion, may replace the temporary employee with a permanent
20 position, or eliminate the temporary position and grant reemployment rights if

1 those rights would have been provided to a classified employee under the
2 relevant collective bargaining agreement.

3 (f) All temporary employees shall have access to the State employees'
4 health care plan and shall be provided with six paid sick days.

5 Sec. 2. 3 V.S.A. § 334 is added to read:

6 § 334. AUTHORITY TO ADOPT ADMINISTRATIVE RULES

7 The Secretary of Human Services, after consultation with the Commissioner
8 of Corrections and the Vermont State Employees' Association, shall, pursuant
9 to chapter 25 of this title, adopt one or more administrative rules that
10 accomplish the following:

11 (1) authorize random searches of the personal belongings of all persons
12 when entering the secure portion of a State correctional facility;

13 (2) authorize the Department of Corrections to conduct preemployment
14 drug screening;

15 (3) authorize the Department of Corrections to conduct background
16 investigations before hiring any employee; and

17 (4) authorize offenders to earn contact visits if the contact privilege was
18 taken away.

19 Sec. 3. DEPARTMENT OF CORRECTIONS STAFFING STUDY

1 (a) The Department of Corrections shall conduct a study of all State
2 correctional facilities to determine the adequate numbers of permanent
3 employees.

4 (b) The Department of Corrections shall report quarterly to the Vermont
5 State Employees' Association and the General Assembly the number of
6 temporary employees employed by the Department of Corrections, together
7 with their names, date of hire, position, and number of hours worked.

8 (c) The Department of Corrections shall disclose the number of temporary
9 and permanent employees employed by the Department of Corrections on
10 relief from duty with pay, the reasons for the relief status, and the cost to the
11 Department of Corrections.

12 Sec. 4. EFFECTIVE DATE

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

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16 (Committee vote: _____)

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Representative [surname]

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FOR THE COMMITTEE