

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Appropriations to which was referred House Bill  
3 No. 334 entitled “An act relating to temporary State employees” respectfully  
4 reports that it has considered the same and recommends that the report of the  
5 Committee on Government Operations be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 3 V.S.A. § 323 is amended to read:

8 § 323. DEFINITIONS

9 As used in this chapter, unless the context clearly requires otherwise:

10 \* \* \*

11 (2) “Bona fide emergency” means an unanticipated need for short-term  
12 staffing:

13 (A) to prevent significant disruption to the continued operation of  
14 State government;

15 (B) to avoid serious or imminent harm to the public, critical services,  
16 or other staff; or

17 (C) to avoid jeopardizing public safety.

18 (3) “Class” means one or more positions sufficiently similar in nature,  
19 scope, and accountability that the same title, test of fitness, and schedule of  
20 compensation may be applied to each position.

1           ~~(3)~~(4) “Job evaluation” means the systematic method used to determine  
2 the value of each job in relation to other jobs within the State service.

3           (5) “Seasonal employment” means employment in a temporary position  
4 with a specific start date and anticipated end date for a period of not more than  
5 seven months in any 12-month period or employment in a temporary position  
6 with a specific start date and anticipated end date for a period of more than  
7 seven months that has been approved by the Commissioner of Human  
8 Resources pursuant to subdivision 331(c)(3) of this chapter. Seasonal  
9 employment includes employment in temporary positions that are available on  
10 a reoccurring basis from year to year.

11 Sec. 2. 3 V.S.A. § 331 is amended as follows:

12 § 331. TEMPORARY EMPLOYEES

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

15           (b)(1) On request of the appointing authority, the Commissioner of Human  
16 Resources may approve, in writing, the creation of a temporary position and  
17 the hiring of a person to fill such temporary position only if the position and  
18 person are needed:

19                   (A) to meet a seasonal employment need of State government;

20                   (B) to respond to a bona fide emergency;

1 (C) to fill in for the temporary absence of an existing employee, or a  
2 vacancy in an existing position; or

3 (D) to perform a governmental function that requires only  
4 intermittent, sporadic, or ongoing employment ~~that averages less than 20 hours~~  
5 ~~per week during any one calendar year~~, provided that such employment does  
6 not exceed 1,280 work hours in any one calendar year.

7 \* \* \*

8 (c)(1) The Commissioner may authorize the continued employment of a  
9 person in a temporary capacity for more than 1,280 work hours in any one  
10 calendar year if the Commissioner determines, in writing, that a bona fide  
11 emergency exists for the appointing authority that requires such continued  
12 employment. Authorization of temporary employment for more than 1,280  
13 work hours in a calendar year shall not be required for seasonal employment,  
14 as that term is defined pursuant to section 323 of this chapter. Annually, on or  
15 before January 15, the Commissioner shall submit a report to the House  
16 Committee on General, Housing, and Military Affairs and the House and  
17 Senate Committees on Government Operations:

18 \* \* \*

19 (2) It shall be the responsibility of the head of each department to  
20 provide to the Department of Human Resources a detailed justification for each  
21 waiver to exceed the 1,280-work-hour limit within his or her department and

1 such other information as may be required in order to enable that department to  
2 carry out its responsibility under this section.

3 (3) The Commissioner may authorize seasonal employment in a specific  
4 position for a period of between seven and 12 months if the Commissioner  
5 determines, in writing, that the nature and duties of the position require the  
6 employment of a person for a period of more than seven months in a 12-month  
7 period. The Commissioner shall not authorize seasonal employment for a  
8 period of more than seven months in a 12-month period if the authorization is  
9 intended to circumvent, or has the effect of circumventing, the policies and  
10 purposes of the classified service under this chapter. Annually, on or before  
11 January 15, the Commissioner shall submit a report to the House and Senate  
12 Committees on Government Operations regarding:

13 (A) the total number of positions in seasonal employment that have  
14 been authorized for a period of between seven and 12 months;

15 (B) the agency or department that each position identified in  
16 subdivision (A) of this subdivision (c)(3) is assigned to; and

17 (C) the period of time that each identified position is authorized for.

18 (d) The Commissioner may transfer and convert existing, vacant positions  
19 in the Executive Branch of State government to replace the temporary  
20 positions of long-term temporary employees who are performing ongoing and  
21 continuing functions of State government ~~for more than an average of 20 hours~~

1 ~~per week during any one calendar year or~~ for more than 1,280 work hours in  
2 any one calendar year.

3 \* \* \*

4 (f) An individual employed in a temporary or seasonal capacity shall be  
5 entitled to the whistleblower protections, rights, and remedies provided to State  
6 employees pursuant to sections 971–978 of this title.

7 Sec. 3. STATE TEMPORARY AND SEASONAL EMPLOYEES; REPORT

8 On or before January 15, 2020, the Secretary of Administration shall submit  
9 a written report to the House and Senate Committees on Appropriations and on  
10 Government Operations regarding:

11 (1) the number of temporary employees, not including individuals  
12 working in seasonal employment as defined pursuant to 3 V.S.A. § 323(5),  
13 who, during the prior calendar year, were employed by each agency and  
14 department in a temporary capacity pursuant to 3 V.S.A. § 331;

15 (2) the number of temporary positions in each agency or department  
16 identified pursuant to subdivision (1) of this section that are performing  
17 ongoing and continuing functions of State government for which a permanent  
18 classified position would better meet the needs of the State;

19 (3) the number of temporary positions during the prior calendar year,  
20 organized by agency and department, not including individuals working in  
21 seasonal employment as defined pursuant to 3 V.S.A. § 323(5), in which one

1 or more individuals have been employed for a combined total of more than  
2 1,280 hours per year for a period of two years;

3 (4) the projected cost and the potential impact of replacing the  
4 temporary positions identified in subdivision (3) of this section with  
5 permanent, classified positions on the relevant department or agency's  
6 efficiency and ability to fulfill its mission and duties; and

7 (5) the number of individuals working in seasonal employment as  
8 defined pursuant to 3 V.S.A. § 323(5) during the prior calendar year organized  
9 by agency and department, including the start and end date for each position  
10 and the total number of hours worked by the individual employed in each  
11 position.

12 Sec. 4. CREATION OF NEW CORRECTIONAL OFFICER POSITIONS

13 On or before June 30, 2020, the Secretary of Administration shall create 30  
14 new Correctional Officer I positions in the Department of Corrections.

15 Sec. 5. 4 V.S.A. § 40 is added to read:

16 § 40. REPORT ON TEMPORARY EMPLOYEES

17 (a) Annually, on or before January 15, the State Court Administrator shall  
18 submit a report to the House Committee on General, Housing, and Military  
19 Affairs and the House and Senate Committees on Government Operations  
20 identifying:

1           (1) the total number of individuals employed by the Judiciary  
2           Department on a temporary basis who have worked in excess of 1,280 hours in  
3           the prior calendar year, excluding employees identified in 3 V.S.A. § 1011(7),  
4           (8)(A)–(D), (8)(F) –(G), and (8)(I)–(K);

5           (2) the total number of hours worked by each temporary employee  
6           identified pursuant to subdivision (1) of this subsection; and

7           (3) the total number of years during which each temporary employee  
8           identified pursuant to subdivision (1) of this subsection has worked for the  
9           Judiciary Department.

10          (b) The provisions of 2 V.S.A. § 20(d) shall not apply to this section.

11          Sec. 6. EFFECTIVE DATE

12          This act shall take effect on July 1, 2019.

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16          (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

18

Representative \_\_\_\_\_

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FOR THE COMMITTEE