

1
2
3
4
5
6
7
8
9
10
11

12
13
14
15
16
17
18
19

H.334

Introduced by Representatives Gannon of Wilmington, Gardner of Richmond,
Hooper of Burlington, and Mrowicki of Putney

Referred to Committee on

Date:

Subject: Executive; classification of State personnel; State Employees Labor
Relations Act; Judiciary Employees Labor Relations Act; temporary
State employees

Statement of purpose of bill as introduced: This bill proposes to clarify
requirements related to the use of temporary State employees and to permit
long-term temporary State employees to collectively bargain.

An act relating to temporary State employees

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

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

§ 323. DEFINITIONS

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

* * *

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

1 (A) to prevent significant disruption to the continued operation of

2 State government;

3 (B) to avoid serious or imminent harm to the public, critical services,

4 or other staff; or

5 (C) that would jeopardize public safety.

6 (3) “Class” means one or more positions sufficiently similar in nature,

7 scope, and accountability that the same title, test of fitness, and schedule of

8 compensation may be applied to each position.

9 ~~(3)~~(4) “Job evaluation” means the systematic method used to determine

10 the value of each job in relation to other jobs within the State service.

11 (5) “Seasonal employment” means a temporary position that is available for
only a portion of a year, has a defined beginning and end date, and may repeat on a
yearly basis.

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 for temporary employment beyond 1,280 hours shall not
be necessary for seasonal employment, as defined in section 323(4) of this chapter.
Annually, on or before January 15, the Commissioner shall

13 submit a report to the House Committee on General, Housing, and Military
14 Affairs and the House and Senate Committees on Government Operations:

15 * * *

16 (2) It shall be the responsibility of the head of each department to
17 provide to the Department of Human Resources a detailed justification for each
18 waiver to exceed the 1,280-work-hour limit within his or her department and
19 such other information as may be required in order to enable that department to
20 carry out its responsibility under this section.

1 (d) The Commissioner may transfer and convert existing, vacant positions
2 in the Executive Branch of State government to replace the temporary
3 positions of long-term temporary employees who are performing ongoing and
4 continuing functions of State government ~~for more than an average of 20 hours~~
5 ~~per week during any one calendar year or for more than 1,280 work hours in~~
6 any one calendar year.

7 * * *

8 (f)(1) An individual employed in a temporary capacity shall:

9 (A) be paid in accordance with the job classification and pay plan for
10 classified State employees that is most closely applicable to the work
11 performed by the individual; and

12 (B) receive paid and unpaid leave, including sick and annual leave,
13 parental and family leave, holidays, and other leave benefits provided to
14 comparable classified State employees.

15 (2) An individual employed in a temporary capacity shall not be
16 terminated without good cause.

17 (3) The State shall provide an individual who has been employed in a
18 temporary capacity for a period of six months with health insurance benefits
19 that, at a minimum, satisfy the affordable minimum essential coverage
20 standards of the Affordable Care Act and provide coverage for the individual's
21 dependents.

1 Sec. 3. 3 V.S.A. § 902 is amended to read:

2 § 902. DEFINITIONS

3 As used in this chapter:

4 * * *

5 (5) “State employee” means any individual employed on a permanent or
6 limited status basis by the State of Vermont, the Vermont State Colleges, the
7 University of Vermont, or the State’s Attorneys’ offices, including permanent
8 part-time employees, and an individual whose work has ceased as a
9 consequence of, or in connection with, any current labor dispute or because of
10 any unfair labor practice, but excluding an individual:

11 (A) exempt or excluded from the State classified service under the
12 provisions of section 311 of this title, except that the following types of
13 employees are included within the meaning of “State employee”:

14 (i) State Police in the Department of Public Safety;

15 (ii) employees of the Defender General, excluding attorneys
16 employed directly by the Defender General and attorneys contracted to provide
17 legal services;

18 (iii) deputy State’s Attorneys;

19 (iv) individuals employed in temporary, seasonal, or intermittent
20 positions who work more than 1,280 hours per year in one or more such
21 positions for a period of two years, or who are designated as temporary

1 employees but whose employment does not comply with the requirements of
2 subsection 331(b) of this title; and

3 (v) employees of State's Attorneys' offices ~~are included within the~~
4 ~~meaning of "State employee";~~

5 * * *

6 Sec. 4. 3 V.S.A. § 1011 is amended to read:

7 § 1011. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (8) "Employee;" means any individual employed and compensated on a
11 permanent or limited status basis by the Judiciary Department, including
12 permanent part-time employees and any individual whose employment has
13 ceased as a consequence of, or in connection with, any current labor dispute or
14 because of an unfair labor practice. "Employee" does not include any of the
15 following:

16 * * *

17 (E) an individual employed on a temporary, contractual, seasonal, or
18 on-call basis, including an intern, provided that:

19 (i) the individual was hired to:

20 (I) temporarily replace an employee on vacation, medical leave,
21 or another leave of absence;

