1	S.127
2	Introduced by Senator White
3	Referred to Committee on
4	Date:
5	Subject: Executive; classification of State personnel; State Employees Labor
6	Relations Act; Judiciary Employees Labor Relations Act; temporary
7	State employees
8	Statement of purpose of bill as introduced: This bill proposes to clarify
9	requirements related to the use of temporary State employees and to permit
10	long-term temporary State employees to collectively bargain.
11	An act relating to the definition and rights of temporary State employees
12	It is hereby enacted by the General Assembly of the State of Vermont:
13	Sec. 1. 3 V.S.A. § 323 is amended to read:
14	§ 323. DEFINITIONS
15	As used in this chapter, unless the context clearly requires otherwise:
16	* * *
17	(2) "Bona fide emergency" means an unanticipated need for short-term
18	<u>staffing:</u>
19	(A) to prevent significant disruption to the continued operation of
20	State government;

1	(B) to avoid serious or imminent harm to the public, critical services,
2	or other staff; or
3	(C) that would jeopardize public safety.
4	(3) "Class" means one or more positions sufficiently similar in nature,
5	scope, and accountability that the same title, test of fitness and schedule of
6	compensation may be applied to each position.
7	(3)(4) "Job evaluation" means the systematic method used to determine
8	the value of each job in relation to other jobs within the State service.
9	(5) "Seasonal employment" means a temporary position that is available
10	for only a portion of the year, has a defined beginning and end date, and may
11	repeat on a yearly basis.
12	Sec. 2. 3 V.S.A. § 331 is amended as follows:
13	§ 331. TEMPORARY EMPLOYEES
14	(a) The State shall not employ any person in a temporary capacity except in
15	accordance with the provisions of this section.
16	(b)(1) On request of the appointing authority, the Commissioner of Human
17	Resources may approve, in writing, the creation of a temporary position and
18	the hiring of a person to fill such temporary position only if the position and
19	person are needed:
20	(A) to meet a seasonal employment need of State government;
21	(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 work
13	hours in a year shall not be necessary for seasonal employment. Annually, on
14	or before January 15, the Commissioner shall submit a report to the House
15	Committee on General, Housing, and Military Affairs and the House and
16	Senate Committees on Government Operations:
17	(A) identifying the total number of temporary employees who have
18	worked 1,280 hours or more in the prior calendar year:
19	(i) 1,280 hours in the prior calendar year; or
20	(ii) in excess of 1,280 hours in the prior calendar year;
21	* * *

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1	(2) It shall be the responsibility of the head of each department to
2	provide to the Department of Human Resources a detailed justification for each
3	waiver to exceed the 1,280 work-hour limit within his or her department and
4	such other information as may be required in order to enable that department to
5	carry out its responsibility under this section.
6	(d) The Commissioner may transfer and convert existing, vacant positions
7	in the Executive Branch of State government to replace the temporary
8	positions of long-term temporary employees who are performing ongoing and
9	continuing functions of State government for more than an average of 20 hours
10	per week during any one calendar year or for more than 1,280 work hours in
11	any one calendar year.
12	* * *
13	(f)(1) An individual employed in a temporary capacity shall:
14	(A) be paid in accordance with the job classification and pay plan for
15	
	classified State employees that is most closely applicable to the work
16	classified State employees that is most closely applicable to the work performed by the individual; and
16 17	
	performed by the individual; and
17	performed by the individual; and (B) receive paid and unpaid leave, including sick and annual leave,
17 18	performed by the individual; and (B) receive paid and unpaid leave, including sick and annual leave, parental and family leave, holidays, and other leave benefits provided to

1	(3) The State shall provide an individual who has been employed in a
2	temporary capacity for a period of six months with health insurance benefits
3	that, at a minimum, satisfy the affordable minimum essential coverage
4	standards of the Affordable Care Act and provide coverage for the individual's
5	dependents.
6	Sec. 3. 3 V.S.A. § 902 is amended to read:
7	§ 902. DEFINITIONS
8	As used in this chapter:
9	* * *
10	(5) "State employee" means any individual employed on a permanent or
11	limited status basis by the State of Vermont, the Vermont State Colleges, the
12	University of Vermont, or the State's Attorneys' offices, including permanent
13	part-time employees, and an individual whose work has ceased as a
14	
	consequence of, or in connection with, any current labor dispute or because of
15	consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, but excluding an individual:
15 16	
	any unfair labor practice, but excluding an individual:
16	any unfair labor practice, but excluding an individual: (A) exempt or excluded from the State classified service under the

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1	(ii) employees of the Defender General, excluding attorneys
2	employed directly by the Defender General and attorneys contracted to provide
3	legal services;
4	(iii) deputy State's Attorneys;
5	(iv) individuals employed in temporary, seasonal, or intermittent
6	positions who work more than 1,280 hours per year in one or more such
7	positions for a period of two years, or who are designated as temporary
8	employees but whose employment does not comply with the requirements of
9	subsection 331(b) of this title; and
10	(v) employees of State's Attorneys' offices are included within the
11	meaning of "State employee";
12	* * *
13	Sec. 4. 3 V.S.A. § 1011 is amended to read:
14	§ 1011. DEFINITIONS
15	As used in this chapter:
16	* * *
17	(8) "Employee," means any individual employed and compensated on a
18	permanent or limited status basis by the Judiciary Department, including
19	permanent part-time employees and any individual whose employment has
20	ceased as a consequence of, or in connection with, any current labor dispute or

1	because of an unfair labor practice. "Employee" does not include any of the
2	following:
3	* * *
4	(E) an individual employed on a temporary, contractual, seasonal, or
5	on-call basis, including an intern, provided that:
6	(i) the individual was hired to:
7	(I) temporarily replace an employee on vacation, medical leave,
8	or another leave of absence;
9	(II) accommodate peak or increased workloads; or
10	(III) replace or supplement permanent employees working on
11	special assignments or projects not normally included in the duties of
12	permanent employees; and
13	(ii) the individual has not worked more than 1,280 hours per year
14	in one or more such positions for a period of two years;
15	* * *
16	Sec. 5. EFFECTIVE DATE
17	This act shall take effect on July 1, 2019.