1	H.334
2	Introduced by Representatives Gannon of Wilmington, Gardner of Richmond
3	Hooper of Burlington, and Mrowicki of Putney
4	Referred to Committee on
5	Date:
6	Subject: Executive; classification of State personnel; State Employees Labor
7	Relations Act; Judiciary Employees Labor Relations Act; temporary
8	State employees
9	Statement of purpose of bill as introduced: This bill proposes to clarify
10	requirements related to the use of temporary State employees and to permit
11	long-term temporary State employees to collectively bargain.
12	An act relating to temporary State employees
13	It is hereby enacted by the General Assembly of the State of Vermont:
14	Sec. 1. 3 V.S.A. § 323 is amended to read:
15	§ 323. DEFINITIONS
16	As used in this chapter, unless the context clearly requires otherwise:
17	* * *
18	(2) "Bona fide emergency" means an unanticipated need for short-term
19	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	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;

(B) to respond to a bona fide emergency;

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- (C) to fill in for the temporary absence of an existing employee, or a vacancy in an existing position; <u>or</u>
- (D) to perform a governmental function that requires only intermittent, sporadic, or ongoing employment that averages less than 20 hours per week during any one calendar year, provided that such employment does not exceed 1,280 work hours in any one calendar year.

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(c)(1) The Commissioner may authorize the continued employment of a person in a temporary capacity for more than 1,280 work hours in any one calendar year if the Commissioner determines, in writing, that a bona fide emergency exists for the appointing authority that requires such continued employment. Annually, on or before January 15, the Commissioner shall submit a report to the House Committee on General, Housing, and Military Affairs and the House and Senate Committees on Government Operations:

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

dependents.

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

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 <u>following types of</u>
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

positions for a period of two years, or who are designated as temporary

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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;

1	(II) accommodate peak or increased workloads; or
2	(III) replace or supplement permanent employees working on
3	special assignments or projects not normally included in the duties of
4	permanent employees; and
5	(ii) the individual has not worked more than 1,280 hours per year
5	in one or more such positions for a period of two years;
7	* * *
3	Sec. 5. EFFECTIVE DATE
)	This act shall take effect on July 1, 2019