

MAINE STATE LEGISLATURE

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(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1582

H. P. 1431

House of Representatives, May 6, 1981

Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kane of So. Portland.

Cosponsor: Senator Dutremble of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Definition of State Employee under the State Employees Labor Relations Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 26 MRSA § 979-A, sub-§ 6, ¶¶ C and G, as enacted by PL 1973, c. 774, are amended to read:

C. Whose duties ~~as deputy, administrative assistant or secretary~~ necessarily imply a confidential relationship with respect to matters subject to collective bargaining as between such person and the Governor, a department head ~~or~~, body having appointive power within the executive department ~~or any other official or employee excepted by this section; or~~

G. Who is serving as a member of the State Militia or National Guard; ~~or~~

Sec. 2. 26 MRSA § 979-A, sub-§ 6, ¶ H, as enacted by PL 1977, c. 642, is amended to read:

H. Who is a staff attorney, assistant attorney general or deputy attorney general in the Department of Attorney General; ~~or~~

Sec. 3. 26 MRSA § 979-A, ¶¶ I, J and K are enacted to read:

I. Who is appointed to a major policy-influencing position as designated by Title 5, section 711, subsection 2; or

J. Who is an employee of the Department of Personnel; or

K. Who exercises independent judgment to formulate or assist in formulating policy or who directs the implementation of policy within an agency or department. This section shall include, but shall not be limited to, officials such as directors and deputy or assistant directors of institutions, division directors, assistant division directors, bureau directors, assistant bureau directors and employees who prepare or substantially assist in preparing department or agency budgets.

STATEMENT OF FACT

By specific exclusions from the definition of "state employee," the State Employees Labor Relations Act recognizes that representation in collective bargaining is inconsistent with the duties of certain employees and officials. These amendments revise the Act to more closely reflect the criteria for exclusion from representation found in federal law and in many state public sector labor relations laws.

Title 26, section 979-A, subsection 6, paragraph C clarifies the definition of an individual confidential employee to ensure that the confidential duties rather than the specific job title of such an employee are the criteria for exclusion.

Title 26, section 979-A, subsection 6, paragraph I gives full effect to the intent that employees specifically designated as major policy-influencing positions by Title 5, section 711, subsection 2, be responsive to the appointing authority and to the public.

Title 26, section 979-A, subsection 6, paragraph J reflects the integral role of all staff of the Department of Personnel in the negotiation and administration of collective bargaining agreements.

Title 26, section 979-A, subsection 6, paragraph K excludes from collective bargaining those employees who have wide latitude to make commitments on behalf of the State and who have significant decision-making authority within their agencies. Currently, these employees may be represented in bargaining to the same degree as the employees whom they direct. This presents a conflict of interest for these employees and their department heads. This section does not change the present definition of supervisor under the Act.