

# MAINE STATE LEGISLATURE

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(Filing No. H-1082)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
108TH LEGISLATURE  
SECOND REGULAR SESSION

"A"

COMMITTEE AMENDMENT/to H.P. 1940, LD. 2020, Bill, "AN ACT Clarifying the Definition of State Employee under the State Employees Labor Relations Act so as to Exclude Certain Attorneys Employed by the Attorney General's Office."

Amend the bill by striking out all of the title and inserting in its place the following:

'AN ACT to Clarify the Role of Certain Attorneys Employed by the Attorney General's Office in Collective Bargaining by Establishing a Separate Bargaining Unit.'

Further  
~~/Amend~~ the bill by striking out everything after the title and insert in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a question has arisen as to the status of attorneys in the Attorney General's office in collective bargaining with respect to their present inclusion in the Professional and Technical Services bargaining unit, which unit also includes employees of the agencies/<sup>which</sup> those attorneys represent and advise; and

Whereas, inclusion in this bargaining unit creates the potential for serious conflicts of interest for the attorneys involved and for interference with their professional relationships with their client agencies; and

Whereas, while these attorneys are not appropriately included in the present unit, they ought not to be excluded from collective bargaining rights altogether, and therefore should comprise a separate bargaining unit; and

Whereas, while litigation is currently pending in Kennebec County Superior Court which seeks resolution of this question, the question is more appropriately resolved by the Legislature, since it is fundamentally a question of the Legislature's intent; and

Whereas, collective bargaining is presently in process and a more expeditious resolution of this question than can be had in litigation will facilitate bargaining and render its outcome less tentative; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

26 MRSA §979-E, sub-§2, as amended by PL 1975, c. 612, §1, is further amended to read:

2. In order to insure to employees the fullest freedom in exercising the rights guaranteed by this chapter, to insure a clear and identifiable community of interest among employees concerned, and to avoid excessive fragmentation among bargaining units in State Government, the executive director of the board or his designee shall decide in each case the unit appropriate for purposes of collective bargaining, except that assistant attorneys general, staff attorneys and counsel in the Attorney General's Office comprise by themselves a separate unit appropriate for the purposes of collective bargaining.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.<sup>1</sup>

#### Statement of Fact

By order of the Maine Labor Relations Board interpreting the State Employees Labor Relations Act, attorneys in the Attorney General's Office were included in the Professional and Technical Services bargaining unit. While the State's attorneys should have collective bargaining rights as do other State employees, inclusion in the same unit with employees of their client agencies and departments poses potential conflict of interest problems for these attorneys and unnecessarily complicates their relationship to their clients.

Litigation has been filed. However, the issues are matters of legislative intent, more properly determined by the Legislature. Moreover, since collective bargaining is in process, an expeditious resolution is essential.

The purpose of this amendment is to express the Legislature's recognition of the problems posed by inclusion of these attorneys in a general bargaining unit, and to resolve those problems by establishing the attorneys as a separate bargaining unit.

Reported by the Majority of the Committee on Labor.

Reproduced and distributed under the direction of the Clerk of the House.  
2/27/78

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