

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
SECOND REGULAR SESSION

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 2020**

H. P. 1940

Office of the Clerk of the House

The Committee on State Government suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk.

Presented by: Mr. Garsoe of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

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**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.**

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

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

Whereas, litigation is currently pending in Kennebec County Superior Court seeking a determination as to whether or not attorneys employed in the Department of Attorney General are included in the definition of state employee for the purpose of collective bargaining under the State Employees Labor Relations Act; and

Whereas, pending a final determination of that litigation the attorneys in the Department of Attorney General are considered a part of the professional and technical bargaining unit for the purpose of collective bargaining under the Act; and

Whereas, the Maine State Employees Association has been elected bargaining agent for that unit; and

Whereas, the Maine State Employees Association is currently in the process of negotiating collective bargaining agreements on behalf of that unit which may unnecessarily include provisions relating to attorneys in the Department of Attorney

General in the event that the court finds that they are not properly included in the bargaining unit; and

Whereas, a final decision of the court may not be rendered until after a collective bargaining agreement is negotiated; and

Whereas, the negotiation and execution of a collective bargaining agreement, if attorneys in the Department of Attorney General are not included in the collective bargaining process, would unnecessarily interfere with the Attorney General's responsibility for and relationship with attorneys in the Department of Attorney General; 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-A, sub-§ 6, ¶ H is enacted to read:

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

**Emergency clause.**In view of the emergency cited in the preamble, this Act shall take effect when approved.

#### STATEMENT OF FACT

The purpose of this bill is to clarify the definition of state employee under the State Employees Labor Relations Act so as to exclude staff attorneys, assistant attorneys general and deputy attorneys general, employed by the Department of Attorney General, from collective bargaining under this Act.

The Maine Labor Relations Board entered an order on February 2, 1977, which had the effect of including attorneys in the Department of Attorney General within a bargaining unit for the purpose of collective bargaining. That decision has been challenged by the Office of State Employee Relations and the Department of Attorney General in Superior Court primarily on the basis that the Legislature did not intend to include attorneys employed by the Department of Attorney General in the definition of state employee for the purpose of collective bargaining under the State Employees Labor Relations Act.

The intent of this bill is to expedite and finalize a decision as to whether or not the Legislature intended that the attorneys in the Department of Attorney General be included in the state employee collective bargaining process by clearly indicating that they are excluded.