

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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Legislative Document

No. 825

H.P. 574

House of Representatives, February 26, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative JOSEPH of Waterville.  
Cosponsored by Senator BUSTIN of Kennebec.

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STATE OF MAINE

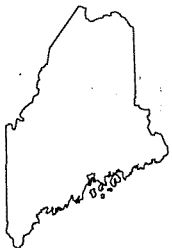
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Clarify the Definition of State Employee in the State  
Employee Labor Relations Laws.**

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

2  
3 Sec. 1. 26 MRSA §979-A, sub-§6, ¶¶J, as amended by PL 1989, c.  
4 654, §3 and affected by §13, is further amended to read:

6 J. ~~Who substantially participates in the formulation and~~  
7 ~~effectuation of policy in a department or agency or~~ has a  
8 major role, other than a typically supervisory role, in the  
9 administration of a collective bargaining agreement in a  
10 department or agency; or

12 Sec. 2. 26 MRSA §979-E, sub-§3, as enacted by PL 1975, c. 697,  
13 §9, is amended to read:

14  
15 3. **Unit clarification.** Where there is a certified or  
16 currently recognized bargaining representative and where the  
17 circumstances surrounding the formation of an existing bargaining  
18 unit are alleged to have changed sufficiently to warrant  
19 modification in the composition of that bargaining unit, any  
20 public employer or any recognized or certified bargaining agent  
21 may file a petition for a unit clarification, provided that the  
22 parties are unable to agree on appropriate modifications and  
23 there is no question concerning representation. If a public  
24 employer intends to exempt from the definition of "state  
25 employee" in section 979-A a new position, other than a new  
26 position within a previously exempted classification, the public  
27 employer must file a petition under this section after the new  
28 position is established and must receive approval for the  
29 exemption before the exemption is effective for the purposes of  
30 this chapter.

32  
33 **STATEMENT OF FACT**

34  
35 The statutory language removed in this bill has been relied  
36 upon as a basis for attempting to remove hundreds of state  
37 positions from collective bargaining units through unit  
38 clarification petitions before the Maine Labor Relations Board.  
39 The law already excludes major policy-influencing positions from  
40 state bargaining units, as well as confidential positions with  
41 major roles in collective bargaining and contract  
42 administration. Excluding these other positions from collective  
43 bargaining serves no governmental purpose, increases patronage  
44 and substantially curtails career ladders within bargaining unit  
45 job series. This bill clarifies the procedure that a public  
46 employer must take in order to exempt a new position from the  
47 definition of "state employee" under the Maine Revised Statutes,  
48 Title 26, chapter 9-B. This bill permits the State to file a  
49 petition for unit clarification after the new position is  
50 established to avoid any delay in filling new positions.