

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1503

H. P. 1246

House of Representatives, March 28, 1979

On Motion of Mrs. Kany of Waterville, referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Brodeur of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Facilitate Recruitment of Qualified Employees for State Government
Positions that are Hard to Fill.**

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

Sec. 1. 5 MRSA § 639 is enacted to read:

§ 639. Recruitment of employees for hard to fill positions

1. Purpose. The purpose of this section is to establish a procedure to permit the Commissioner of Personnel, with the consent of the Governor, to more easily recruit employees for State Government positions that are critical to the operation of a state agency and are hard to fill.

2. Findings. The Commissioner of Personnel may, on his own initiative, or at the request of the head of another department or agency, make a written finding that a position is hard to fill and that not filling the position impairs a critical state function.

3. Authorization. After making a finding pursuant to subsection 1 and notwithstanding any other provision, except as otherwise provided in this section, the Commissioner of Personnel with the approval of the Governor may authorize an employing authority to do any or all of the following in order to fill the position:

A. Increase the salary or wages for the position by the smaller of:

- (1) Not to exceed 15% of the maximum rate fixed in the compensation plan for a particular position; or**
- (2) \$2,000;**

B. Decrease the number of hours per week required for the position, including a reclassification of the position from full time to some other classification, including, but not limited to, part-time;

C. Change the working conditions for the position, provided that no working condition required by statute shall be changed; or

D. Make use of personal services funds to train an individual so that he will qualify for the position, provided that the funds so used for an individual do not exceed 50% of the annual salary rate at which the person is initially employed. The commissioner may require repayment of the training cost by the trainee if the trainee does not remain as an employee for the 6 months immediately following completion of training. A person shall be employed pursuant to this paragraph only if, after completion of the training authorized, he will be fully qualified for the position.

The authority in this subsection is dependent upon availability of funds and shall not be exercised to the extent it is inconsistent with collective bargaining agreement pursuant to Title 26, chapter 9-B. If the provisions of paragraphs A, B or C are applied for any position, they shall be available on exactly the same terms to the incumbents of all other positions in that class. If the provisions of paragraph A are applied for any position, they shall be available on the same terms to the immediate supervisor of each position.

No person shall be employed pursuant to this section unless he is qualified for the position, except as provided in subsection 3, paragraph D.

Sec. 2. Study to be conducted. The Commissioner of Human Services shall conduct a study of the standards and methods used by the department for recruiting and employing social workers and make a written report to the Legislature. The study shall be of any department positions which require the performance of tasks requiring social worker skills, including, but not limited to, the following positions: Human services aide I - III, human services manager I - IV, human services technician I - II and human services worker I - III. At a minimum the study shall include:

- A. Identification of the tasks required to be performed for each position;**
- B. Identification of the work experience, training and personal attributes required for the performance of work tasks;**
- C. Identification of the standards and methods required to recruit, select and employ persons qualified to hold the positions, including examinations, oral interviews and other forms of evaluation;**

D. Identification of the standards and methods now used to recruit, select and employ persons for these positions; and

E. Recommendation of legislative and administrative acts required to assure the employment of qualified persons in all positions as rapidly as possible, including drafts of legislation, rules, position descriptions and other materials necessary to accomplish this employment.

The study shall treat separately and specially the requirements and problems of child protective work.

The commissioner shall hold a public hearing during the study to solicit the views of the public.

The written report shall be submitted to the Legislature not later than January 15, 1980.

STATEMENT OF FACT

Hard to fill positions exist in several state agencies, including the Departments of Transportation, Mental Health and Corrections and Human Services. Key positions currently are unfilled, including engineers, prison guards and protective service workers. The difficulty in filling these positions is due to the problems with wages, hours and working conditions.

The purpose of this bill is to facilitate recruitment for these positions by:

1. Permitting the Commissioner of Personnel to make a written finding that a position is hard to fill and that not filling it impairs a critical state function;
2. Permitting the commissioner, with the consent of the Governor, to adjust the wages and salaries, hours and working conditions, within certain limits, to make the position more attractive;
3. Requiring that such adjustments be offered to all other persons incumbent in positions in the class and that they be consistent with collective bargaining agreements.

In addition, the bill requires the Commissioner of Human Services to study the standards and methods used to recruit and employ social workers, with particular attention to child protective workers. The commissioner is to submit a written report of his study to the Legislature by April 6, 1979, so that the Legislature will have time to act on the report if it is appropriate to do so.