

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

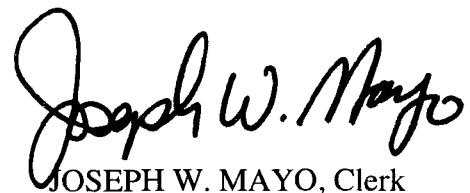
No. 1423

H.P. 1012

House of Representatives, February 18, 1999

An Act to Revise the Staffing and Resources of the Office of Public Advocate.

Submitted by the Office of Public Advocate pursuant to Joint Rule 204.
Reference to the Committee on Utilities and Energy suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative DAVIDSON of Brunswick.
Cosponsored by Representatives: BERRY of Belmont, COLWELL of Gardiner, Senators:
CAREY of Kennebec, KONTOS of Cumberland, MITCHELL of Penobscot.

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

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Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1995, c. 560, Pt. K, §2, is amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

- Superintendent of Banking;
- State Tax Assessor;
- Superintendent of Insurance;
- Associate Commissioner for Programs, Department of Mental Health, Mental Retardation and Substance Abuse Services;
- Associate Commissioner of Administration, Department of Mental Health, Mental Retardation and Substance Abuse Services;
- Associate Commissioner for Systems Operations, Department of Mental Health, Mental Retardation and Substance Abuse Services;
- Deputy Commissioner, Department of Administrative and Financial Services;
- Associate Commissioner for Adult Services, Department of Corrections; and
- Associate Commission for Juvenile Services, Department of Corrections.; and
- Public Advocate.

Sec. 2. 2 MRSA §6, sub-§3, as amended by PL 1997, c. 643, Pt. H, §1 and Pt. Q, §2, is repealed and the following enacted in its place:

3. Range 89. The salaries of the following state officials and employees are within salary range 89:

- Director, Bureau of General Services;
- Director, Bureau of Alcoholic Beverages and Lottery Operations;
- State Budget Officer;

2 State Controller;

4 Director of the Bureau of Forestry;

6 Chief of the State Police;

8 Director, State Planning Office;

10 Director, Energy Resources Office;

12 Director of Human Resources;

14 Director, Bureau of Children with Special Needs;

16 Commissioner of Defense, Veterans and Emergency Management;

18 Director, Bureau of Parks and Lands;

20 Director, Bureau of Information Services; and

22 Director of Econometric Research.

24 **Sec. 3. 5 MRSA §939-A**, as enacted by PL 1993, c. 410, Pt. LL,
§1, is amended to read:

26 **§939-A. Executive Department**

28 **1. Major policy-influencing positions.** The following
30 positions are major policy-influencing positions within the
Executive Department. Notwithstanding any other provision of
32 law, ~~this--position~~ these positions and ~~its~~ their successor
positions are subject to this chapter.;

34 A. Director, Office of Substance Abuse;

36 B. Deputy Public Advocate;

38 C. Senior Counsel, Office of Public Advocate;

40 D. Economic Analyst, Office of Public Advocate;

42 E. Business Services Manager, Office of Public Advocate;

44 F. Special Assistant to the Public Advocate, Office of
Public Advocate; and

46 G. Research Assistant, Office of Public Advocate.

48 **Sec. 4. 35-A MRSA §112**, as amended by PL 1993, c. 165, §1, is
50 further amended to read:

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§112. Power to obtain information

1. Investigation of management of business. The commission and the Public Advocate may inquire into the management of the business of all public utilities and shall keep itself informed as to the manner and method in which each is conducted.

2. Facilities and information to be furnished. Every public utility shall furnish the commission and Public Advocate or their employees with:

A. All reasonable facilities for the prompt and faithful discharge ~~of its~~ their duties; and

B. All information necessary to perform ~~its~~ their duties and carry into effect this Title. If ~~it is~~ they are unable to furnish the information, ~~it~~ they shall give a good and sufficient reason for the failure, and the reason for the failure ~~shall~~ must be verified by an officer, owner or agent of the public utility and returned to the commission or the Public Advocate at ~~its office~~ their offices within the time fixed by the commission or the Public Advocate.

3. Inspection of books and papers; confidentiality. The following provisions apply to inspection of books and papers.

A. The commission ~~or~~, any commissioner, the Public Advocate or any person employed by ~~it~~ them for that purpose, may upon demand inspect and copy the books, accounts, papers, records and memoranda of any public utility in relation to ~~its~~ their business and affairs.

B. A person other than a commissioner or the Public Advocate must produce ~~his~~ that person's authority to make an inspection.

C. A person employed by the commission or the Public Advocate to inspect utilities documents may not divulge information ascertained by inspection except:

- (1) To the commission or Public Advocate; or
- (2) Under direction of the commission or Public Advocate.

D. Any person who violates this subsection is guilty of a Class E crime.

2 **4. Production of documents; failure to obey.** The
commission or the Public Advocate may require the production of
documents as follows.

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6 A. The commission or the Public Advocate may require, by
order or subpoena to be served on any public utility in the
8 same manner that a summons is served in a civil action in
the Superior Court, the production of any books, accounts,
10 papers, records or verified copies of them kept by a public
utility or within the control of a public utility in any
12 office or place within or outside the State, so that an
examination may be made by the commission or the Public
Advocate or under ~~its~~ their direction.

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16 B. A public utility or its agent who fails to comply with
an order or subpoena commits a civil violation for which a
18 forfeiture of not less than \$50 nor more than \$500 may be
adjudged for each offense. Each day of noncompliance
constitutes a separate offense.

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22 C. Subject to the requirements of the United States
Constitution and the Constitution of Maine and upon a
24 finding that there is probable cause to believe that a
public utility is altering, amending, removing or destroying
any of its books, accounts, papers or records in an attempt
26 to frustrate an investigation of the commission or the
Public Advocate, a Judge of the District Court or a Justice
28 of the Peace, at the request of the commission or the Public
Advocate and without notice, may issue a search warrant
30 requiring seizure of those documents that are necessary for
the commission or the Public Advocate to discharge its
32 duties.

34 **Sec. 5. 35-A MRSA §1701, sub-§3**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

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38 **3. Service.** The professional employees of the Public
Advocate ~~shall, including the Deputy Public Advocate, Senior
40 Counsel, Business Services Manager, Economic Analyst, Research
Assistant and Special Assistant to the Public Advocate, serve at
42 the pleasure of the Public Advocate,--all and are designated
confidential employees. All other employees of the Public
Advocate shall-be are~~ subject to the Civil Service Law.

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46 **Sec. 6. Allocation.** The following amounts are authorized for
assessment in the Public Advocate assessment pursuant to the
48 Maine Revised Statutes, Title 35-A, section 116, subsection 8 and
are in addition to any amounts authorized for assessment in the
unified current services budget legislation for the biennial
50 budget for fiscal years ending June 30, 2000 and June 30, 2001.

2 The same amounts are allocated for the Public Advocate Regulatory
Fund for the fiscal years ending June 30, 2000 and June 30, 2001
to carry out the purposes of Title 35-A, section 1701.

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6 **1999-00** **2000-01**

8 **EXECUTIVE DEPARTMENT**

10 **Public Advocate**

12	Positions - Legislative Count	(3,000)	(3,000)
13	Personal Services	\$302,792	\$342,350
14	All Other	15,000	15,000
15	Capital Expenditures	12,500	

16 Provides for the allocation
17 of funds from the Public
18 Advocate Regulatory Fund for
19 a reclassification of the
20 Public Advocate, General
21 Counsel, Counsel,
22 Administrative Assistant and
23 Senior Legal Secretary
24 positions and the
25 establishment of an Economic
26 Analyst, Research Assistant
27 and Clerk Typist III
28 positions.

30	EXECUTIVE DEPARTMENT		
31	TOTAL	<u>\$330,292</u>	<u>\$317,350</u>

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SUMMARY

36 This bill increases the pay scales for existing positions
37 within the Office of the Public Advocate and creates the
38 following 3 new positions within that office: a Clerk Typist
39 III, an Economic Analyst and a Research Assistant position.

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42 This bill also establishes 6 positions within the Office of
the Public Advocate as major policy-influencing positions and
designates them as confidential employees. It extends to the
44 Office of the Public Advocate the same power to obtain
information regarding the business of all public utilities that
46 is currently held by the Public Utilities Commission.