

**DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
BUREAU OF HUMAN RESOURCES**

September 18, 1998

CIVIL SERVICE BULLETIN 5.13

TO: Commissioners, Department Heads, Human Resource Representatives,
Directors of Administrative Services, EEO Officers

SUBJECT: Project Employment

REFERENCE: *Civil Service Rules*, Ch. 5, Sec. 3, Sub-sec. A, 6. "Project Employment"
(REVISED TO ADD DATE ONLY)

The purpose of this bulletin is to clarify conditions of employment associated with Project positions in response to recent legislative changes.

DEFINITION: Project positions are defined as positions that are restricted to a planned work program that has a planned duration of 365 days or less and which is not of a seasonal or regularly recurring nature.

PROJECT APPOINTMENT:

- Project appointments must be assigned to an existing classification.
- Project appointments are direct hire.
- Project employees must meet the minimum qualifications established for the classification.
- Project employees must join the Maine State Retirement System.
- Project appointments are not subject to civil service register and certification requirements.
- Project employees are not eligible to apply for Agency or Statewide Promotional opportunities.
- Project employees do not have layoff or recall rights.

PROJECT BENEFITS: Project employees are entitled to benefits provided by law, *Civil Service Rules*, or regulation. They are not entitled to benefits derived from collective bargaining agreements or from the Confidential benefits package.

Project employees are eligible for/to:

- Health and dental insurance (Application procedures, effective dates and rates are the same as that for regular employees.)
- Participation in a Deferred Compensation plan
- Mileage allowance (when required for state business)
- Lodging and meal expense reimbursement (when required for state business)
- Paid Military Leave for Annual Training only [Reference 37-B M.R.S.A. § 342(5)(B)]
- Storm/Emergency closures

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Project employees *are not eligible* for/to:


- Life Insurance (Full-time Project employees may continue to be insured if he or she was insured as an eligible employee *immediately* prior to Project appointment.)
- Sick Leave (at any time during the Project appointment)
- Vacation Leave (at any time during the Project appointment)
- Holiday Pay
- Personal Leave Days
- Bereavement Leave
- Child Care Reimbursement
- Court Service Leave (Note: Project employees must be released for required court service, but are not in pay status. Project employees may retain any payment for court service provided by the court.)
- Telephone expense allowance
- Uniform maintenance allowance
- Creditable service for vacation accrual purposes (for time in Project employment if later appointed to a position with status)
- Seniority (for time in Project employment if later appointed to a position with status)
- Longevity (for time in Project employment if later appointed to a position with status)
- Other paid absences during assignment (eg.: to take state exams or interview for a position with status)

COMPENSATION:

- Because the benefits for Project employees are significantly limited, *Civil Service Rules* provide the authority to compensate employees above the maximum step of the established salary range. Nevertheless, all appointments above the minimum rate must be requested and approved in advance by the Director, Bureau of Human Resources.
- Overtime should be paid in accordance with FLSA. That is, premium time (1.5) for *actual work* over 40 hours for *non-exempt* employees. (Note: Premium overtime over 8 hours in a day, or the regularly scheduled workday, is **not** appropriate.)

Additional References: 1. Human Resources Memorandum 8-98 (06/18/98)

2. Joint Policy and Procedures Memorandum. "Implementation of PL 1997, Ch.643, Part Y, Creation of Positions"



Donald A. Wills, Director
Bureau of Human Resources
DAW/pjs

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
Bureau of Human Resources

June 18, 1998

HUMAN RESOURCES MEMORANDUM 8-98

TO: Agency Heads, Directors of Administrative Services, Agency Human Resources Representatives

SUBJECT: Project Positions/New FJA- 1P Form

FROM:  Donald A. Wills, Director Bureau of Human Resources

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This Memorandum is in follow-up to the guidelines presented in the Joint Policy and Procedures Memorandum released by the Budget Office and the Bureau of Human Resources on May 27, 1998 for establishing temporary project positions.

As explained in the Joint Memorandum, project positions may be used to meet temporary emergency needs. They may **not** be used to provide ongoing services or as a means to reclassify or upgrade ongoing positions.

Project Positions must be used whenever the planned work is not expected to last more than 365 calendar days. The standard of 365 days clarifies the Civil Service Rule definition for Project Positions (Chapter 1, Section 3U) and this standard will be applied to the Civil Service Rule definition as follows:

U. "Project Position" is a position which is restricted to a planned work program to be completed within a specified limited period of time that has a planned duration of 365 days or less and which is not of a seasonal or regularly recurring nature.

Note: As explained by the Joint Memorandum, temporary positions with a planned duration of more than 365 calendar days must be established as status limited period positions.

The administrative procedure for establishing project positions is summarized as follows:

1. Each project position must be assigned to an existing classification in the State's classification plan. Classifications that are suggested by departments must be approved by the Bureau of Human Resources.

2. **A new and simplified FJA Form (FJA -1P) has been created to assign project positions to the appropriate classification.** The FJA -1P is available on the Internet with other Personnel Action Forms.

3. A New Position Requisition Form (PER 51) must be completed and forwarded with the FJA- 1P to the Bureau of Human Resources.

4. The Bureau of Human Resources will forward the FJA- 1P approval and the PER 51 to the Budget Office to be matched with the Financial Order for that position.

5. Once the project position is approved and cleared for filling, the employing department may fill the project position on a direct-hire basis (the employee hired must meet the minimum qualifications for the position classification used).

6. The State Civil Service Rules (Chapter 5, Section 3A6) provide the authority to compensate employees in project positions above the maximum step of the established Salary Grade. However, all appointments to a project position above Step 01 must be requested and approved in advance by the Director, Bureau of Human Resources. This compensation rule is intended to help offset the non-status nature of project appointments and their ineligibility for benefits such as vacation, sick leave and holiday pay. Note: Project employees must be members of the Maine State Retirement System, are eligible for the State's health and dental insurance, and are covered by the workers' compensation law.

JOINT POLICY AND PROCEDURES MEMORANDUM
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

BUDGET AND HUMAN RESOURCES

May 27, 1998

TO: All Department and Agency Heads, Directors of Administrative Services,
Human Resources Representatives

FROM: John R. Nicholas, State Budget Officer
Donald A. Wills, Director, Bureau of Human Resources

SUBJECT: Implementation of Public Law 1997, Chapter 643, Part Y, Creation of
Positions.

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Public Law 1997, Chapter 643, Part Y becomes effective on June 30, 1998. This law amends Title 5, Section 1583-A to provide a framework for creating temporary positions by financial order.

The law is intended to provide departments and agencies the means to establish bona fide temporary positions to meet emergency needs. It is not intended to provide a means for departments and agencies to use a financial order to establish, reclassify or upgrade ongoing positions or provide ongoing services. Ongoing position or service needs (e.g., long term needs that are integral to the department or agency mission) must still be accomplished by one of the following methods:

- by a contractual arrangement, provided that this approach can be achieved without establishing an employee-employer relationship and provided that permanent funds can be identified in the All Other line category in the same account or another account in the fund supporting the position (Please contact the Division of Purchases for guidance); or
- by eliminating another position of equal headcount value in the department or agency regardless of fund type and by identifying permanent savings or resources in the same account or another account in the fund supporting the position; or
- by reorganizing tasks and functions in the department or agency so that the need for the position can be satisfied within existing resources.

The budget and human resources standards and guidelines for the creation of temporary positions under this legislation are:

Human Resources standards and guidelines:

1. Temporary positions that are established under this authority for work that has a planned duration of 365 calendar days or less must be established as **project** positions. The initial end date of these project positions can not exceed the statutory end date of the next regular session of the Legislature (see Title 3, section 2), even if the work to be completed extends beyond this date. An extension beyond this end date may be accomplished by extending the end date of the position through the legislative process or by establishing another project position by financial order.

2. Temporary positions that are established under this authority for work that has a planned duration of more than one year must be established as **limited period** positions, regardless of funding source. The initial end date of these limited period positions can not exceed the statutory end date of the next regular session of the Legislature (see Title 3, section 2), even if the work to be completed extends beyond this date. Any extension beyond this end date must be submitted for legislative approval. Exceptions that may be required as a result of the effective date of legislation will be reviewed by the Bureau of the Budget on a case-by-case basis.

3. Project positions established under the authority of this legislation, like all project positions, do not provide any employment status. Project positions must be assigned to an existing classification and persons appointed to these project positions must meet the minimum qualification requirements established for the classification. Appointments are not subject to Civil Service register and certification requirements. Project employees must join the Maine State Retirement System and are eligible for health and dental insurance. To offset limited benefits, the Civil Service Rules provide the authority to compensate project employees more than the maximum step for the classification used. Note: Project salaries above Step 01 of the Salary Schedule must be requested and approved in advance by the Director, Bureau of Human Resources.

4. Limited period positions established under the authority of this legislation, like all limited period positions, will be treated the same as permanent positions with respect to status and benefits. Limited period positions must be assigned to an existing classification and persons appointed to these limited period positions are subject to the Civil Service examination, register and certification requirements for that classification. Limited period positions that are assigned to a classification that is covered by the collective bargaining process will be subject to the terms of the collective bargaining agreement for that classification, including layoff and recall rights.

5. In those instances where departments and agencies may request several extensions to a project or limited period position that has been established under this authority, the temporary nature of the position will be carefully reviewed against the standard for ongoing positions.

Budget Office standards and guidelines:

1. The 30 day wait requirements contained in Title 5, section 1535 and section A-21 of the Budget Preamble do not apply to the Personal Services portion of the request.

2. Funding sources include increased dedicated revenue to an account, balance forward in an account and transfers between line categories within the same fund and department or agency.

3. Limitations on the use of salary savings contained in section A-3 of the Budget Preamble do not apply.

4. Financial order approval by the Governor is required for all such positions including those funded and established using salary savings in the same account.

5. Transfers between departments and agencies within the same fund are permitted.

6. Allotment increases in excess of allocation in Other Special Revenue and Internal Service Fund accounts for which an allocation does not currently exist are permitted.

Procedure checklist for requesting position authorizations through the Bureau of the Budget:

- ✓ All position requests must be included in a **Financial Order** for approval by the Governor. The **Ordered** section of the financial order must appear as follows:

Ordered,

That the State Budget Officer be authorized to establish in account _____ # _____, _____ name _____ the following position(s) in accordance with Title 5, section 1583-A: number, type and title of each position requested for approval .

Ordered,

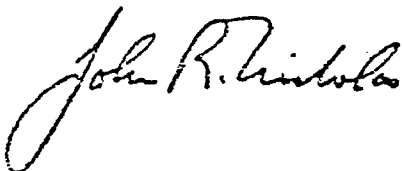
That (insert the appropriate funding and allotment revision section in the instructions for completing the financial order form).

- ✓ The “**Statement of Fact**” section of the financial order must include the following information: a detailed description of the programmatic need; the duration of the work and the anticipated end date; the source of one time funds or savings in the same fund by account name and number; the balance forward source, the income source and/or the character and object of expenditure source; whether the requested position is intended to be ongoing; and, the source of permanent funds or savings in the same fund by account name and number, income source and/or character and object of expenditure source in support of the ongoing position request.
- ✓ Supporting analysis and explanation must accompany the financial order request in order to provide sufficient information for review and recommendation by the Bureau of the Budget. The documentation should include, at a minimum, a spreadsheet identifying by fiscal year and account name and number the balance forward source, the income source and/or the character and object of expenditure source with supporting explanation for each. If the source of funds is salary savings, the documentation should include a salary savings memo in the form currently used to include the account name

and number, the title and number of the position being used as the source of savings, the dates the position was or will be vacant; and, the calculated savings by fiscal year.

- ✓ The effective date for each authorized position will be the Sunday (start of the next payroll earning week) following approval of the financial order by the Governor.

If you have any questions or require clarification of any aspects of this memorandum, please do not hesitate to contact the Bureau of Human Resources or the Bureau of the Budget.



John R. Nicholas, State Budget Officer
BUREAU OF THE BUDGET



Donald A. Wills, Director
BUREAU OF HUMAN RESOURCES

- cc: Janet Waldron, Commissioner, Department of Administrative and Financial Services
Charlie Jacobs, Deputy Commissioner, Department of Administrative and Financial Services
Kay Rand, Director of Policy and Legislation
Office of Fiscal and Program Review