



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

May 28, 2020

Robert Scott
Commissioner
29 Hazen Drive
Concord, N.H. 03301

Dear Commissioner Scott,

Pursuant to my authority under Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08 and 2020-09; and Emergency Order #37 I have approved your written request, in attachment, to take the following actions related to Executive Branch hiring:

1. Posting and hiring of an Attorney IV (Position # 42125) with the current allocation of funds being 56% General Funds and 44% Agency Income.

The Department of Administrative Services is authorized to take the actions necessary to effectuate this authorization.

Sincerely,

A handwritten signature in blue ink that reads "Christopher T. Sununu".

Christopher T. Sununu
Governor

CC Charles Arlinghaus, Commissioner, Department of Administrative Services

POSITION WAIVER

May 27, 2020

His Excellency, Governor Christopher T. Sununu
 State House
 Concord, NH 03301

Dear Governor Christopher T. Sununu:

REQUESTED ACTION

Approval is requested for a waiver of Emergency Order # 37 in order to fill the following position within the:

Agency:	Environmental Services Dept	
Reason Code:	Full Time Position	
Position #:	42125	
Position Title:	Attorney IV	
Anticipated Hire Date (MM/DD/YY):	June 19, 2020	
Labor Grade:	32	
Step:	9	
Date of Vacancy (MM/DD/YY):	July 1, 2020	
Vacancy Rate (%)	14%	
Appropriation:	Agency	044 Environmental Services Dept
	Department	044 Environmental Services Dept
	Bureau	4400 Dept. Environmental Services
	Accounting Unit (XXXX)	1002 Administration - Support
	Class	010 Personal Services Perm Clas
	Expense Account (500XXX):	500100 Regular Officers And Employees
Total Annual Salary:	\$	98,963
Total Annual Benefits:	\$	38,513
Total Cost	\$	137,476
Estimated # of Pay Periods in FY:		25

Funding	% of Funding (ex: 5 = 5%)	Total Cost Based on Estimated Pay Periods Left in FY
0010 General Fund	56%	74,026
009 AGENCY INCOME	44%	58,163
		-
		-
		-
		-
Total	100%	132,188

EXPLANATION

This position administers the Legal Unit within the NH Department of Environmental Services (NHDES), Office of the Commissioner. This position is responsible for Right to Know requests under RSA 91-A, agency rule making, enforcement actions, administrative hearings, statutory and rule interpretations for agency officials and staff, and legal coordination with the NH Department of Justice. The position oversees the administration and the interrelationship of NHDES compliance policies and measurements with state, regional, and federal objectives. If this position is not filled, the Legal Unit would be significantly impacted resulting in delays in resolving many matters before the Department.

Standard Questions:

1. What services or constituency group will be affected if this position is not filled?

This person provides the day-to-day legal support to the entire Department of Environmental Services, including rule making and compliance staff for all three Divisions, and the staff of the Office of the Commissioner. This person is further responsible to the public to ensure Right to Know requests are handled in a timely manner and made available to the public in accordance with RSA 91-A. If this position is not filled, all NHDES employees, other State agencies, and the general public would be negatively impacted by delays in agency staff obtaining legal advice to properly implement programs in addition to delays in agency rule making. Given the volume of agency administrative rules, failure to keep rules up to date can impact economic development.

2. Are the services/duties performed by this position required by law, rule, court order or some other mandate? If yes, explain.

Yes, NHDES is required by law to make records available for inspection, to adopt administrative rules and to comply with civil rights requirements. Delegated federal programs require appropriate compliance assurance.

3. Did the position become vacant because of a promotion or personnel action within the organization, or did the incumbent move to another state position? Define

Incumbent will retire effective July 1, 2020.

4. Can other personnel within the department cover the duties of this position? Explain in detail

No, existing staff cannot meet the additional legal support requirements of this position. No other staff has the training, experience and qualifications necessary to cover the duties of this position.

5. Can the duties be completed by a part-time position? Explain in detail

No, a full-time position is required to support all of these critical functions.

6. If this position has been vacant for a period of time, explain how the work previously done by this position has been allocated to, or covered by others during this vacancy period.

Not applicable, this position will become vacant on July 1, 2020.

7. Has this position been reclassified or established with the passage of the FY '20-21 budget or after?

No

8. Do you anticipate filling this position with an internal candidate? Explain

It may be possible to fill this position with an internal candidate.

9. If you are hiring at a step beyond 1, please provide justification.

To recruit an experienced attorney into this key position leading the NHDES Legal Unit, I anticipate that up to a step 9 would be necessary to hire such an experienced and high caliber attorney. As we anticipate hiring an internal candidate, we also anticipate that the person is already being paid at a step 8 or 9 in their current position and this move would require us to match that rate of pay.

List of currently pending submitted waivers with the priority ranking (#1 = top ranking):

1. Position # 42125 – Attorney IV

List of waivers previously granted:

None

Respectfully submitted,

Robert R. Scott

Robert R. Scott
Commissioner
Department of Environmental Services