

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-SIX

—
H.P. 1162 - L.D. 1744

**An Act to Modify Provisions of the State Civil Service System Governing
Employee Recruitment and Retention**

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

Sec. 1. 5 MRSA §7065, sub-§2, as amended by PL 1993, c. 705, §1, is further amended to read:

2. Salary limits. ~~No~~ A position may not be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan except as provided by subsection ~~2-D~~ 2-E.

Sec. 2. 5 MRSA §7065, sub-§2-D, as corrected by RR 2023, c. 1, Pt. B, §38 and affected by §50, is repealed.

Sec. 3. 5 MRSA §7065, sub-§2-E is enacted to read:

2-E. Recruitment and retention adjustments. The following provisions govern the process of requesting a recruitment and retention adjustment.

A. An agency or bargaining agent shall file a request for a recruitment and retention adjustment with the Bureau of Human Resources on forms prescribed by the bureau.

B. When a request for a recruitment and retention adjustment is filed by an agency or bargaining agent with the Bureau of Human Resources under paragraph A, the officer shall conduct a preliminary review to determine the extent to which vacancy rates, turnover rates or other workforce indicators identified in the request are attributable to any of the following conditions:

- (1) Statewide or departmental hiring freezes, position holds, delays in hiring authorizations or funding lapses;
- (2) Management-directed attrition, including for the purposes of anticipated reorganizations, or programmatic changes affecting staffing levels;
- (3) Temporary operational decisions or policy directives that limit recruitment or filling of vacancies; or

(4) Any other reasonable material, operational, fiscal or administrative circumstances that reasonably explain vacancy or turnover levels independent of compensation or labor market competitiveness.

If any of the conditions in subparagraphs (1) to (4) are determined to be present, the officer may choose not to form a committee pursuant to paragraph D, subject to an appeal filed pursuant to paragraph F. If none of the conditions in subparagraphs (1) to (4) are determined to be present, the committee must be formed.

The officer shall complete the preliminary review outlined in this paragraph as soon as possible but no later than 30 days following the receipt of the request.

C. A recruitment and retention adjustment may be authorized by the officer only when justified by the following conditions:

(1) High turnover exists or long-term vacancies exist either within a specific department or across State Government in the relevant occupational classifications or job series;

(2) Reasonable and appropriate recruitment and retention efforts have been attempted and have proven ineffective at the current levels of compensation; and

(3) Comprehensive, verifiable documentation of labor market compensation levels for the relevant occupation has been compiled to determine competitive pay levels within the defined labor market. This documentation must demonstrate that a labor market disparity exists and that the disparity represents a long-term problem and not a transitory or seasonal problem.

D. Except as provided in paragraph B, to assist the officer in making a determination under paragraph C, a committee must be formed to evaluate the request from an agency or bargaining agent for a recruitment and retention adjustment. The following provisions apply to the committee formed under this paragraph.

(1) The committee must be composed of a representative of the Bureau of Human Resources, a representative of the agency and a representative of the bargaining agent if applicable.

(2) The committee shall evaluate the request against the conditions specified in paragraph C and shall conduct studies as the committee considers necessary to evaluate the request.

(3) The committee shall, by majority vote, provide the officer, the agency and the bargaining agent, if applicable, with a report recommending and documenting adjustments authorized under this subsection. The officer, the agency and the bargaining agent, if applicable, shall act on the report. If resources within the department or agency budget do not exist to fund an approved adjustment, the officer shall submit the cost items for inclusion in the Governor's next operating budget. If the Legislature does not appropriate the requested funds, the department or agency is not obligated to pay any requested recruitment and retention adjustment.

(4) Salary compression within the affected position's supervisory organizational structure must be given consideration by the committee. The committee may recommend pay adjustments within the supervisory organizational structure in

order to reduce any potential compression that exceeds 4 steps in a salary grade. If resources within the department or agency budget do not exist for the pay adjustment to reduce this compression, the original request must move forward without addressing the compression and the officer shall submit the cost items regarding potential additional compressed positions for inclusion in the Governor's next operating budget. If the Legislature does not appropriate the requested funds, the department or agency is not obligated to make the requested pay adjustments. For the purposes of this subparagraph, "salary compression" means a relatively narrow range of salaries within an occupational classification.

The officer shall provide to the requesting agency or bargaining agent a written decision including the proposed course of action within 30 days of receiving the committee's final recommendation.

E. A recruitment and retention adjustment must be reviewed at least every 4 years in alignment with section 7061, subsection 4, paragraph B and adjusted to changes in the labor market or the overall relation of the standard pay policy to the specialized labor market. If the subsequent review provided in this paragraph results in the adjustment being decreased or discontinued, an employee receiving the recruitment and retention adjustment may not be subject to a reduction in pay. The resulting recruitment and retention adjustment applies to employees hired subsequent to the review provided in this paragraph.

F. A decision by the officer may be appealed by an interested party consistent with the following.

(1) A party appealing the officer's decision must file a written request for appeal with the officer. All appeals must be submitted within 10 business days following receipt of the officer's written decision.

(2) An employee whose classification is not represented by a bargaining agent may appeal a decision of the officer to the appeals board pursuant to subchapter 3. The officer's decision satisfies the requirement of section 7083, subsection 4.

(3) An employee whose classification is represented by a bargaining agent may submit to a neutral 3rd party for a final decision and report. The neutral 3rd party may be jointly agreed upon by the officer, the agency and the bargaining agent, but if an agreement is not reached, the parties must petition the Maine Labor Relations Board to appoint a neutral 3rd party. The Maine Labor Relations Board must submit to the parties a list from which the parties can alternately strike a name until a single name is left, and that person must be appointed by the Maine Labor Relations Board as the arbitrator.

(4) All decisions requiring funding by the neutral 3rd party are subject to the legislative budgeting process. If resources within the department or agency do not exist to fund the neutral 3rd party's decision, the officer shall submit the cost items for inclusion in the Governor's next operating budget. If the Legislature does not appropriate the requested funds, the department or agency is not obligated to pay any requested recruitment and retention adjustment.

(5) A decision by the officer under paragraph B to not form a committee may be appealed. The arbitrator's authority on such an appeal is limited to ordering the formation of a committee.