

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Promote Recruitment and Retention of State Employees

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

Sec. 1. 5 MRSA §7031, last ¶, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

~~It is not the intent of the Legislature in this chapter or any part of it to limit or restrict the rights of state employees to bargain collectively as provided in Title 26 to provide a framework under which collective bargaining as provided for in Title 26 can take place for any matters not removed from bargaining.~~

Sec. 2. 5 MRSA §7065, as amended by PL 2007, c. 466, Pt. A, §§19 and 20, is further amended to read:

§ 7065. Compensation plan

The director shall, as soon as practicable after the adoption of the classification plan, submit to the Legislature a proposed plan of compensation developed by the director showing for each class or position in the classified service minimum and maximum salary rates and such intermediate rates as the director considers desirable.

1. Salary reductions. When the compensation plan has become effective through its adoption by the Legislature, it ~~shall constitute~~constitutes the official schedule of salaries for all classes or positions in the classified service, except that, if the adoption of a compensation plan results in the reduction of salary of an employee, the director shall certify to the proper fiscal officer of the State that the employee's salary ~~shall~~may not be subject to any reduction for a period of one year from the effective date of adoption of the plan.

2. Salary limits. ~~No position may 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-D. Recruitment and retention adjustments. Subject to this subsection, the director, ~~with the agreement of the bargaining agent, if applicable,~~ may approve payment of recruitment and retention adjustments when the payment of a labor market adjustment is required to recruit and retain an adequate work force.

A. Payment of a recruitment and retention adjustment may be authorized only when justified by the following conditions.

(1) High turnover exists ~~or~~, long-term vacancies exist or other documentable recruitment and retention difficulties exist within State Government in the relevant occupational classifications or job series.

~~(2) The relevant occupational classification or job series has a clear, geographically definable labor market within which the State must compete.~~

(3) ~~All appropriate~~Significant recruitment and retention efforts have been attempted and documented and have proven ineffective at the current levels of compensation.

(4) ~~Comprehensive, verifiable~~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, not transitory or seasonal, problem.

~~B. The labor market adjustment must be reviewed at least every 2 years 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 by the director of a recruitment and retention adjustment results in the an adjustment being decreased or discontinued, an affected employee receiving the recruitment and retention adjustment may not be subject to a reduction in pay.~~

C. To assist the director in making a determination under paragraphs A and B, a committee must be formed to evaluate each request from an agency or bargaining agent for a recruitment or retention adjustment. The committee must be composed of a representative of the bureau, a representative of the employing agency or agencies and a representative of the bargaining agent, if applicable. The committee shall evaluate the request against the criteria specified in paragraphs A and B and shall conduct studies as the committee considers necessary to evaluate the request. The committee shall, by majority vote, provide the director, the agency and the bargaining agent, if applicable, with a report recommending and documenting adjustments authorized under this subsection. The director, the agency and the bargaining agent, if applicable, shall act on this report. ~~If a funding request is necessary to implement an approved adjustment, the director shall submit the cost items for inclusion in the Governor's next operating budget within 10 days after action on the report.~~

3. Salary increases based on merit. Salary advancements within an established range ~~shall~~are not be automatic, but ~~shall be~~are dependent upon specific recommendation of the appointing officer and approval of the commissioner. The recommendation ~~shall~~must be based upon standards ~~of meritorious performance as indicated by merit ratings or other pertinent data~~an evaluation of an employee using established standards of performance. ~~No advancements in salary may be made until the employee has completed the probationary period.~~Meritorious performance is performance that exceeds satisfactory performance.

4. Compensation above the minimum step. In hiring any employee, the director or appointing authority may employ a person who is new to a state job classification above the minimum level established for that classification in order to compensate that person for the experience or outstanding qualifications that the person may possess. The director shall establish a policy to reflect the intent of this subsection.

5. Recruitment bonus. In hiring an employee who has not been employed by the executive branch within the last 12 months, an agency may offer and pay a one-time recruitment bonus to the new employee. The bonus is subject to the discretion of the agency and is removed from collective bargaining.

SUMMARY

This bill makes the following changes to the law relating to recruitment, hiring and retention of state employees:

1. Current law provides, in the negative, what the laws governing the state civil service system are not intended to do: limit or restrict the rights of state employees to bargain collectively. This bill strikes that language and instead provides, in the positive, what the laws governing the state civil service system are intended to do: provide a framework under which collective bargaining can take place;

2. Current law provides that, except as provided in statute, a position may not be assigned a salary that is greater than the maximum or lower than the minimum rates fixed in the compensation plan. This bill repeals that prohibition;

3. It changes the law governing recruitment and retention adjustments to remove the requirement that, if applicable, the Director of Human Resources within the Department of Administrative and Financial Services obtain the agreement of the bargaining agent;

4. It amends the law governing the conditions that justify the payment of a recruitment and retention adjustment by adding as a condition warranting the adjustment the existence of other documentable recruitment and retention difficulties and eliminating as a condition warranting the adjustment the existence of a clear, geographically definable labor market within which the State must compete;

5. It specifies that, if a subsequent review of any recruitment and retention adjustment results in an adjustment being decreased or discontinued, an affected employee may not be subject to a reduction in pay;

6. It eliminates the requirement that, if a funding request is necessary to implement an approved adjustment, the Director of Human Resources submit the cost items for inclusion in the Governor's next operating budget within 10 days after action on the report recommending the adjustment;

7. It specifies that salary increases within an established range must be based upon meritorious performance, which is defined as performance that exceeds satisfactory performance; and

8. It provides that, in hiring an employee who has not been employed by the executive branch within the immediately preceding 12 months, an agency may offer and pay a one-time recruitment bonus to the new employee that is subject to the discretion of the agency and is removed from collective bargaining.