

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

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Legislative Document

No. 1663

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S.P. 680

In Senate, March 17, 2016

### **An Act To Promote Recruitment and Retention of State Employees**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator CUSHING of Penobscot. (GOVERNOR'S BILL)

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

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

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

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

10 **§7065. Compensation plan**

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

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

22 ~~**2. Salary limits.** No position may be assigned a salary greater than the maximum or~~  
23 ~~less than the minimum rates fixed in the compensation plan except as provided by~~  
24 ~~subsection 2-D.~~

25 **2-D. Recruitment and retention adjustments.** Subject to this subsection, the  
26 director, ~~with the agreement of the bargaining agent, if applicable,~~ may approve payment  
27 of recruitment and retention adjustments when the payment of a labor market adjustment  
28 is required to recruit and retain an adequate work force.

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

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

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

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

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

6 ~~B. The labor market adjustment must be reviewed at least every 2 years and adjusted~~  
7 ~~to changes in the labor market or the overall relation of the standard pay policy to the~~  
8 ~~specialized labor market. If the a subsequent review provided in this paragraph by~~  
9 ~~the director of a recruitment and retention adjustment results in the an adjustment~~  
10 being decreased or discontinued, an affected employee receiving the recruitment and  
11 retention adjustment may not be subject to a reduction in pay.

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

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

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

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

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## SUMMARY

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

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

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

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

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

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

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

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

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