

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2024

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Legislative Document

No. 2121

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H.P. 1345

House of Representatives, January 3, 2024

### **An Act to Address Chronic Understaffing of State Government Positions**

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative GATTINE of Westbrook.  
Cosponsored by Senator VITELLI of Sagadahoc and  
Representatives: CLOUTIER of Lewiston, COLLINGS of Portland, STOVER of Boothbay,  
Speaker TALBOT ROSS of Portland, TERRY of Gorham, Senators: BALDACCI of  
Penobscot, DAUGHTRY of Cumberland, President JACKSON of Aroostook.

1           **Emergency preamble.** Whereas, acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** currently one in 6 positions in State Government is vacant, and  
4 understaffing harms not only state employees but all residents of the State, affecting in  
5 some cases the availability of care for the most vulnerable, the safety of the public and  
6 workers and the ability of families to purchase the basic necessities of life; and

7           **Whereas,** this legislation provides several means of addressing the chronic  
8 understaffing of State Government positions; and

9           **Whereas,** it is important that this legislation take effect as soon as possible in order  
10 that improvements to the hiring process are made immediately and that funding for other  
11 measures may be made available; and

12           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
13 the meaning of the Constitution of Maine and require the following legislation as  
14 immediately necessary for the preservation of the public peace, health and safety; now,  
15 therefore,

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

17           **Sec. 1. 5 MRSA §19-C** is enacted to read:

18 **§19-C. Executive branch job vacancies report**

19           On or before January 31st of each year, the Department of Administrative and Financial  
20 Services, Bureau of Human Resources shall submit a report regarding job vacancies within  
21 the executive branch to the joint standing committees of the Legislature having jurisdiction  
22 over appropriations and financial affairs and over state and local government matters. The  
23 report must include vacancy rates and percentages by position, department and location in  
24 the State.

25           **Sec. 2. 5 MRSA §7065, sub-§2-D, ¶A,** as enacted by PL 1993, c. 705, §2, is  
26 amended to read:

27           A. Payment of a recruitment and retention adjustment may be authorized only when  
28 justified by at least one of the following conditions:;

29           (1) High turnover exists or long-term vacancies exist within State Government in  
30 the relevant occupational classifications or job series:;

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

33           (3) All appropriate recruitment and retention efforts have been attempted and have  
34 proven ineffective at the current levels of compensation:; or

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

1           **Sec. 3. 5 MRSA §7065, sub-§2-D, ¶C**, as corrected by RR 2023, c. 1, Pt. B, §38  
2 and affected by §50, is amended to read:

3           C. To assist the officer in making a determination under paragraphs A and B, a  
4 committee must be formed to evaluate each request from an agency or bargaining agent  
5 for a recruitment or retention adjustment. The committee must be composed of a  
6 representative of the bureau, a representative of the employing agency or agencies and  
7 a representative of the bargaining agent, if applicable. The committee shall evaluate  
8 the request against the criteria specified in paragraphs A and B and shall conduct  
9 studies as the committee considers necessary to evaluate the request. ~~The committee~~  
10 ~~shall, by majority vote, provide~~ If the committee can agree on the appropriate  
11 adjustments, the committee shall issue to the officer, the agency and the bargaining  
12 agent, if applicable, with a report recommending and documenting adjustments  
13 authorized under this subsection. If the committee cannot agree on the appropriate  
14 adjustments, the matter must be submitted to a neutral 3rd party for a final decision and  
15 report. The neutral 3rd party may be jointly agreed upon by the officer, the agency and  
16 the bargaining agent, if applicable, or, if no agreement can be reached, must be  
17 appointed by the Maine Labor Relations Board in accordance with the procedure  
18 outlined in Title 26, section 979-D, subsection 4, paragraph B. The officer, the agency  
19 and the bargaining agent, if applicable, shall act on ~~this~~ the report. If a funding request  
20 is necessary to implement an approved adjustment, the officer shall submit the cost  
21 items for inclusion in the Governor's next operating budget within 10 days after action  
22 on the report.

23           **Sec. 4. State agency recruitment programs.** The Department of Administrative  
24 and Financial Services, Bureau of Human Resources shall work with public and private  
25 sector bargaining agents to establish recruitment programs for state agencies, with an  
26 emphasis on agencies experiencing chronic understaffing issues that are creating public  
27 safety and well-being concerns.

28           **Sec. 5. State Government hiring process plan and report.** The Department  
29 of Administrative and Financial Services, Bureau of Human Resources shall develop a plan  
30 to improve the State Government hiring process and submit a report to the joint standing  
31 committee of the Legislature having jurisdiction over state and local government matters  
32 by February 15, 2025. The committee is authorized to report out a bill on the subject matter  
33 of the report to the Second Regular Session of the 132nd Legislature.

34           **Sec. 6. Transfer from General Fund unappropriated surplus; Salary Plan**  
35 **program.** Notwithstanding any provision of law to the contrary, on or before July 1,  
36 2024, the State Controller shall transfer \$165,000,000 from the unappropriated surplus of  
37 the General Fund to a newly established Executive Branch - Salary Adjustment, Other  
38 Special Revenue Funds account within the Salary Plan program in the Department of  
39 Administrative and Financial Services to fund a new classification and compensation  
40 system for employees of State Government, as initiated by the memorandum of agreement  
41 with the Maine Service Employees Association, SEIU Local 1989 on June 25, 2019, to  
42 take effect July 1, 2024.

43           **Sec. 7. Appropriations and allocations.** The following appropriations and  
44 allocations are made.

45           **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

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**Salary Plan 0305**

Initiative: Allocates one-time funds to support a new classification and compensation system for employees of State Government as initiated by the memorandum of agreement with the Maine Service Employees Association, SEIU Local 1989 on June 25, 2019 to take effect July 1, 2024.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
Personal Services	\$0	\$165,000,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$165,000,000</u>

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

**SUMMARY**

This bill addresses the chronic understaffing of positions in State Government through several measures. The bill:

1. Requires the Department of Administrative and Financial Services, Bureau of Human Resources to submit an annual report to the Legislature regarding job vacancies within the executive branch;
2. Amends the laws governing executive department recruitment and retention adjustments by clarifying when payment of a recruitment and retention adjustment may be authorized and requiring the use of a neutral 3rd party for a final decision and report on an adjustment when the committee formed to evaluate the request for an adjustment cannot reach an agreement;
3. Requires the bureau to work with public and private sector bargaining agents to establish recruitment programs for state agencies and to develop a plan to improve the State Government hiring process; and
4. Requires the State Controller to transfer \$165,000,000 from the unappropriated surplus of the General Fund to a newly established Executive Branch - Salary Adjustment, Other Special Revenue Funds account within the Salary Plan program in the Department of Administrative and Financial Services to fund a new classification and compensation system for employees of State Government, as initiated by the memorandum of agreement with the Maine Service Employees Association, SEIU Local 1989 on June 25, 2019, to take effect July 1, 2024.