

MAINE STATE LEGISLATURE

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Maine Employment Security Commission

INTER-OFFICE MEMORANDUM

Date: August 10, 1965

To: Roy U. Sinclair, Chairman Office: _____

From: Milton L. Bradford, Assistant Attorney General Office: _____

Subject: Opinion Regarding Interpretation of Subsection 2 of Section 1081, Maine Employment Security Law

FACTS:

Said subsection 2 reads as follows:

"a. Salaries. The chairman of the commission shall receive a fixed weekly salary, at the rate of \$11,500 per year, and each of the other members shall receive a fixed weekly salary, at the rate of \$11,000 per year, and shall be paid from the Employment Security Administration Fund."

Title 5, Maine Revised Statutes Annotated (1964) Section 10, reads, insofar as pertinent:

"All state officers and employees, except temporary and seasonal employees, shall be paid their salaries or wages weekly, the dates of payment to be determined by the State Controller, Any state officer, whose salary is established at an annual rate, shall receive weekly a sum which will, in the year's aggregate, most nearly equal the annual rate...."

It has long been the practice of the Maine Employment Security Commission to divide the amount per year specified in the statute by 52 to obtain the amount of salary to be paid per week to the members of the Commission, and payment of these weekly salaries has been made every pay day whether there were 52 or 53 pay days in a particular fiscal year or in a particular calendar year.

Money for payment of salaries to members of the Commission, along with other money necessary for administration of the Employment Security Law, comes from the Federal Government under provisions of Federal law, and is budgeted on a fiscal year basis, ending June 30 of each year. This corresponds with the fiscal year for the State of Maine.

Payroll payments are charged to the period they cover, regardless of the date of payment or the number of pay days involved. Payments for fractions of weeks at the start and/or end of a fiscal year are charged to the fiscal year in which they fall whether there are 52 or 53 pay days in the year.

The State of Maine operates on a cash basis, however, and the date of payment determines to which fiscal year the payment shall be charged.

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STATE OF MAINE
BUREAU OF ACCOUNTS & CONTROL

The difference in accounting methods results in the State records showing members of the Commission as having received more than the amount specified in the statute during the period in question, while the Maine Employment Security Commission's accounts show that period the payments cover, regardless of the date of the pay day.

QUESTION:

A question has arisen as to whether, for the fiscal year ended June 30, 1965 (in which there were 53 pay days), the salary rate should have been divided by 53 to obtain the amount to be paid per week to the Commission members, as was done with other state officials whose rate of pay is set by statute.

As I understand the question, it requests an opinion as to whether the Commission's practice is correct.

ANSWER:

Yes.

In so answering, this opinion does not infer that the practice relative to other officials is incorrect.

OPINION:

Because of the fact that money for administration of this agency comes from Federal funds, it follows that expenditures made under the budget, prepared in order to obtain such funds must be accounted for in accordance with Federal procedure. That procedure requires allocation of the amounts spent for wages and salaries to the period for which they were appropriated, regardless of when actual payment is made.

This being so, distribution of the first check received in fiscal year ending June 30, 1965, on July 1, 1964, would be charged by this agency to the week ending June 26, 1965 under State practice of paying for a week of work on the Wednesday following such week. By the same token, the check paid on June 30, 1965 covers the week ending June 26, 1965 and the amount payable for the next week, part to cover through June 30, 1965, is not paid until July 7, 1965.

Reconciliation for purposes of Federal accounting reflects this and shows in the aggregate 52 times $1/52$ of the amount per year specified in the statutes paid to the members of the Commission.

Each Wednesday's pay check represents payment for the week of work prior to the week in which such Wednesday falls.

To say, under the circumstances, that the fact a member of the Commission may receive checks in amounts totalling more than the amount per year specified in the statute, means that he has been paid more than he is entitled to for the weeks he has worked does not coincide with the fact.

It should be pointed out that all funds to cover administrative costs of the Employment Security Commission are received from Federal grants and are subject to detail audit by Federal auditors but not subject to detail audit by the State Auditing Staff.

August 10, 1965

Regardless of the number of pay days in a calendar or a fiscal year, there are 52 weeks in the year and in my opinion a division by 52 results in receipt of a "fixed weekly salary" (See Section 1081, subsection 2 quoted above) of "...a sum which will, in the year's aggregate, most nearly equal the annual rate." (See Section 10 of Title 5 MRSA, quoted above.)

/e

cc - Mr. Cote
Mr. George
Mr. Brann
Attorney General

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STATE OF MAINE

Inter-Departmental Memorandum Date September 16, 1965

To Henry Granshaw, State Controller

Dept. Accounts and Control

From R. E. Brainin, Dir. of Adm. Services

Dept. Emp. Sec. Comm.

Subject Attorney General's Opinion

Pursuant to our telephone conversation of this date, I am enclosing a photocopy of the Attorney General's opinion covering the weekly salary amounts to be paid members of the Employment Security Commission.

REB/r

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