

# MAINE STATE LEGISLATURE

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Personnel

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Compatibility between 26 M.R.S.A. Subchapter B and 5 M.R.S.A. § 553 and Rule 13 of the Personnel Law and Rules of the State of Maine.

QUESTION:

Whether or not Chapter 513 of the Public Laws of 1965 "The Fair Employment Practices Act" has any substantive effect on 5 M.R.S.A. § 553 and Rule 13 of the Personnel Law and Rules of the State of Maine?

ANSWER:

No.

REASONS:

According to the letter dated March 18, 1966 from the Department of Health, Education and Welfare, signed by Hal M. Gwinn, Regional Representative, Division of State Merit Systems, the question was raised as to whether or not § 861 of the Fair Employment Practices Act takes the State Merit Systems Law and all rules of personnel out of the needed requirements set up by the Federal Merit System Standards. It is well known that the Federal Standards have a Merit System of personnel administration which requires that merit system law prohibit discrimination on a non-merit basis in any personnel act and provide for appeal in cases of alleged discrimination. Also, the requirement of an appeal procedure in cases of alleged discrimination would necessitate a procedure for administrative redress of relief rather than punishment of an offender. As I understand the situation, 5 M.R.S.A. § 553 and Rule 13 of the Personnel Rules has provided an acceptable prohibition and appeals procedure for meeting the requirements of the Federal Standards.

Section 861 of the Fair Employment Practices Act should not be of concern as to taking our State Merit System Law out of the acceptable requirements of the Federal Standards since it is

the opinion of this office that the Fair Employment Practices Act enacted as an amendment to the State Law on Labor and Industry has no relation whatsoever, either procedurally or substantively. This Act is strictly for the purpose of allowing an individual in private employment who is aggrieved by an alleged unlawful employment practice to have a vehicle whereby he may seek the proper redress.

In conclusion, the posture of 5 M.R.S.A. § 553, as supplemented by Rule 13 of the Personnel Rules, has not been altered by the Fair Employment Practices Act.

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Richard S. Cohen  
Assistant Attorney General

RSC/eh