

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

*ANSWER:*

No.

*REASON:*

The Maine State Cultural Building Authority was created by legislation which has become effective prior to the creation of the Capitol Planning Commission. In fact, the latter Commission is not effective at this writing and will not become effective until October 7, 1967. The master plan to be created by the Capitol Planning Commission will not become effective until adopted by the Maine Legislature. It is clear that the Capitol Planning Commission is vested with the authority to prepare the subject master plan; and to present the same to the Legislature for adoption. Until such adoption occurs, the Capitol Planning Commission cannot utilize the mandate in Section 304 of Title 5, i.e., approve proposed plans for State buildings in the Capitol Area. At the same time, the provisions of the Act creating the Maine State Cultural Building Authority vests that agency with jurisdiction to acquire land for the purpose of constructing a Cultural Building facility. *P. & S. 1965, c. 259, § 1, et seq.*

JAMES S. ERWIN  
Attorney General

September 21, 1967  
Bureau of the Budget

R. M. Berry, State Budget Office

Longevity Pay for State Employees

*FACTS:*

The 103rd Legislature enacted Chapters 490 and 494 of the Public Laws of 1967 authorizing the fixing of salaries of certain State executive officers from the Governor and Executive Council determination to an annual statutory amount computed on the basis of 52 times their respective current weekly salaries. With regard to the effect of those chapters in view of the Private and Special Laws of 1963, Chapter 202, and the subsequent enactment of Chapter 483 of the Public Laws of 1965, you have asked for an opinion on five (5) questions.

*QUESTION NO. 1:*

When the statutory salary of this State executive officer, and the other six of the same category (step 2) becomes effective on October 7, 1967, are all 7 entitled to an additional 10% of the amount specified in the new statute?

*ANSWER NO. 1:*

No.

*OPINION:*

The law of 1967 does not permit such an increase. In the absence of any contrary provisions, all laws are to commence in futuro and act prospectively and the presumption is that all laws are prospective and not retrospective, *Bowmen v. Geyer* 127 Me. 351. As their current weekly salaries reflect the step 2 longevity increases and the statute fixes their salaries precisely, there is no basis for an additional increase.

*QUESTION NO. 2:*

Or will they be entitled to an additional 10.25% of the amount specified in the new statute?

*ANSWER NO. 2:*

No.

*OPINION NO. 2:*

Their present weekly salaries reflect the proper longevity increases. In the absence of legislation to authorize such an increase, they are not to so benefit again.

*QUESTION NO. 3:*

When the State executive officer, whose currently weekly salary includes one 5% longevity step, begins receiving his annual statutory salary on October 8, 1967, will he be entitled to an additional 5% (one longevity step) under the new law?

*ANSWER NO. 3:*

No.

*OPINION NO. 3:*

The law of 1963 requires that the second longevity step be effective when service has been for 15 years and the last 8 are continuous – for all groups. The laws of 1965 and 1967 as stated in opinion NO. 2 and NO. 3 do not change this.

*QUESTION NO. 4:*

Should the current statutory salaried State executive officers, entitled to two longevity steps, be adding 10.25% to their annual statutory salaries instead of the 10% they are now receiving?

*ANSWER NO. 4:*

No.

*OPINION NO. 4:*

While the law of 1965 states that this group “. . . shall receive longevity pay to commence at the same time as, and continue *under the same terms and conditions as...*,”

those of the 1963 law (emphasis supplied), it is my understanding that the increases for the group, while approximating 10.25% in some cases, were rarely exactly 10.25%. Similarly, the rate of increase for the statutory salaried State executive officers approximates those rates of increase of the 1963 law. Consequently it appears that these employees are being paid consistently with the terms and conditions of the 1963 law; and as the law of 1967 does not authorize an increase for the statutory salaried State executive officers, an increase cannot now be made.

*QUESTION NO. 5:*

If the answer to Question NO. 4 is “yes”, are these officers entitled to a retroactive longevity pay adjustment back to the time they became eligible for their second longevity step?

*ANSWER NO. 5:*

The answer to NO. 4 was “no”.

GARTH K. CHANDLER  
Assistant Attorney General

September 26, 1967  
Maine Milk Commission

Walter B. Steele, Jr.  
Executive Secretary

H. P. Hood & Sons Premium Offer; 7 M.R.S.A. § 2954

*FACTS:*

On September 7, 1967, this office issued an opinion concerning a proposed premium offer to be printed on quart and half-gallon cartons of milk to be sold at retail stores in this State. In that opinion, it was determined that the reference offer violated the provisions of 7 M.R.S.A. § 2954, i.e., that the offer was destructive of the schedule of minimum prices for milk established by the Maine Milk Commission. The contents of our September 7, 1967 opinion are incorporated herein.

On September 21, 1967, officials of H. P. Hood & Sons met with the Executive Secretary of the Maine Milk Commission and with attorneys in this office. At that time, a general discussion was had of the reference opinion and of certain changes in the offer which had been made by the milk firm since the issuance of our opinion.

As the matter now stands, H. P. Hood & Sons intends to exclude, from both the front and rear sections of the cartons, the “burst reading” containing the words “SPECIAL OFFER! SEE SIDE PANEL”. Thus, the quart and half-gallon milk cartons will thereafter contain the following references regarding the premium offer (the description of the item is omitted here, as not being material):

“PREMIUM OFFER NO. 1”; “HOOD’S EXCITING PREMIUM PROGRAM OF USEFUL ITEMS. . .”; “NOW. . . A continuing series of offers exclusive on Hood milk cartons!” and “This is the *first offer* – watch for the second offer soon!”

H. P. Hood & Sons proposes to make this offer available to the general public in the