

# MAINE STATE LEGISLATURE

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September 5, 1969

David H. Stevens, Chairman

Highway Commission

George C. West, Deputy

Attorney General

SYLLABUS:

The portion of the preambles of the several appropriation acts relating to personal services do not apply to all employees of the State Highway Commission.

FACTS:

Private and Special Laws 1969, Chapters 121, 154 and 197, are three Acts appropriating funds from the General Fund for Current Services, Supplemental and Special Legislative Documents. The preamble in each Act is the same with the exception of one part not here pertinent.

The State Highway Commission is desirous of making reclassifications of some maintenance and construction workers. It is inquiring whether such workers are prevented from being reclassified because of the language contained in the 4th paragraph of the preamble of each of the above-cited chapters.

"The figures in parentheses shown just before each dollar amount provided for Personal Services in this Act, or as adjusted by other legislative action, shall represent the total number of authorized permanent positions in such account, and the maximum number of persons employable on a permanent basis at any one time. The appropriations made for Personal Services are made with the provision that the total number of permanent positions in any account shall not be increased during either year of the biennium over the total numbers shown in parentheses and used by the Legislature in computing the total dollars to be made available for Personal Services. Savings accruing within appropriations made for permanent positions, may be used for other nonrecurring personal services when recommended by the department head and the Budget Officer, and approved by the Governor and Council. Said savings shall not be used for reclassifications, range changes or special merit increases, except in emergency

cases and such requests may be authorized by the Personnel Board, subject to prior approval by the State Budget Officer that an emergency does exist and that such emergency cases shall be reported to the Legislative Finance Office by the State Budget Officer with his reasons for approval. To provide some degree of flexibility, each department, institution or agency may apply to the Personnel Board for an exchange between job classifications, and such action may be approved if by so doing the total amount determined to be available for Personal Services in such account, for any one year is not exceeded."

QUESTION:

Are the employees of the State Highway within the limitations set forth in the 4th paragraph of the preambles to Private and Special Laws 1969, Chapters 121, 154 and 197?

ANSWER:

No, with some exceptions as noted.

REASONS:

There are two basic reasons for the answer given.

1. The subject matter of the three Acts relates only to the General Fund. None of them relates to the Highway Fund.

2. Private and Special Law 1969, Chapter 154, Section C, does not cover all employees of the State Highway Commission.

Let us first consider number 1. We first note the language in the first paragraph of each Act that the sums designated in the tabulations "are appropriated out of any moneys in the General Fund . . . ." No money is appropriated out of the Highway Fund nor to the State Highway Commission in any of the three Acts.

The 13th paragraph of the preamble provides that the General Highway Fund shall reimburse the General Fund for certain expenses furnished from General Fund appropriations.

The last paragraph of the preamble states, "the language in this section shall apply to all other appropriation measures enacted by the legislature." (Emphasis supplied.) Reference is made to 23 M.R.S.A. § 1651 which in the last sentence states that after payment of interest and principal on highway and bridge bonds from the General Highway Fund "the remainder of said fund shall be segregated, apportioned and expended as provided by the Legislature." Private and Special Laws Chapter 187 uses the same language in making allocations from the General Highway Fund to the State Highway Commission for the next biennium.

An analysis of the 4th paragraph of the standard preamble reveals that it relates to personal services in three general areas:

1. Number of personnel - figures in parentheses.
2. Appropriations for such personnel.
3. Savings accruing within the appropriations made for personal services.

None of these three general areas appears as a part of the Highway Fund Allocation Act, P. & S. L. 1969, Chapter 187.

From all the foregoing it must be determined that the preamble to each of the Appropriation Acts, P. & S. L. 1969, Chapters 121, 154 and 197 does not apply to the State Highway Commission.

In P. & S. L. 1969, Chapter 154, is a portion denoted as Section C which reads as follows:

"Each department, board, commission or other state agency having special revenue accounts shall not use such funds for reclassifications, range changes or special merit increases beyond those stated in their original budget submitted to the Legislature."

In considering Section C we may assume without determining that the General Highway Fund is a "special revenue account." If it is not such an account, Section C would not apply to the General Highway Fund. Even if the General Highway Fund is such an account, Section C is inapplicable to the particular areas wherein reclassification of employees is sought.

We must note that reclassifications, range changes or special merit increases, are prohibited "beyond those stated in their original budget submitted to the Legislature."

We find that individual classifications of highway employees are only submitted in the following accounts:

1. General Administration
2. Radio Operations
3. Planning
4. Traffic Services (engineering and clerical positions only)

All remaining accounts are submitted with a lump sum for salaries and wages. No individual detail is listed. Hence, no classifications or ranges are stated in the original budget submitted to the Legislature, except as stated above.

The result is that only those positions expressly set forth in the four listed accounts are within the limitations set forth in Section C of Chapter 154 of P. & S. L. 1969.

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