

MAINE STATE LEGISLATURE

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Preamble to Appropriation Bills re Personal Services

SYLLABUS:

As a general rule, upward reclassifications and range changes require approval by the State Budget Officer unless they are the result of exchanges between classifications. Special merit increases require the approval of the State Budget Officer.

FACTS:

The 104th Legislature enacted 3 appropriation measures, P. & S.L. 1969, Chapters 121, 154 and 197. In each Act appears the following language:

"Savings accruing within appropriations made for permanent positions, may be used for other non-recurring 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."

There have been a number of requests for reclassifications, range changes or special merit increases.

A department seeks to grant a raise to 3 persons by reclassifying their positions. These reclassifications will be financed by not filling one position which is presently vacant.

QUESTIONS:

1. Do all reclassifications, range changes and special merit increases require the approval of the State Budget Officer?
2. Does the example of a request as set forth in Facts require the Budget Officer's approval as an emergency, or does the resultant savings in this type of action allow by-passing Budget Office approval?

ANSWERS:

1. No, with exceptions.
2. Yes. See Opinion No. 2.

OPINION NO. 1:

Any answer to the first question must first involve itself with definitions. What does the clause "savings accruing within appropriations made for permanent positions" mean?

We define "savings" as the difference which results from subtracting the amount spent or to be spent from the amount appropriated for personal services.

The Legislature has then said that the "savings" shall not be used for "reclassifications, range changes or special merit increases" except in certain types of instances. Now what did the Legislature mean by "reclassifications, range changes or special merit increases?"

"Reclassification" involves the changing of a position from one class to another. In the given instance we are concerned only with the upgrading of positions. Hence, "savings" may not be used to upgrade a specific position's class, except under circumstances to be later discussed.

"Range change" involves the moving of a class of positions to another range. In this instance we are concerned only with moving to a higher range. Hence, "savings" may not be used to move a class of positions upward, with the exception to be discussed later.

"Special merit increases" involve increases for individuals over and above those specifically provided by the Personnel Rules or normally granted to persons not covered by the Rules. Hence, "savings" may not be used for this purpose, with the exception to be discussed later.

Any one of the three of the foregoing, "reclassifications, range changes or special merit increases" may be granted in "emergency cases" by the Personnel Board when first approved by the State Budget Officer. He shall first determine that an "emergency case" does exist. He shall report all "emergency cases" to the Legislative Finance Office giving his reasons for approval.

There is an area in which the Legislature has granted exclusive authority to the Personnel Board. That is the area of an exchange between job classifications provided such exchange can be done within the funds appropriated. Again we need a definition. What is "an exchange between job classifications?" "An exchange between job classifications" is a situation in which a department seeks to downgrade certain positions and upgrade others. This might result in a balancing of funds, or it might result in a "savings." These exchanges may be done with approval of the Personnel Board provided the department's appropriation is sufficient.

We conclude that all reclassifications, and range changes, do not require the approval of the State Budget Officer as "emergency cases." We can conceive of no instance where a special merit increase could be involved in an exchange between job classifications. Hence, all special merit increases, and all increases caused by reclassifications and range changes, must have the approval of the State Budget Officer as "emergency cases."

OPINION NO. 2:

A failure or refusal to fill a vacancy is one of the methods by which "savings", as defined above, occur.

The situation cannot be considered as "an exchange between job classifications" as there is no change of classification in one position. That one position remains classified as at present but is listed as vacant.

The "savings" cannot be used for reclassifications except in emergency cases as approved by the State Budget Officer.

GCW:H

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