Maine Employment Security Commission

INTER-OFFICE MEMORANDUM

Date: April 4, 1972

To: James C. Schoenthaler, Chairman Office:

From: Frank A. Farrington, Assistant Attorney General Office:
Merrill A. Tracey, Assistant Attorney General

Subject: Your Memorandum of March 30, 1972

Syllabus:

Even though the balance available for benefit payments under the Maine Employment Security Law (T. 26, Chapter 13, MRSA 1964, as amended) was below $20,000,000 as of the first day of February, 1972, a computation of contribution rates for an employer, based on his own experience rating record, can be made in 1972 for the purpose of making effective the authority given to the Maine Employment Security Commission to increase rates, when it finds an emergency exists as provided in Section 1221, subsection 4, paragraph C of said law.

The words "the date set by this chapter for the computation of rates," found in the last sentence of said paragraph C are synonymous with computation date as defined in Section 1221, subsection 6 of said law.

Facts:

1. The first paragraph of Section 1221, subsection 4 of the Maine Employment Security Law reads as follows:

> "4. Employer's experience classifications. If and when as of the first day of February of any year the commission finds that the net balance available for benefit payments (the sum of the balance in the trust fund, the benefit fund, and the clearing account after adjustment for outstanding checks, and adjustment for funds in transit between either of said funds or said account) equals or exceeds $20,000,000, it shall compute contribution rates for each employer based on his own experience rating record."

2. Paragraph B of said subsection 4 contains a table, use of which determines the contribution rate an employer must pay based on his reserve ratio, which is computed under a formula set out in said paragraph B. A range of reserve ratio figures are set forth in column A of said table, which determine the rate to be paid under one of columns B to F, inclusive, in said table, the column to be used being governed by the amount of money in the unemployment compensation fund.

3. Paragraph C of said subsection 4, as far as is material to the question under consideration, reads as follows:

> "C. If at any time, from January 1, 1972 to December 31, 1972, the net balance available for benefit payments equals or is less than $15,000,000 ... and, in the opinion of the commission, an emergency exists such as to seriously impair the fund, the commission may, after reasonable notices and public hearing, forthwith impose the rates shown in column F of the schedule carried in paragraph B and, in addition thereto, increase such rates by not more than .5% and continue said rates, and additions thereto, in force until, in the opinion of the commission, such emergency no longer exists, or until the date set by this chapter for the computation of rates, whichever is earlier."

4. Computation date is defined in Section 1221, subsection 6 of the law:

> "6. Computation date. The computation date shall be December 31st of each calendar year, and the rates of each employer entitled to this section shall be determined by the commission as of that date."

Questions:

> "1. The balance available for benefit payments on February 1, 1972, was less than $20,000,000. Can the Commission, under the provisions of Section 1221, 4, C, of the Employment Security Law take action making the schedule of rates shown in column F in the table contained in said Section 1221 effective after June 30, 1972?"
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> "2. What is meant by the words 'the date set by this chapter for the computation of rates' as set forth in the last sentence of Section 1221, 4, C of the Employment Security Law?"

Answer to question 1. Yes, if balance falls to or below $15,000,000.

Answer to question 2. The quoted words in this question are synonymous with the term "computation date" the definition of which is quoted in paragraph 4 under facts.

Question 1. Reasons: The first paragraph of subsection 4 of Section 1221, quoted in paragraph 1 under facts, controls the operation of the experience rating provisions of the law.

A literal reading of that paragraph could lead to the conclusion that no computation of contribution rates for an employer, based on his own experience rating record is to be made in 1972 under any circumstances, as the net balance available for benefit payments on February 1, 1972 was less than $20,000,000. However, the provision in paragraph C of said subsection 4, quoted in paragraph 3 under facts calls for consideration of whether such a conclusion would be proper when answering question 1.

Obviously, when the Legislature enacted said paragraph C it intended to give the Commission authority to act when the balance available for benefit payments between January 1, 1972 and December 31, 1972, equals or is less than $15,000,000, and when in the Commission's opinion an emergency exists such as to seriously impair the fund. The status of the fund is vital, and it follows that such authority is of the utmost importance in carrying on the entire unemployment compensation program. The fact that the Legislature enacted such legislation is evidence that it recognized the importance of giving the Commission authority to act in an emergency.

Were it to be held that no computation of rates could be made under any circumstances in 1972, the result would be that after June 30, 1972 the table discussed in paragraph 2 under facts would become inoperative. This is because an employer's reserve ratio could not be determined, and determination of his reserve ratio is essential to determine the contribution rate in column F which would be applicable to him.

In construing a statute, one must look to the purpose for which it was enacted and avoid a construction which would lead to a result not within the contemplation of the law making body. See Inhabitants of the Town of Ashland vs. John C. Wright 139 Me. 283 (1943).

The content of aforesaid paragraph C must be considered in connection with the entire chapter.

When the Legislature granted authority to the Commission to make use of said column F in fixing contribution rates, under the conditions set forth in the enactment, such grant of authority implied that the Commission could make the reserve ratio computation, described in paragraph B of subsection 4 of Section 1221, for all employers in order that the rate to be paid by individual employers, as a result of the Commission's action, might be determined.

To find otherwise would be to nullify the emergency authority given to the Commission by aforesaid paragraph C.

FAF:e
cc - Mr. Cote
Mr. George
Attorney General