

MAINE STATE LEGISLATURE

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September 20, 1973

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State Employee Travel Grievance - State Employees Appeals Board or
the Governor and Council

This is in response to your letter of September 5, 1973, directed to Mr. Lund. You ask for the resolution of two questions in the matter of an apparent conflict between 5 M.R.S.A. § 752 and paragraph 25 of the "Regulations regarding official headquarters, expense accounts, etc."

A dispute relating to travel at State expense is not a matter which can be appealed to the State Employees Appeals Board because 5 M.R.S.A. § 752 specifically excepts matters relating to compensation from the Appeals Board's jurisdiction. There is sufficient authority in the case law to make the conclusion that the word "compensation" is broad enough to include travel expenses; see Commissioners v. Inhabitants of Eddington (1873), 64 Me. 65, and see especially City of Calais v. Whidden (1874), 64 Me. 249, 253, which deal with the terms "compensation" and "reimbursement" in the same breath. Also the Maine Revised Statutes Annotated are replete with instances where compensation and travel expenses are dealt with jointly, e.g., 5 M.R.S.A. § 591 and 2 M.R.S.A. § 51; see also, Opinion of the Justices (1963), 159 Me. 77, 190 A.2d 910, where the Justices, in response to legislative inquiry, ruled that reimbursement of expenses of the members of the House and Senate, incurred while in session, was compensation.

Although it is arguable that in Maine compensation does not include reimbursement for other official services including travel expenses, other states have concluded travel expenses are within the meaning of compensation. See Bernstein v. Sirotta (1931), 213 Cal. 21, 1 P.2d 8, 11; Lackenby v. Post Printing and Publishing Co. (1918), 65 Colo. 443, 176 P. 490, 492; and State ex rel. Emmons v. Farmer (1917), 271 Mos.306, 196 S.W. 1106, 1108. See also § 61 of the Internal Revenue Code of 1954, as amended.

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RJS/ec

NOT A FORMAL OPINION