

MAINE STATE LEGISLATURE

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March 27, 1974

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Personnel

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Attorney General

Authority of Personnel Board to effect changes in the compensation plan

This replies to your memorandum of March 6, 1974, concerning subject.

You refer to Section 7, Chapter 100, P. & S. Laws of 1973, which provides, in pertinent part:

" * * * To provide some degree of flexibility, each department may apply to the Personnel Board for an exchange between job classifications, job reclassifications, and range changes, and such action may be approved if by so doing the total amount determined to be made available for Personal Services, in each department, is not exceeded and also providing that certification is made, in writing, by the department head, that such action will not result in an increased request for Personal Service moneys from the next Legislature. * * * "

You state that several problems arise in connection with the implementation of the quoted legislative provision: (1) When a department requests a range change for a classification that is used in more than one department, e.g., account^{ant} clerk; in that situation, the department head can only certify as to the financial effect of the change within his own department, and if the change is approved only for that department, then an inequity would result as to other departments; and (2) departments which are funded through dedicated revenues are not affected by the above-quoted portion of Section 7, Chapter 100, P. & S. Laws, 1973, thereby creating an inequity between departments funded by the legislature and those which are funded by dedicated revenues.

You ask:

Under what conditions and authority is it legal and proper for the Personnel Board to grant range changes?

The answer to that question is that the Board can legally and properly effect changes in the compensation plan only upon compliance with any limitations in the current appropriations act (e.g., above-quoted portion of Sec. 7, C. 100, P. & S.L. 1973), and the limitations in 5 M.R.S.A. §§ 592 and 634.

AN INTERNAL OPINION

With regard to the limitation in the current appropriations act, this office has previously rendered an opinion thereon. See memorandum dated April 9, 1969, from Deputy Attorney General West to Legislative Finance Officer Garside, copy of which is attached. Section 7, Chapter 100, P. & S.L. 1973, does not compel the Board to grant a requested range change, but, instead, it merely permits the approval of the requested change if the conditions therein specified have been met.

With regard to the limitations in 5 M.R.S.A. §§ 592 and 634, it appears that the Board is required to prescribe and amend a compensation plan (§ 592) which "shall constitute the official schedule of salaries for all classes of positions in the classified service." (§ 634) (emphasis supplied.)

It is apparent that the classification of positions and schedules of salaries therefore apply throughout the classified service of the State; such requirement is not limited to any type of department but is all-inclusive, regardless of such considerations as method of funding.

Nothing in Section 7, Chapter 100, P. & S.Laws 1973, purports to alter the requirements of 5 M.R.S.A. §§ 592 and 634. Accordingly, when considering any requested range changes, the Board can and properly should consider not only whether the limitations in the appropriation act are met, but also whether or not such a change will be in conformity with the requirements of 5 M.R.S.A. §§ 592 and 634.

Charles R. Larouche
Assistant Attorney General

CRL/ec
Enclosure

AN INFORMAL OPINION