

MAINE STATE LEGISLATURE

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June 12, 1974

Nicholas L. Caraganis, Director

Personnel

Charles R. Larouche, Assistant

Attorney General

Effect of Sec. 3, C. 221, P & SL, 1973, on Personnel Board Approval of Job Classification exchanges, reclassification and range changes

This replies to your May 20, 1974, memo concerning the subject.

It appears that § 3, C. 221, P & SL 1973 repealed and replaced Sec. 7, C. 202, P & SL 1973. You ask several questions concerning the possible changes in the function of the Personnel Board that may be required by Sec. 3, C. 221, P & SL 1973. This new statute reads:

"Sec. 3. P. & S.L., 1973, c. 202, Section 7, repealed and replaced. Section 7 of chapter 202 of the private and special laws of 1973 is repealed and the following enacted in place thereof:

"Sec. 7: Personal Services savings and flexibility. Savings accruing within appropriations made for permanent positions may be used for nonrecurring personal services or retirement costs when recommended by the department head and the State Budget Officer, and approved by the Governor and Council. To provide some degree of flexibility, each department 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 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 any future Legislature. Copies of all Personnel Board actions and department head certifications relating to such changes shall be furnished to the Legislative Finance Officer ~~and the State Budget Officer.~~ The State Personnel Board on a continuing basis shall review all reclassification and range change requests and regularly report those which it approves in omnibus bill form to each subsequent session of the Legislature, through the Appropriation and Financial Affairs Committee, for final determination."

This statute is identical to Sec. 7, C. 202, P & SL 1973, except the third sentence omits the former terminal words "and the State Budget Officer," and (2) it adds the new fourth sentence, as above-indicated.

I understand that under Sec. 7, C. 202, P & SL, 1973, prior to its repeal and replacement, the Personnel Board implemented job reclassification and range changes without reference to the Legislature, when the requirement in that statute for "an exchange between job classifications" and the budgetary limitations in that statute were met.

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I understand your first question to be whether or not the new fourth sentence, enacted by Sec. 3, C. 221, P & SL 1973, limits the former power of the Personnel Board to implement an exchange between job classifications, reclassifications and range changes. The answer to that question is affirmative.

Your second question reads: "Does the new phraseology limit the Department of Personnel in implementation of reclassifications and/or range changes without prior Legislative approval?" The answer to that question is affirmative.

Your third question reads: "If the answer to #2 is in the affirmative, in what instances may such changes be implemented without prior Legislature approval?" The new sentence requires Legislative approval before a job "reclassification" or a job "range change" can be implemented. However, the Personnel Board can implement, without reference to the Legislature, "an exchange between job classifications" provided it does not involve a job "reclassification" or a job "range change, and provided the budgetary limitations are met. An example of this is the situation in which the appointing authority has a job vacancy, which job he wishes to abolish and he wishes to create an entirely new job, which action will not exceed the budgetary limitations.

Your fourth question reads: "What reclassification and range change requests must be submitted for prior Legislature approval?" The answer to that question is "all."

This opinion applies to all positions in the State classified service.

If I can be of any further help to you in this matter, please advise me.

CHARLES R. LAROCHE
Assistant Attorney General

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AN INFORMAL OPINION