

MAINE STATE LEGISLATURE

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Honorable Kenneth M. Curtis, Governor Executive
Jon A. Lund, Attorney General Attorney General
Membership and appointment of Maine Milk Commission

This replies to your memorandum request of June 11, 1974, concerning subject.

7 M.R.S.A. § 2952 currently provides:

The Maine Milk Commission, as heretofore established, shall consist of 3 producers, one of whom shall be a producer shipping to Boston Federal Order, a dealer, a producer-dealer and 2 consumers, all of whom shall be residents of the State.

The recent Legislature enacted Chapter 758, P.L. 1974, which repeals and replaces the above-quoted provision, effective June 28, 1974, with the following:

The Maine Milk Commission, as heretofore established shall consist of 2 producers, a dealer, a producer-dealer, the owner of a retail store and 2 consumers, one of whom shall be a representative from a nonprofit organization established for the purposes of consumer protection. All members of the commission shall be residents of the State.

You ask whether Chapter 758 P.L. 1974:

- (1) requires the substitution of a retail store owner for the producer shipping on the Boston Federal Order market and the termination of the Boston shipper's membership; or
- (2) requires the substitution of a retail store owner for the producer whose term first expires; or
- (3) establishes an entirely new Milk Commission, requiring the reappointment of all members. If a new Commission has been established under Chapter 758, what is the earliest date the Governor can post nominations and the earliest date the Council can act to appoint?

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It appears to me that the Legislature has directed by Chapter 758, P.L. 1974, that a change be made in the composition of the membership of the Maine Milk Commission, effective on and after June 28, 1974, and that this requires the appointment at that time of the entire membership of the Maine Milk Commission. Accordingly, your questions numbered 1 and 2 are answered in the negative and the first part of your third question is answered in the affirmative.

With regard to the second part of your third question, it is my opinion that the earliest date when the Governor can post nominations is June 28, 1974, since, until that date the Act is entirely ineffective and it does not authorize the Governor to take any official action towards its implementation until that date. See Section 16, Part Third, Article IV, Constitution of Maine.

With regard to when it would be the earliest date that the Council could act upon such appointments it appears to me that such date would be July 5, 1974, based upon the assumption that the nominations were posted on June 28, 1974. Section 3, Part First, Article V, Constitution of Maine provides that:

"Every such nomination shall be made seven days, at least, prior to such appointment."

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

JON A. LUND
Attorney General

JAL/jwp