

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date June 20, 1974

To Donaldson Koons, Commissioner

Dept. Conservation

from Charles R. Larouche, Assistant

Dept. Attorney General

Subject Reappointment and eligibility of LURC members

This replies to your memorandum request of June 10, 1974, concerning the subject.

I understand your first question to be whether or not Chapter 698, P.L. 1973, upon becoming effective, requires a new appointment of the entire LURC membership. The answer to that question is affirmative.

12 M.R.S.A. § 683 presently provides for LURC membership by a total of 8, 4 of whom are permanent, ex officio, and 4 to be appointed by the Governor with the advice and consent of the Council, two of whom are to represent the public, one to represent conservation interests and one to represent industry interests. Chapter 698 will repeal and replace 12 M.R.S.A. § 683 June 28, 1974, and provide that LURC shall consist of the Commissioner of the Department of Conservation, ex officio and 6 public members, none of whom shall be state employees, who shall be appointed by the Governor with the advice and consent of the Council, four of whom are to be knowledgeable in at least one of each of the areas of Commerce & Industry; fisheries and wildlife; forestry; and conservation.

It seems clear that the Legislative intent can only be effected by a new appointment of the entire membership. Compare Opinion of the Justices, Me., 311 A.2d 103.

I understand your next question to be whether or not Chapter 698, P.L. 1973, precludes the appointment to LURC of faculty members of the University of Maine. The answer to that question is negative.

Chapter 698 of P.L. 1973 provides that "The Commission shall consist of the Commissioner of the Department of Conservation, ex officio, and 6 public members, none of whom shall be state employees"

5 M.R.S.A. § 1091, subsection 1, requires state employees to become members of the State Retirement System. 5 M.R.S.A. § 1001, subsection 10, defines the word "employee" as follows:

"10. Employee. 'Employee' shall mean any regular classified or unclassified officer or employee in a department, including, for the purposes of this chapter, teachers in public schools,"

5 M.R.S.A. § 711, subsection 8, currently provides:

"8. University of Maine, etc. Officers and employees of the University of Maine and of the unorganized territory

Donaldson Koons, Commissioner


Page 2

June 20, 1974

school system and the teachers and principals of the school systems in state vocational schools and state institutions."

In spite of this language, it seems that employees of the University of Maine have never been regarded as employees of the State, and, except for those who were former State College employees, they do not become members of the State Retirement System.

In any event, the recent Legislature has clarified the matter by deleting the reference to the University of Maine in 5 M.R.S.A. § 711, subsection 8. See Chapter 702, P.L. 1973, which becomes effective June 28, 1974.


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Assistant Attorney General

CRL:mfe