

# MAINE STATE LEGISLATURE

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June 25, 1974

Nicholas L. Caraganis, Director

Personnel

Charles R. Larouche, Assistant

Attorney General

**Authority to Grant Special Merit Increases**

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

You refer to Personnel Rule 5.2b, which authorizes, in exceptional performance cases, the granting of more than one step increase in 12 months. You refer to the Preamble in the Appropriations Act during the recent years, the first sentence of which reads:

"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."

You state that the granting of a special merit increase is a recurring personal service and that the first sentence of the Preamble, above-quoted, precludes by implication the use of salary savings for special merit increases. You finally state that based upon this conclusion, the Board has adopted a policy of denying authorization for special merit increases.

I understand your first question to be whether or not the Board has been correct in its policy of denying special merit increases because they are funded through salary savings and such application of salary savings is precluded by the Preamble of the Appropriations Act? The answer to that question is affirmative.

You further state that:

"The State Personnel Board has considered the appeal of an employee who since December 1972, has been performing the duties of a classification higher than that for which he has been receiving compensation and for which he does not meet the minimum qualifying standards. His appeal is to be recognized as qualified for the higher level classification and to be so compensated. The Personnel Board, for a myriad of cogent reasons, has denied this appeal; but in recognition of the uniqueness of this situation, would be receptive to authorizing a 'special merit increase' under provisions of Personnel Rule 5.2b, were such to be requested by the appropriate appointing authority and be permissible under relevant statutory provisions."

**AN INFORMAL OPINION**

June 25, 1974

Your second question is based upon these facts and it reads:

"Does the Board have the authority to grant such an increase on the merits of the individual appeal now before it?"

The answer to that question is negative.

The limitation in the Preamble of the Appropriations Act, above-quoted, precludes the application of salary savings to recurring personal services. Such limitation is without exception.

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

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CHARLES R. LAROUCHE  
Assistant Attorney General

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AN INFORMAL OPINION