

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date September 20, 1974

Governor Kenneth M. Curtis

Dept. Executive

From Jon A. Lund, Attorney General

Dept. Attorney General

Subject Participation of supervisors in the formation or operation of a union under the State Employees Labor Relations Act (Ch. 9-B, Title 26, Section 979-C, M.R.S.A.)

This replies to your memo of August 16, 1974, concerning the subject.

You ask three questions concerning "supervisory positions." This term is not used in the State Employees Labor Relations Act. Since it is not used in our Act, our Legislature has not accorded to it any special legal significance, unlike the federal act which does use this term. See 29 U.S.C. § 152, sub-§ 11. Accordingly, it seems to me that your intended questions, together with our answers, are:

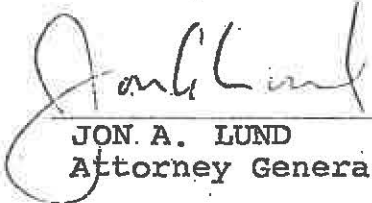
1. Which state employees have a right under Chapter 9-B, Title 26, to participate in the formation or organization of an employee union for purposes of representation and collective bargaining under the State Employees Labor Relations Act? Answer: All State employees other than those excepted by the provisions of 26 M.R.S.A. § 979-A, sub-§ A through G.

2. Do State employees who are excepted by the provisions of 26 M.R.S.A. § 979-A, sub-§§ 6A through G, have any legal right to participate in the formation or organization of a State employee union for purposes of representation and collective bargaining under the State Employees Labor Relations Act? Answer: No. They have been excluded from the grant of that right.

3. What legal measures are available to the employer to prevent such participation by State employees excluded by sub-§§ 6 A through G? Answer: (A) Explicit information to all such persons; (B) In an appropriate case, petition the Public Employees Labor Relations Board for aid in preventing such conduct; (C) In an appropriate case, discharge from employment; (D) Appropriate Court action.

Implementation of this Act in the above-described manner would not constitute illegal intervention by the employer in the exercise by the state employees of their organizational rights under the State Employees Labor Relations Act.

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


JON A. LUND
Attorney General

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