

# MAINE STATE LEGISLATURE

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August 5, 1975

Joseph Hochadel

Executive

Martin L. Wilk, Deputy

Attorney General

Salary of Director of Office of Energy Resources

This will respond to your memo dated July 31, 1975, inquiring whether P.L. 1975, c. 587 authorizes the Governor and Council to fix the salary of the Director of the Office of Energy Resources without regard to 2 M.R.S.A. § 6(6). For the reasons which follow, the answer to your question is no.

The Office of Energy Resources was initially established by P.L. 1973, c. 770 by the 106th Legislature. Under section 2 of that Act, the provision relating to the position of Director was as follows:

"§ 5004. Energy Resources Director

"1. Director. The executive head of the Office of Energy Resources shall be the director, who shall be appointed by the Governor with the approval of the Executive Council. The director shall serve a term coterminous with that of the Governor and until his successor is appointed and qualified, subject to removal for cause by the Governor. The director shall be paid a salary fixed by the Governor and Council."  
(Emphasis added)

Chapter 770 of the Public Laws of 1973 also provided (in section 1 of the Act) that 2 M.R.S.A. § 6(6) shall be amended by adding at the end a new paragraph to read:

"Director of the Office of Energy Resources."

Accordingly, it is clear that under Chapter 770 the salary of the Director was to be fixed by the Governor and Council subject to the requirements of 2 M.R.S.A. § 6(6).

On June 26, 1975, the Governor signed into law L.D. 1913, P.L. 1975, c. 587, which repealed 5 M.R.S.A. § 5004 as enacted by P.L. 1973, c. 770, § 2, and enacted, inter alia, the following provision in place thereof:

"§ 5004. Director of Office of Energy Resources

"1. Appointment. The Governor, with the approval of the Executive Council, shall appoint a full-time Director of the Office of Energy Resources. The director shall serve a term coterminous with that of the Governor and until his successor is appointed and qualified, subject to removal for cause by the Governor. The director shall be paid a salary fixed by the Governor and Council."  
(Emphasis added.)

The 107th Legislature did not, however, repeal section 1 of P.L. 1973, c. 770 which had placed the position of Director of the Office of Energy Resources within the restrictions of 2 M.R.S.A. § 6(6). Moreover, the language in the new bill is identical to the language of the previous bill with respect to fixing the salary of the Director. It is apparent from the foregoing that the Legislature intended to retain the salary limitations imposed by 2 M.R.S.A. § 6(6) insofar as it relates to the Director of Energy Resources. A contrary interpretation would require ignoring entirely the presence of the pertinent language of 2 M.R.S.A. § 6(6).

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