

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date December 4, 1975

To Richard W. Tripp

Dept. Personnel

From Robert J. Stolt, Assistant

Dept. Attorney General

Subject Attorney General Opinion dated June 12, 1974

You ask: (1) whether the opinion of June 12, 1974, is applicable to the attached situation (reclassification of poultry inspector II positions to poultry inspector III); and, (2) whether the attached specific situation in any way modifies the June 12 opinion.

In answer to both questions, the opinion of June 12, 1974, is directly applicable to, and is in no way modified by the attached specific situation. The attached specific situation is exactly the type of situation which our opinion of June 12 seeks to address and which the Legislature was addressing by enactment of Section 7 of the appropriations preamble.

The informal memorandum opinion of this office of June 12, 1974, in pertinent part, reads:


" . . . [I]n what instances may . . . [reclassifications and/or range] . . . changes be implemented without prior Legislative approval? The new sentence requires legislative approval before a job 'reclassification' or a job 'range change' can be implemented. However, the Personnel Board can implement, without reference to the Legislature, 'an exchange between job classifications' provided it does not involve a job 'reclassification' or a job 'range change', and provided the budgetary limitations are met. An example of this is the situation in which the appointing authority has a job vacancy, which job he wishes to abolish and he wishes to create an entirely new job, which action will not exceed the budgetary limitations."

The poultry inspector situation seeks to effect a reclassification action. It is not an exchange even though poultry inspector II positions will be abolished. An exchange, to repeat the example of our June 12, 1974, opinion, is the abolition of an existing vacant job and the creation of an entirely new job.

Your attachments also allude to our opinion of September 18, 1975, as evidencing a requirement that the Personnel Department correct certain agency employment actions not in conformity with

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the Personnel Law and Rules by certifying the propriety of those actions without respect to the requirements of the Personnel Law and Rules. This is not the thrust of our September 18, 1975, opinion. Rather, our opinion of that date requires an agency to rectify its prior nonconforming employment actions by complying with the Personnel Law and Rules.



ROBERT J. STOLT
Assistant Attorney General

RJS/ec