

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date January 16, 1976

To Richard W. Tripp Dept. Personnel
From Robert J. Stolt, Assistant Dept. Attorney General
Subject Clarification of the ability of the Department of Personnel to
Implement Reclassification Request

This will respond to your memo of November 21, 1975, in which you request resolution of a conflict between our opinions of October 21, 1975, and June 12 and 24, 1974.


In our opinions to you dated June 12 and 24, 1974, we advised you that as of June 28, 1974, the power of the Department and the Board to implement reclassifications which it approves was terminated. Our opinion of June 24, 1974, spoke specifically to "reclassification requests previously received and still under its consideration" on June 28, 1974. Our opinion of March 24, 1975, reasserted the conclusion reached in our opinions of June 12 and 24, 1974.

Our opinion of October 2, 1975, on the other hand, suggests that because certain requests for reclassification were pending before the Board pursuant to Rule 4.6 prior to the effective date of C. 221, § 3, P. & S.L. of 1973, the Board retained the authority to implement those requests at the conclusion of the Board's Rule 4.6 proceedings. We disagree with that construction of the Board's authority.

Section 3, c. 221, P. & S.L. 1973 (§ 6, c. 78 and § 7 c. 90, P. & S.L., 1975, in the current appropriation act) in pertinent part provides:

"The State Personnel Board on a continuing basis shall review all reclassification and range change requests and regularly report those which it approves in omnibus bill form to each subsequent session of the Legislature, through the Appropriations and Financial Affairs Committee, for final determination."

This omnibus bill requirement has been in effect since June 28, 1974. While it specifically allows the Board to continually review requests for reclassification, the Board may not implement those requests which it approves. Implementation in all instances requires legislative action. We conclude that the Board must submit all requests for reclassification which it has approved, either initially pursuant to Rule 4.3 or on review pursuant to Rule 4.6, after June 28, 1974, to the Legislature in omnibus bill form.


ROBERT J. STOLT
Assistant Attorney General

RJS/ec