

MAINE STATE LEGISLATURE

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April 7, 1976

Honorable Richard Davies
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Davies:

This responds to your oral request of yesterday for an opinion as to whether enactment of L.D. 2342, the appropriations legislation, which would implement the Hay Study, would make the matters in L.D. 2342 outside the scope of collective bargaining pursuant to 26 M.R.S.A. § 979-D-1-E(1). Such could occur if the matters in L.D. 2342 became matters "prescribed or controlled by public law."

It is the opinion of this office that there would be no obstruction of the obligation to bargain specified in § 979-D by enactment of L.D. 2342. Section 979-D-1-E contemplates, in subparagraph (3) that cost items will be included in the Governor's budget and submitted to the next session of the Legislature. Therefore, should L.D. 2342 be adopted, the Legislature could subsequently revise its provisions to be consistent with costs in any collective bargaining agreement, and such revision is clearly contemplated by § 979-D.

We would emphasize, however, that the Hay Study Plan, if adopted by L.D. 2342, would prevail until changed by the Legislature. Grade or range changes could not be adopted simply by negotiations. The matter could be addressed in collective bargaining but the result of the collective bargaining would have to be recommended to and approved by the Legislature as a cost item pursuant to subparagraph 3. We would also note that section 5 of Part D of L.D. 2342 establishes a temporary compensation review board which is to remain in effect for 90 days after the effective date of implementation of the pay plan. During this time section 5

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specifies that this temporary compensation review board has "exclusive jurisdiction" to hear appeals regarding the pay plan.

Sincerely,

DONALD G. ALEXANDER
Deputy Attorney General

DGA:mfe

cc: Honorable Mary Najarian
Lanning Mosher