State Employees) Labor Relations, grade range changes
26 MRSA § 979-D-1-E

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April 9, 1976

Honorable James Tierney
House of Representatives
State House
Augusta, Maine 04333

Dear Jim:

This responds to your request for an opinion on the question: "If the Hay Report, as proposed in L.D. 2342, is enacted, must all changes in job grades or ranges also be accomplished by statutory changes?" Our answer to this is yes. If L.D. 2342 is enacted, then provisions of collective bargaining agreements which effect grade or range changes for certain classes of State employees will have to be approved by legislative action.

The reasons for this result are discussed in the letter from this office of April 7, 1976, which addressed the relationship of Part D of L.D. 2342 to 26 M.R.S.A. § 979-D-1-E.

You have posed the additional question of whether the term "public law" in section 979-D-1-E could be construed to exclude a private and special law, such as an appropriations bill. If this construction were adopted, then no matters in L.D. 2342 would preclude collective bargaining or implementation of that bargaining pursuant to section 979-D-1-E.

While the law on this matter is not entirely clear, we do not believe that such a construction can be adopted. There is a distinction between regular statutes and appropriations bills. Thus, the Supreme Judicial Court in City of Bangor v. Inhabitants of Etna, 140 Me. 85 (1943), stated, though by way of dictum, "An appropriation bill is not a law in its ordinary sense. Such a bill pertains only to the administration functions of government." Such, however, does not appear a sufficient distinction for a determination that the term "public law" in section 979-D-1-E does not include private and special laws. Traditionally, private and special

laws were acts operating only on particular persons and private concerns. People v. Palmer, 35 N.Y.S. 222, 225; Allen v. Hirsch, 8 Or. 412, 415; People v. Wright, 70 Ill. 388, 398. The distinction in Maine, however, has become considerably blurred and matters of rather broad application have traditionally been included in appropriations legislation which are enacted as private and special laws. L.D. 2342 is typical of this tradition.

Further, such inclusion of matters of broad application is encouraged by the Maine Constitution, which, unlike some other states which prohibit special legislation, states in Article IV, Part Third, § 13,

> "The Legislature shall, from time to time, provide, as far as practicable, by general laws, for matters usually appertaining to private or special legislation."

Thus, by the Constitution there is no significant distinction between public laws and private and special laws. Nor is any such distinction provided in the Maine statutes or in the rules of the Maine Legislature. For this reason, we cannot construe the term "public law" to exclude private and special laws where the distinction between public laws and private and special laws has become so blurred.

You also pose the question, "If legislative approval of collective bargaining agreements relating to grade and range changes would be required by enactment of L.D. 2342, must this enactment be by public law or private and special law?" In light of the lack of clear distinction between the two types of laws in matters relating to the operation of state government, we believe this is not as much a matter of legal interpretation as it is a matter of legislative choice.

Sincerely,

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