

MAINE STATE LEGISLATURE

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April 14, 1976

Joseph M. Hochadel

Executive

David Roseman, Assistant

Attorney General

State Board of Registration for Professional Engineers, 32 M.R.S.A. § 130:

I have been asked to respond to your request for an interpretation of 32 M.R.S.A. § 1301, relating to the appointment of members to the State Board of Registration for Professional Engineers. You have asked whether with regard to appointments, other than those for the public member, the Governor must appoint with the advice and consent of the Council from among nominees recommended by the representative engineering societies in this State. We believe the answer is affirmative.

You have stated that your question emanates from the possible incongruity between the appointment provisions contained in paragraph one and those contained in paragraph two. 32 M.R.S.A. § 1301 states in applicable part that:

". . . The board [of Registration for Professional Engineers] shall consist of 5 professional engineers, who shall be appointed by the Governor with the advice and consent of the Council, from among nominees recommended by the representative engineering societies in the State"

"On the expiration of the term of any member, the Governor shall, in the manner provided, appoint for a term of 5 years a registered professional engineer . . . to take the place of the member whose term on said board is about to expire. . . ."
(emphasis added)

It is a cardinal rule of statutory construction that effect, if possible, must be given to every word, phrase and sentence contained in the provision of the statute being interpreted. "It is not to be presumed that the legislature used either words, phrases or clauses without reason or without meaning, or that they are used as mere surplusage." Budson Pulp and Paper Corporation v. Johnson, 147 Me. 444, 448 (1952); Camp Walden v. Johnson, 156 Me. 160 (1960); 73 Am. Jur. 2d, Statutes, §§ 200, 250. In accordance with the foregoing principle of construction, effect must, if possible, be given to the phrase "in the manner provided," found in paragraph two of 32 M.R.S.A. § 1301. Furthermore, the Maine Supreme Court has stated that

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"A statute must be construed as a whole, and the construction ought to be such as may best answer the intention of the legislature. Such intention is to be sought by an examination and consideration of all its parts, and not from any particular word or phrase that may be contained in it. . . . Such a construction must prevail as will form a consistent and harmonious whole." Rackliff v. Greenbush, 93 Me. 99, 104 (1899); Inman v. Willinski, 144 Me. 116 (1949).

Thus, the phrase, "in the manner provided," must not be construed in isolation, but must be construed with reference to other portions of the statute, including paragraph one of 32 M.R.S.A. § 1301; and that phrase should also be construed in such a manner as to form a consistent and harmonious statute.

Applying the above principles of statutory construction, we believe that the phrase "in the manner provided" refers to the manner of appointment provided in the first paragraph of 32 M.R.S.A. § 1301. Paragraph one clearly states that appointment of a professional engineer member of the Board is to be made by the Governor, with the advice and consent of the Council, and from among nominees recommended by the representative engineering societies in this State.

We are pleased to have been of assistance to you in this matter.

DAVID ROSEMAN
Assistant Attorney General

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