

MAINE STATE LEGISLATURE

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June 7, 1976

The Honorable Bonnie D. Post
Owls Head
Maine 04841

Dear Representative Post:

You have posed several questions regarding interpretation of the provisions of Senate Amendment A to L.D. 2355. In developing this opinion, we have reviewed the compromise amendments to the classification plan as it will be presented to the Legislature next week. The questions are discussed in order.

1. Would the increase in payments to retirees proposed in Part D, section 9, be effective on the effective date of the legislation or on the effective date of implementation of the Hay Report?

The increase in payments to retirees would not be effective until the effective date of implementation of the Hay Report. Section 10 of Part D* provides that sections 1, 2, 3, 7 and 9 of Part D do not become effective until the first pay period in November, 1976. Section 9 of Part D is the retirement section. Therefore it is not effective until the first pay period in November.

2. If the Hay Report were implemented, what areas that are now open for collective bargaining would become precluded from collective bargaining because they were "controlled by public law" pursuant to 36 M.R.S.A. § 979-D-1-E?

* This is Section 10, Part D, L.D. 2355, not section 10 relating to collective bargaining in the Speaker's letter of last week.

This matter is directly addressed by the new section 10 of the proposed compromise which indicates that the new classification system in no way effects collective bargaining obligations.

3. Does the provision of Senate Amendment A which would freeze for one year decisions made by "the board" apply to the Temporary Classification Review Board or the Personnel Board or both?

We recognize the confusion which may exist in a reading of Part D, section 6, because the sentence which discusses the one-year freeze period appears immediately following a sentence which mentions the Personnel Board. However, the primary emphasis of section 6 deals with the Temporary Classification Review Board, its composition and its review processes. Thus we believe it is clear that the next to last sentence of the first paragraph of section 6 which establishes the one-year freeze refers to the Temporary Compensation Review Board. This interpretation is confirmed by reading the following sentence which states: "Following completion of the board's review of all appeals, subsequent appeals will be processed pursuant to existing Personnel Law and Rules." This sentence certainly refers to the Temporary Compensation Review Board not the Personnel Board which would be covered under the Personnel Law and Rules. Should this provision of legislation be reconsidered and subject to redrafting, it may be appropriate, however, to clarify which boards are being referred to in section 6 as two boards are being discussed. Absent such clarification, however, we believe that the provisions in section 6 would properly be interpreted to mean the Temporary Compensation Review Board unless another board is clearly specified.

4. Regarding the provisions relating to merit raises for employees, does the limitation relating to 60% of those employees mean that only 60% of employees recommended for merit raises could be awarded merit raises?

Section 9 of L.D. 2355 as finally before the Legislature contains the provisions in question and represents a significant expansion of legislative direction regarding granting of merit increases (compare P & S.L. 1975, Chap. 90, § 8).

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The proposed compromise clarifies the matter by specifying that the 60% limitation addresses all those below the maximum pay grade and thus all those eligible for a merit increase.

We hope this information is helpful to you.

Sincerely,

DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec

cc:

Speaker of the House
President of the Senate
Lanning Mosher
David Silsby