

# MAINE STATE LEGISLATURE

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Inter-Departmental Memorandum Date July 8, 1976

To Bernard Allen, Business Manager Dept. Attorney General  
 From Donald G. Alexander, Deputy Dept. " "  
 Subject Appeal Period Allowance (\$40 increase)

You have posed four questions regarding P. & S.L. 1975, Chapter 147, Part D, § 4, the \$40 increases for the months of July through October. These questions are listed and answered below.

1. Does the \$40 increase apply to District Attorneys.

The answer is no. The salaries for District Attorneys are set by statute, 30 M.R.S.A. § 2, at \$23,500. Granting the \$40 increase would have the effect of increasing their salaries above that limit. Such an intent cannot be construed from the legislation. It will be noted that the legislation in § 7 made a separate provision to deal with certain officials whose salaries are set by statute. This would imply that the general pay increase proposals, including the \$40 increase provisions of § 4, were not intended to apply to officials whose salary is at a specific number set by statute. Further, no intent to avoid the statutory salary limits set at other places in the law appears at any point, except the limited provisions of Part D, § 7. Therefore, the \$40 increase provision does not apply to District Attorneys whose salaries are set pursuant to 30 M.R.S.A. § 2 (or for that matter the Attorney General, whose salary is set by 2 M.R.S.A. § 7).

2. Does the \$40 increase apply to full-time Assistant District Attorneys where their salaries are at least \$160 less than the statutory maximum of \$17,000 set at 30 M.R.S.A. § 554-A-3?

As Assistant District Attorneys are full-time employees in the unclassified service, the provisions of Part D, § 4 would apply to them as long as the statutory salary limit is not exceeded. The \$40 increase could not apply to Assistant District Attorneys already receiving maximum compensation.

3. Does the \$40 increase apply to part-time District Attorneys?

The answer is no. Section 4 specifies that the \$40 increase only applies to "full-time" employees who are employed either on a permanent basis or for limited periods.

4. Is the eligibility of employees for the \$40 increase affected in any manner by the fact that those employees were paid in full or in part by federal funds during calendar year 1975?

The answer is no. The two criteria for eligibility under Part D, § 4 are (1) that employees be currently on a full-time permanent or limited period basis, and (2) that such employees were employed by the State during 1975. The source of funding which supported those employees during 1975 is not relevant, unless those employees are still supported by federal funds, in which case the provisions of § 8 of Part D come into play. Otherwise, an employee paid from the General Fund is eligible for the \$40 increase paid from the General Fund if he is currently a full-time employee supported by the General Fund and was employed in 1975.



DONALD G. ALEXANDER  
Deputy Attorney General

DGA/ec

cc: District Attorneys

Richard Dieffenbach, State Controller