

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date February 4, 1977

To O. W. Seibert, State Budget Officer Dept. Finance and Administration

From Donald G. Alexander, Deputy Dept. Attorney General

Subject Temporary Compensation Review Board Jurisdiction of Unclassified Employees whose Salaries are Subject to Approval by the Governor

This responds to your request for an opinion as to whether unclassified employees whose salaries are subject to determination by the Governor (determination by the Governor and Council prior to January 4, 1977) may have their pay rates set by action of the Temporary Compensation Review Board. We answer your question in the negative.

However, it should be noted that this opinion applies only to those unclassified employees whose salaries are by statute made subject to determination by the Governor. This would be those employees whose salaries were subject to approval by order of the Governor and Council prior to July 4, 1977. It would not include employees of the Executive Department whose salaries are subject to determination by the Governor solely by the fact of their being members of the Executive Department, such as employees of the State Planning Office or the State Energy Office.

The Temporary Compensation Review Board was created by P. & S. L. 1975, Part D, § 6, to hear appeals concerning the allocation of classifications and unclassified employees to pay grades provided in section 3 of this Part. Section 3 of Part D provides the salary schedules and specifies that:

"Classified positions and unclassified employees not subject to Governor and Council determination shall be assigned to the appropriate pay grade in the following schedule." (Emphasis added)

Thus, unclassified employees whose salaries were subject to Governor and Council determination are not subject to the schedules specified by section 3 of Part D and are therefore outside of the jurisdiction of the Temporary Compensation Review Board. Further, this intent is confirmed by a reading of section 2 of Part D which discusses assignment of unclassified employees not subject to Governor and Council salary determination two steps as provided by the Hay Study "or as determined by the Temporary Compensation Review Board."

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Thus, the salary of unclassified employees whose salaries were recommended by the appropriate appointing authority and approved by order of the Governor and Council prior to January 4, 1977, and whose salaries are now subject to approval of the Governor are not subject to the jurisdiction of the Temporary Compensation Review Board and may have their salaries set in the same manner as in the past by having the appropriate appointing authority make a recommendation with the recommendation taking effect on approval of the Governor.

DONALD G. ALEXANDER
Deputy Attorney General

DGA:jg
cc: Robert Stolt
Roger Snow