

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

May 20, 1977

Committee on Appropriations and Financial Affairs
State House
Augusta, Maine

Re: Assistant District Attorney Salaries.

This responds to your request for an opinion as to whether the salaries of Assistant District Attorneys are subject to the provisions of the Hay Plan. We would advise that the salaries of Assistant District Attorneys are subject to the provisions of the Hay Plan but only to the extent that the effect of the Hay Plan would be to increase salaries of Assistant District Attorneys to a level of less than \$17,000 per year.

DISCUSSION:

The provisions of law relating to Assistant District Attorneys, 30 M.R.S.A. § 554-A, specify that Assistant District Attorneys are to be paid salaries set by the District Attorney, but that salaries for full-time Assistant District Attorneys shall not exceed \$17,000 and salaries of part-time Assistant District Attorneys shall not exceed \$10,000. The effect of this provision is to give the District Attorneys discretion in setting salaries up to a specified maximum.

Further, Assistant District Attorneys are not part of the classified service. Therefore, they are unclassified employees whose terms and salaries depend on the discretion of the District Attorneys within statutory limits. By opinion of this office dated September 21, 1976, a copy of which is attached, we advised that the salaries of unclassified employees whose rates of pay were set by the appointing

authority, but without approval of the Governor, would become subject to the provisions of the Hay Plan. We have also addressed the question of applicability of the Hay Plan to various unclassified positions by opinions dated July 8, 1976, February 3, 1977, and February 4, 1977, copies of those opinions are also attached.

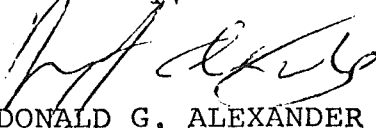
Assistant District Attorneys fall within the category of unclassified employees whose salaries are set by the appointing authority but not approved by the Governor. Therefore, the provisions of the Hay Plan do apply to Assistant District Attorneys.

The recommended salary level for Assistant District Attorneys included in the Hay Plan was grade 30. This grade begins at a salary of \$16,182.40; step B is \$16,993.60; and step C exceeds \$17,000. Accordingly, Assistant District Attorneys could only receive pay at the first two steps or at the maximum rate specified by statute, \$17,000. Their salaries cannot exceed the legislatively specified maximum.

The calculations relating to fiscal year 1978 appropriations for the District Attorneys, provided by this office, included calculations to raise salaries for full-time Assistant District Attorneys to the levels specified in the Hay Plan. Those calculations were based on computer printouts provided by the Department of Finance and Administration but modified by our office, to only include payments to those to whom the Hay Plan applied and within the limits of the Hay Plan.

There may be some adjustments required in the current appropriation for the District Attorneys to address this matter, as the applicability of the Hay Plan to Assistant District Attorneys has not been clarified until this opinion.

Sincerely,


DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec

Enclosures

cc: All District Attorneys
Robert Stolt