

MAINE STATE LEGISLATURE

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October 18, 1978

To: David S. Silsby, Director, Legislative Research
From: Donald G. Alexander, Deputy Attorney General
e: Areas of Conflict, Volume II, Maine Revised Statutes

Following is a memorandum on appropriate resolution of existing conflicts in Volume II of the Maine Revised Statutes.

1. 2 M.R.S.A. § 7, sub-§ 2: This section was amended by three separate statutory enactments in the Second Session of the 108th Legislature.

P.L. 1977, c. 675, § 1, amended the subsection to add a specific salary of \$23,000 for the Chairman of the Maine Employment Security Commission. This provision was part of a general reorganization of the functions and responsibilities of the Employment Security Commission and the Commissioner of Manpower Affairs. In the reorganization, the Chairman of the Employment Security Commission was a new position.

P.L. 1977, c. 697 generally readjusted the salaries of top State officials. As part of this readjustment, §§ 2 and 3 of chapter 697 removed the salaries of the Chairman and members of the Public Utilities Commission from the specific salary provisions of 2 M.R.S.A. § 7 and place them in a separate category, 2 M.R.S.A. § 6-A with salaries established according to ranges. The effect of § 3 of chapter 697 repealing and replacing 2 M.R.S.A. § 7 was to amend sub-§ 1 of § 7 to increase the salaries of the State Auditor and State Treasurer and to reenact sub-§ 2 of § 7 as it had existed prior to 1978 but without the provisions relating to the salaries of the Public Utilities Commission.

P.L. 1977, c. 709 made several amendments to the laws relating to the Industrial Accident Commission. As part of these amendments, § 1 of chapter 709 amended 2 M.R.S.A. § 7, sub-§ 2 to change the salary for the Chairman of the Industrial Accident Commission, establish a new salary category for members of the Industrial Accident Commission

with more than 4 years experience and continue the previous salary rate for all other commissioners. This was the only effect of the amendments.

None of the chapters in question was enacted as emergency legislation. Therefore, they all took effect at the same time. Further, it is my view that all the chapters may be read consistently.

Chapter 675 can be construed as amending sub-§ 2 to add a specific salary, \$23,000, for the Chairman of the Employment Security Commission.

Chapter 697 can be viewed as amending sub-§ 2 by striking the provisions relating to the Public Utilities Commission.

Chapter 709 can be read as amending the salaries of the Chairman of the Industrial Accident Commission, establishing a new salary for members with 4 years experience and another category for all other commissioners. This fulfills legislative intent, as it is clear that the repeal and replacement effected by chapter 697, § 3 was in no way intended to negate the effect of the amendment and the reorganization of the Employment Security Commission intended by chapter 675.

The law should now be considered to read as follows:

"2. Regulatory boards. Notwithstanding section 6 or any other provision of law, the salaries of the listed Chairman and members of the following regulatory boards shall be:

- "Maine Employment Security Commission
- "Chairman \$23,000
- "Members other than Chairman. . . . \$20,475
- "Industrial Accident Commission
- "Chairman \$22,995
- "Members other than Chairman
- "With more than 4 years experience. \$21,420
- "All other Commissioners. \$18,900"

This is the section as I believe it should read in the Revised Statutes.


You should note further, however, that in both chapter 709, and in the errors and inconsistencies bill, chapter 696, the name of the Industrial Accident Commission was changed to the Workers Compensation Commission. Title 2 § 7, sub-§ 2 should be amended in the next errors and inconsistencies bill to recognize this change.

2. 5 M.R.S.A. § 1101, sub-§ 1: This section, relating to reviewability of administrative decisions, was amended by P.L. 1977, chapter 616, sub-§ 2 and by P.L. 1977, chapter 694 § 40. Chapter 694 is both later enacted legislation and later effective legislation as chapter 616 was emergency legislation. Therefore, the provisions of 5 M.R.S.A. § 1101, sub-§ 1, first sentence, as amended by § 40 of chapter 694 should prevail. Further, I see no inconsistency with the law as amended by this section alone when compared to the previous section. The sentence, as amended by chapter 694, § 40 can appear in the Revised Statutes. I do not believe that the other amendment would even need a footnote. It was only effective for the period July 1 to July 6, 1978.

3. 6 M.R.S.A. § 203, sub-§§ 1 and 2: This section relates to certain penalty provisions in relation to the aeronautics laws. P.L. 1977 chapter 696, § 49, the errors and inconsistencies bill, repealed and replaced § 203, sub-§ 1 and sub-§ 2. The effect of this section, primarily, was to tie the aeronautics laws and penalty provision in with the Criminal Code. These amendments were effective March 31, 1978. The Legislature had previously enacted general amendments to the aeronautics laws by the provisions of P.L. 1977, chapter 678. These enactments extended the penalty provisions to apply to violations of chapters 1 to 17 rather than chapters 1 to 13 as the law previously existed. This law, not enacted by emergency, was effective July 6, 1978. As later effective legislation may be deemed to have amended the other legislation and to apply the penalty provisions to be enacted to chapter 696 to violations of chapters 1 through 17 as intended by chapter 678.

This fact should be noted by footnote. However, the amendments to 6 M.R.S.A. § 203, sub-§§ 1 and 2 enacted by chapter 678 apply to the language revised by chapter 696 as the language adopted by chapter 678 is later effective legislation.

I hope this information is helpful.


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