

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

RANGE

! removed - fund a business range changes

RANGE

State employees - fund for range changes

PERSON
ATTORNEY GENERAL



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

February 22, 1979

Honorable Jasper S. Wyman
House of Representatives
State House
Augusta, Maine 04333

Re: Request for an opinion regarding range changes in the Department of Conservation.

Dear Representative Wyman:

The following is a response to your opinion request, dated January 23, 1979, in which you have inquired about the legality of paying range change costs out of a general salary increase fund maintained by the Bureau of the Budget.

FACTS:

The 107th Legislature by Chapter 147, Part D, § 10, established a classification appeals fund to provide a source of funds to pay for anticipated additional costs of classification appeals decisions made by the Temporary Compensation Review Board. That fund was established in the Bureau of the Budget and identified by account #1039.3. The 108th Legislature established by Chapter 579, § I, § 6* a fund to be

* "Sec. 6. Appropriation and allocation. There is appropriated from the General Fund the sum of \$1,200,000 for the fiscal years ending June 30, 1978 and June 30, 1979. There is allocated from Title II of the Public Works Employment Act the sum of \$5,000,000 for the fiscal years ending June 30, 1978 and June 30, 1979. The appropriation and allocation are to be used for state employees salary increases, elimination of the 60/40 merit increase practice, and to offset the increase in state health insurance cost. The breakdown shall be as follows:

	1977-78	1978-79
DEPARTMENT OF FINANCE AND ADMINISTRATION		
State Employees Salary Fund		
General Fund		
Personal Services	\$700,000	\$500,000
Title II		
Personal Services	2,500,000	2,500,000

Any balance remaining in this fund shall carry forward until June 30, 1979 to be used for the same purpose."

used for state employees salary increases, elimination of the 60/40 merit increase practice, and to offset the increase in state health insurance costs. The Bureau of the Budget established account #1039.4 to manage the general salary increase fund so established by the Legislature.

In April of 1978, a number of positions in the Department of Conservation were submitted to the Department of Personnel requesting higher range assignments than assigned by the Hay Study or the Temporary Compensation Review Board. After approval of the changes by the Department of Personnel, the requests were submitted to the Bureau of the Budget in accordance with the Personal Services appropriation review procedures established by the appropriations preamble (§§ 5 and 7 of Chapter 579, P.L. 1977). In a memorandum dated April 21, 1978, the State Budget Officer advised the Commissioner of Conservation that no appropriate source of funding had been identified for these positions. That memorandum suggested several alternatives available to the Commissioner of Conservation to properly fund the pending range changes.

On October 30, 1978, the Commissioner of Conservation directed the attention of the State Budget Officer to account #1039.4 and asked whether or not the funds in #1039.4 were available to fund the range changes in question. On December 19, 1978, after conversation with the Commissioner of Conservation, the State Budget Officer, by memorandum, informed the Commissioner that account #1039.4 was not available to fund the range changes in question.

QUESTION POSED:

Whether account #1039.4 may appropriately be used to implement the range changes described and whether such implementation may be made retroactive to the date such range changes were authorized by the Department of Personnel?

ANSWER:

No. Account #1039.4 may not appropriately be used to implement the range changes described nor may the implementation of these range changes be made retroactive to the date such range changes were authorized by the Commissioner of Personnel without specific legislative authorization.

REASONING:

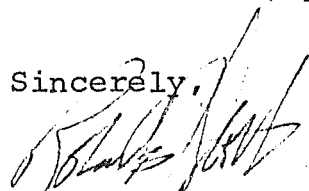
When the Legislature established a fund to assure that adequate funding was available to cover the costs of classification appeals decisions made by the Temporary Compensation Review Board, it provided that the funds so established would lapse to the General Fund on

January 31, 1977. (See Chapter 147, P. & S.L. 1975, Part D, § 10). The account established to manage the classification appeals fund was #1039.3. Funds not committed to cover classification appeals costs by January 31, 1977, lapsed to the General Fund and were not longer available to agencies of state government or the State Budget Officer to use for classification appeals related matters.

Account #1039.4 was a fund established by the 108th Legislature by Chapter 579, § I, § 6, to be used to fund employee salary increases, elimination of the 60/40 merit increase practice, and to offset increases in state health insurance costs. Agencies of state government through the State Budget Officer may call upon that fund for the purposes enumerated by the Legislature until June 30, 1979. The State Budget Officer is not authorized to use the fund for purposes other than those enumerated by the Legislature. The request of the Commissioner of Conservation to utilize funds in account #1039.4 to pay the costs of the subject range changes in the Department of Conservation is contrary to the intent and specific direction of Chapter 579. The State Budget Officer in his memorandum of December 19, 1978, to the Commissioner of Conservation has outlined an acceptable and appropriate method for implementation of the range changes in question. Those range changes may be implemented in the fashion suggested by the Budget Officer or they may be specifically funded by legislative act and made effective specifically by such act on the date of their initial authorization by the Department of Personnel.

If you need any further assistance in this matter, please feel free to contact me.

Sincerely,



ROBERT J. STOLT
Deputy Attorney General

RJS/ec

cc: Otto Seibert
Richard Barringer