

MAINE STATE LEGISLATURE

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March 15, 1979

Honorable Judy Kany
House of Representatives
State House
Augusta, Maine

Honorable David Ault
Maine Senate
State House
Augusta, Maine

Dear Representative Kany and Senator Ault:

I am writing in response to your inquiry to Attorney General Cohen concerning the legal significance of the title and statement of fact of a bill.

Simply stated, neither the title nor the statement of fact of a bill is deemed to be part of the enacted legislation. Thus, they do not have the force of law. The title and statement of fact may become relevant, however, when a court construes the particular act. To explain their relevance, I must briefly discuss the process by which a court interprets a statute.

The overriding objective of statutory construction "is to give effect to the intention of the Legislature," Reggep v. Lunder Shoe Products Company, 241 A.2d 802, 804 (Me. 1968). In order to ascertain the legislative intent, a court will look first to the language of the statute. In fact, it is generally held that when the wording of a law is clear, the court will not look behind that wording in construing the law.

"When the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation, and the court has no right to look for or impose another meaning." State v. Granville, 336 A.2d 861, 863 (Me. 1975).

In other words, if the language of a statute clearly reveals the Legislature's intent, the inquiry need proceed no further.

When a court decides that a statute is ambiguous, it will utilize extrinsic aids in order to discover the legislative purpose. As part of this endeavor, the court will customarily examine the legislative history of the enactment. See, e.g., Finks v. Maine State Highway Commission, 328 A.2d 791, 797 (Me. 1974). It is in this context that the title and statement of fact may become relevant, insofar as they constitute a part of that history. Thus, if the court concludes that the language of the title and/or the statement of fact helps to shed light on the meaning of an ambiguous statute, the court may look to that language in construing the statute.*

You have also inquired as to what measures the Legislature should take to correct an erroneous or incomplete title or statement of fact. Before I address that issue, I would emphasize that the focus of the Legislature's attention should be on the language of the bill. As the above discussion indicates, if that language is clear and unambiguous, then the title and statement of fact are of no legal significance in the sense that they would not be utilized by a court in interpreting and applying a statute.

Assuming the Legislature perceives a need to rectify an error in the statement of fact or title, it is impossible to say that one procedure is preferable to another. The courts have not created a clear hierarchy by which they rank different facets of the legislative history in order of importance. While it may be argued that an amendment to the title or statement of fact would have a greater effect, insofar as it must be approved by the Legislature, a clear statement in the course of the debate, especially if made by a sponsor or proponent of the bill, should suffice. Once a court determines that it must examine the legislative history of a statute, it will examine that history in its entirety. Thus, it is virtually certain that a court which reads the statement of fact or the title of a bill will also read all of the debate on the measure.

* As a practical matter, the statement of fact is far more likely to be utilized than the title of the bill. A quick review of the cases failed to reveal any decisions in which the Maine Supreme Court relied on a title to construe a statute. The leading commentator on the subject indicates, however, that the title would probably be relevant for this purpose. Sutherland, Statutory Construction, § 47.03.

To summarize, the best safeguard against judicial misreading of the legislative intent behind a statute is to draft the statute in a clear and unambiguous manner. When it is deemed necessary, however, to correct a title or statement of fact, the form of the correction is less important than the clarity with which it expresses the Legislature's intent.

If we can be of further service to you, please let us know.

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

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