

MAINE STATE LEGISLATURE

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RICHARD S. COHEN
ATTORNEY GENERAL



79-129

STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL

AUGUSTA, MAINE 04333

June 26, 1979

Jadine O'Brien, Commissioner
Department of Personnel
State Office Building
Augusta, Maine 04333

Dear Commissioner O'Brien:

MEMORANDUM OF COUNSEL

This will respond to your inquiry of May 4, 1979, asking whether or not employees in the classification "Court Reporters" are entitled to receive increases awarded as a result of the collective bargaining process in view of the language of the fiscal note attached to c. 709, P.L. of 1977.

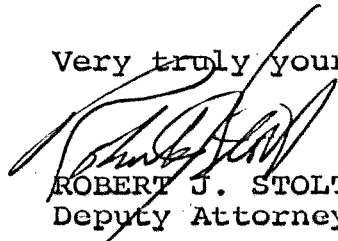
On June 19, 1978, we gave you our opinion as to the relationship of chapter 709, P.L. of 1977, to the personnel law. (copy attached) In that opinion we reviewed the significance to be given fiscal notes and the rules of statutory construction to be applied in instances where, such as this, a particular legislative enactment appears to be inconsistent with the general body of law. Those rules apply to the question which you now raise.^{1/} As we said then, "where Chapter 709 and existing law converge, they are to be interpreted and implemented to give maximum effect to both." Our interpretation was that the intent of Chapter 709 could be implemented consistent with existing law, "[b]y adopting a new classification for reporters and assigning such classification a salary grade which most nearly [approximated] the [then existing Superior] Court reporter salary."

^{1/} We declined to answer this question when originally raised (our opinion of June 19, 1978, supra) because at that time it was hypothetical.

Here the problem is the "giving of maximum effect" to both c. 709 and the State Employees Labor Relations Act, 26 M.R.S.A. § 979, et seq. ("the Act") under which the contract which provides for the salary increases in question was negotiated. The purpose of the Act is to provide the basis for a uniform consistent relationship between the State and its employees in bargaining units, see § 979. It would run counter to this purpose to remove particular classifications or positions from the coverage of the Act unless there is a clear indication of legislative intent that the particular classifications or positions are not within its scope.^{2/} Nothing in c. 709 indicates that the positions in question are to be excluded. Nor is there any indication that employees in these positions are to be treated differently from other included employees with respect to salary increases.

It appears, that, as our earlier opinion suggests, the effect of c. 709 is to attach a one-time salary increase to these positions with no explicit or implicit ramification affecting their treatment under the Act. Accordingly, employees in these positions are entitled to receive salary increases awarded by the collective bargaining contract^{3/} negotiated under the Act.

Very truly yours,



ROBERT J. STOLT

Deputy Attorney General

RJS/ec
Enclosure

2/ The SELRA excludes certain classes of employees from the definition of "state employee" and thus from the coverage of the Act. § 979-A(6). The positions in question are not among those so excluded. They are in fact included in a bargaining unit.

3/ It should be noted that in neither the contract nor the law which implements it, P.L. 1979, c. 269, is there any indication that these positions are to be excluded or treated differently from other included positions.