

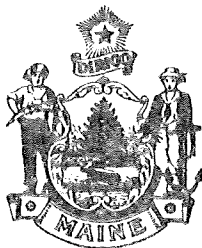
MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



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

July 28, 1981

Mr. G. William Buker
State Budget Officer
Room 323, State Office Building
Augusta, Maine 04333

Dear Mr. Buker:

This will respond to your Inter-Departmental Memorandum of June 3, 1981 concerning the method of paying those state officers and employees whose salaries are set by statute at an annual rate of pay. You have advised us that the fiscal year beginning July 1, 1981 will include 27 biweekly paydays rather than the normal 26 biweekly paydays. With respect to those state officers and employees whose annual salaries are established by statute, you have asked the following question:

"Should the biweekly payments, when necessary, be adjusted so that in the aggregate the amount received by the employee during any fiscal year does not exceed the salary set by statute?"

With respect to those officers and employees whose salaries are set at an annual rate by statute, the practice has been to adjust their biweekly payments so that, in the aggregate, the annual salary fixed by statute is not exceeded in any fiscal year. See 5 M.R.S.A. §10. See also Op. Atty.Gen., June 16, 1975. In other words, these officers and employees would receive 27 biweekly payments which, in the aggregate, would not exceed their statutorily established annual salaries. With respect to those officers and employees whose salaries are determined by the range and step pay plan or are otherwise not fixed at an annual rate, the practice has been to pay these individuals on the basis of their weekly rate of pay. In other words, these officers and employees would receive 27 biweekly payments computed on the basis of their weekly rate of pay.

Since this practice has been consistently followed in the past and since the Legislature has not provided otherwise, we

believe that you should continue to follow it for fiscal year 1981-1982.

We hope this information is helpful to you. Please feel free to call upon us if we can be of further assistance.

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

SLD:sm