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CIVIL SERVICE COMMISSION: Effective date of increases in rates of compensation for classified state employees.

CONSTITUTIONAL LAW: Increases in rates of compensation for classified state employees.

CONTROLLER, STATE: Powers of, over increases in rates of compensation for classified state employees.

Increases in rates of compensation for state classified employees authorized by the State Civil Service Commission for the fiscal year 1964-65 must become effective on July 1, 1964. The Controller is without power to make such increases effective commencing with the pay period of July 12, 1964.

No. 4305

May 5, 1964.

Mr. Franklin K. DeWald
State Personnel Director
Civil Service Commission
Lewis Cass Building
Lansing, Michigan

You advise that the Civil Service Commission, on December 18, 1963, unanimously approved a resolution authorizing increases in rates of compensation for classified state employees, the said resolution providing in part as follows:

"All pay rate increases, if approved by the legislature, will become effective for the 1964-65 fiscal year."

The Controller has informed you that he intends to place the new rates in effect as of July 12, 1964, the first pay period in the fiscal year 1964-65, unless he is advised to the contrary.

Based upon the foregoing facts you ask the following question:

"Would the Civil Service Commission be in violation of the requirements of the new Constitution if it specifies the pay adjustment for the next fiscal year take place at the start of the first pay period in the fiscal year rather than the first day of the fiscal year?"

By Article XI, Sec. 5 of the Michigan Constitution of 1963 the people have provided for a classified state civil service and have entrusted the powers over the state civil service to a civil service commission composed of four persons. In addition, the people have specified that the administration of the commission's powers shall be vested in a state personnel director.

The controlling provision of Article XI, Sec. 5 of the Michigan Constitution of 1963, in answer to your question, provides in pertinent part as follows:

"Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such

transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission."

The Civil Service Commission has, in compliance with the command of Article XI, Sec. 5 of the Michigan Constitution of 1963, given notice to the Governor of the proposed increases in the rates of compensation for state classified employees. Such increases in pay rates have been transmitted to the legislature as a part of the Governor's budget, in compliance with the requirement of Article XI, Sec. 5. More than 60 calendar days have elapsed since such transmittal and in the interim the legislature took no action to either reject or reduce the increases in the rates of compensation. Nor did the legislature authorize the increases in the rates of compensation to become effective at a time earlier than the start of the said fiscal year. Article XI, Sec. 5 expressly recognizes the authority of the legislature, by a majority vote of the members elected to and serving in each house, to waive the notice and permit increases in rates of compensation to be effective at a time earlier than the start of the fiscal year.

The resolution of the Civil Service Commission made the increases in rates of compensation for state classified employees effective for the 1964-65 fiscal year. The legislature did not, in accordance with the Constitution, fix a time earlier than the start of the fiscal year 1964-65 for such increases in rates of compensation to become effective.

The fiscal year for the State of Michigan has been fixed by the legislature in accordance with Sec. 1 of Act 116, P.A. 1887, being C.L. 1948 § 21.91; M.S.A. 1961 Rev. Vol. § 3.561, to commence on July 1st and to close on June 30th.

It must follow that the Civil Service Commission, by resolution dated December 18, 1963, has fixed the pay increase in question to become effective on July 1, 1964 for the 1964-65 fiscal year.

A plain reading of Article XI, Sec. 5 of the Michigan Constitution of 1963 recognizes authority only in the legislature by a majority vote of the members elected to and serving in each house to fix an effective date other than the date fixed by the Civil Service Commission. The Constitution gives no power to the Controller to fix July 12, 1964 as the starting date that the new rates in compensation are to take effect. Because the Constitution is clear and unambiguous in this regard, no judicial construction is required to determine its meaning. *Attorney General v. State Board of Assessors*, 143 Mich. 73 (1906); *People v. Board of Canvassers*, 323 Mich. 523 (1949).

The people by the language of the Constitution have empowered the Commission to authorize increases in rates of compensation to be effective only at the start of a fiscal year, subject to power in the legislature to permit increases in rates of compensation to be effective at a time earlier than the start of a fiscal year. The Civil Service Commission, pursuant to Article

XI, Sec. 5 of the Michigan Constitution of 1963, has fixed increases in rates of compensation for classified state employees for the start of the fiscal year 1964-65, and the Controller is without authority to fix another date for the commencement of such increases in rates of compensation.

It appears from an examination of the calendar for the year 1964 that such increases in rates of compensation for classified state employees for the fiscal year 1964-65 will become effective at the start of the third day of a pay period. This presents no insurmountable problem since the Controller can prorate increases in rates of compensation for such pay period, reflecting the increases in rates of compensation for all days worked by employees in the pay period commencing July 1, 1964 and to the end of the said pay period.

Since the constitutional process has been fully executed by the Civil Service Commission and the Governor, and the legislature being without further authority to fix another effective date for said increases in rates of compensation, it becomes unnecessary for me to rule on the basic question whether the Civil Service Commission may fix a date later than the first day of the fiscal year as the effective date for the increases in rates of compensation for state classified employees.

Therefore, it is the opinion of the Attorney General that increases in rates of compensation of state classified employees, pursuant to resolution of the State Civil Service Commission, making such increases effective for the fiscal year 1964-65, must become effective on July 1, 1964. The Controller is without power to make such increases effective with the pay period of July 12, 1964.

FRANK J. KELLEY,
Attorney General.