

JUNE 9, 1949.

DR. WILLIAM S. CARPENTER, *President,*
Civil Service Commission,
State House.

FORMAL OPINION—1949. No. 61.

DEAR SIR:

Your department has inquired whether, under Chapter 27 of the Laws of 1949, an additional increment may be provided for employees in the \$120 and \$180 increment groups who, as of July 1, 1948, were at the maxima of their respective ranges and are now receiving \$360 bonus and who, on July 1, 1949, will be allocated to new ranges whose maxima will be higher by an amount in excess of \$360 than the maxima of their present ranges. It has been estimated that such adjustment would affect 1,321 employees and that the amount required therefor would be \$159,928.

If such additional increment could not be granted, the result would be that the employees in question, who are senior to others by virtue of having reached their maxima on or before June 30, 1948, and so were not eligible for further increments on July 1, 1948, except for the bonus provided by Chapter 116, P. L. 1948, would not receive any increment in overall compensation on July 1, 1949, even though their new ranges would make them eligible to receive such increment, while employees junior to them would be receiving increases in overall compensation under the provisions of Chapter 27, P. L. 1949. The closing of the gap between such classes of employees would be due to the fact that the former pay differential between them was in the form of a bonus rather than a basic rate.

It is true that Chapter 27, P. L. 1949 does not authorize the proposed additional increment in express terms. However, Section 13 thereof provides:

"The State Treasurer, the President of the Civil Service Commission and the Director of the Division of Budget and Accounting in the Department of the Treasury shall have power to make such rules and regulations as, in their discretion, appear to be necessary in order to achieve an equitable application of the provisions of this act."

In my opinion, the proposed additional increment is a matter involving the equitable application of the act, and thus within the power of adjustment given by Section 13 to the officers therein named, constituting the Salary Adjustment Board. The matter should therefore be presented to the board for its consideration and determination.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.