

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1945-1946**

MAINE STATE  
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state aid joint fund as it becomes available annually. The Highway Commission would like to go along with the town on this proposition as they have in the past on similar but less extensive situations."

On this basis the Commission asked my opinion as to whether it would be permissible under the present laws to use State Aid funds to reimburse a town for expenditures made in previous years in constructing a State Aid highway.

My answer to this question is in the negative. You will note the limitation on the consent of the State Highway Commission in Section 109 of Chapter 20, which limits the consent to any time preceding the commencement of the fiscal year for which such appropriation is made. In my opinion this would not run beyond the legislative session. . . .

Mr. Whitney and Senator Noyes seemed to be satisfied with my ruling, and I understand they are going to take the matter up with the legislature, as a basis for post-war planning legislation.

RALPH W. FARRIS  
Attorney General

February 1, 1946

To David H. Stevens, State Assessor

Re: Taxation of Horses

I have your memo . . . relating to the interpretation of Paragraph 4, Section 13, Chapter 81, R. S. 1944, relating to the taxation of horses located in a town, the owner living in an adjacent town. You state that these horses are located in the adjacent town and remain there until they are sold, and the word "temporary" causes a great deal of worry and trouble in your department and you wish that clarification be made of this.

Primarily, the horses shall be taxed on the first day of April in the town where they are kept; but when the horses are in any other town than that in which the owner or possessor resides, for pasturing or any other temporary purpose, on said first day of April, they shall be taxed to such owner or possessor in the town where he resides. The two words "temporary purpose" should take care of the whole situation, because in this case in your memo the temporary purpose was for the sale of the horses and they should be taxed to the owner or possessor in the town where the owner resides.

RALPH W. FARRIS  
Attorney General

February 1, 1946

To John C. Burnham, Administrative Assistant, SHC

I have your memo . . . asking my opinion on the following matters:

1. "In accordance with the provisions of Sec. 18, Chap. 19, R. S. 1944, can a motor vehicle be registered for transporting a load upon the highway if the vehicle and load exceeds 40,000 pounds providing the load is transported under a permit from the State Highway Commission?"

My answer to this question is in the affirmative, and I will call your attention to the last sentence in Section 100 of Chapter 19, which reads as follows:

“Except that in special cases, special permits for greater gross weights may be granted by the state highway commission or such appropriate commission or official as is duly authorized elsewhere in this chapter.”

2. “If such a registration can be issued, can the fee collected exceed \$300.00 and if so how should the additional over \$300.00 be computed?”

In answer to this question I will say that the Highway Commission does not issue registration, but a permit for a load exceeding 40,000 pounds, and the Commission cannot collect, nor can the Secretary of State collect an additional fee over \$300 according to the table provided for in Section 18, Chapter 19, R. S. 1944.

3. “In accordance with the provisions of Sec. 89, Chap. 19, R. S. 1944, has the State Highway Commission legal authority to establish a rate of fees and to collect the same for permits issued under this section?”

In answer to this question I will say that I can find no statutory authority for the Commission to collect fees for permits issued under this section as amended, and I can find no statutory authority for the State Highway Commission to promulgate rules and regulations relating to fees for special permits under this section; so my answer to this question is in the negative.

RALPH W. FARRIS  
Attorney General

February 4, 1946

To Earle R. Hayes, Secretary, Employees' Retirement System

This department acknowledges receipt of your memo of January 14th. The inquiry concerns the allowance of prior service credit to former employees of the State at any time during the three years prior to July 1, 1942, who are re-employed at any time prior to July 1, 1945, and who, upon re-employment, become members of the State Employees' Retirement System.

The question is whether an employee who was “laid off” by any department previous to July 1, 1942, and who was re-employed subsequent to July 1, 1945, but who could not take advantage of the provisions of this law because such person was then in the military service and was not discharged from said service until after July 1, 1945, can now receive credit for his prior service.

You ask whether under subsection 2 of Section 4 of Chapter 60, the Board of Trustees may allow prior service credit, though such person did not bring himself within the provisions of this subsection, being prevented from doing so because of the fact that such person was in military service. A subsidiary question arises whether the Board may take into considera-