

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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new Chapter 51 aforesaid, which authorizes the organization of credit unions under the general law, thus dispensing with the necessity of having the same created by private and special laws. This new enactment, by Section 30, provides:

“No part of this chapter shall be construed as repealing, modifying, or amending the provisions of any private and special acts authorizing the organization and defining the purposes of corporations of similar nature.”

This limitation placed by the legislature upon the provisions of this new act would make the same inapplicable to this Employees' Credit Union. Any attempt to charge them with an examination fee under this new enactment could result only from a declaration that the provisions of Section 3 are incorporated in the special act creating the Federal Employees' Credit Union. This is contrary to Section 30 and the limitation thereon by the legislature, which by its express terms provides that no part thereof shall be so construed. Furthermore, Section 3 of Chapter 273 is in direct conflict with Section 8 of the special act creating the Federal Employees' Credit Union.

I therefore advise you that they are not subject to Section 3 aforesaid.

ABRAHAM BREITBARD
Deputy Attorney General

December 4, 1946

To A. W. Perkins, Insurance Commissioner
Re: Company Examinations

I have considered your memorandum of November 27th and I am thoroughly in accord with the view expressed by you that payment to outside firms employed to make the biennial examination of domestic insurance companies, under Section 9 of Chapter 56, should be made by the Insurance Department, direct.

You inform me that in the past the insurance company paid the examining firm employed by the State, and the amount so paid was then refunded to the company. I agree with you that the proper practice would be to have the insurance department billed directly by the examining firm and payment thereof made to it by the State Treasurer.

As to your inquiry whether a council order is necessary to make such payment, I have taken this question up with the Bureau of Accounts and Control, and they feel that, where in the past such has been the practice, it would be better to continue such procedure.

It is not quite clear from the statute (Chapter 118, P. L. 1945, Section 6) whether the Controller would be authorized to draw the warrant without specific direction from the Governor and Council. This statute, so far as here pertinent, provides that all the fees collected by the commissioner

“ . . . shall be used solely to defray administrative charges and salaries and examination required by law and for examining and auditing filed annual statements. . . ”

While this text provides that the fees payable to the commissioner of insurance shall be devoted to that purpose, payment for the services of an independent firm is not a salary paid by the department, nor, strictly speaking, an administrative charge such as the Controller can recognize as his authority for issuing the warrant. The reason, you inform me, that the State employs an outside firm is that the department does not employ examiners to make these examinations, and while you are undoubtedly justified in the practice, because the annual cost is less to the State than if the department employed a permanent staff of examiners on the payroll of the State, such practice, although it has great merit, would not, the Controller feels, justify him in issuing the warrant for a substantial sum of money.

Under the circumstances I would advise you to continue obtaining council orders authorizing the payment of bills incurred for these examinations.

ABRAHAM BREITBARD
Deputy Attorney General

December 11, 1946

To R. C. Mudge, Finance Commissioner, and
H. H. Harris, Controller

Agreeably to my conversation with you in my office this morning relating to the council order for \$175,000 to complete the construction of two fish hatcheries for which bids were accepted by the Governor and Council on behalf of the Inland Fisheries and Game Commissioner, it is my opinion that under the provisions of Section 63, Subsection V of Chapter 33 of the Revised Statutes as revised July 21, 1945, which reads as follows:

“V. The funds collected by agents and the commissioner shall constitute a fund to be expended under the direction of the commission for the propagation and protection of wild birds, fish and animals. The fund shall not lapse from year to year but any funds collected in any one year may be used for that year and any succeeding year for said purpose.”

broad powers are delegated to the commissioner to expend money from this fund for the propagation of fish, and these hatcheries are being built for that purpose. It is my opinion that the Commissioner of Inland Fisheries and Game is well within his legal rights in his request to the Governor and Council to provide funds for the completion of the two fish hatcheries which are now under construction on two contracts accepted by the State under the provisions of a Resolve passed at a special session of the legislature September, 1944, which said Resolve provided \$200,000 for this purpose, and said \$200,000, according to your statement, has been