

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

I have talked this matter over with the State Auditor, and I am of the opinion that under the statutory authority you have a right to grant extensions of the tax payment upon terms, if you so desire, as there are many estates where the tax due the State cannot be computed, owing to conditions in the wills of the deceased persons. Where it is needful and necessary to grant lengthy extensions, I believe that you have the authority under that statute to compromise on the interest.

It is my opinion that, when the legislature granted the State Tax Assessor this power, it included the authority to act within that power in protecting the State's financial interests; as the statute authorizes the Assessor to extend the time of payment without charging interest, it would naturally follow that he may extend the time of payments upon terms that would bring in a revenue to the State which it would otherwise lose, if it did not have this authority.

A high rate of interest is in the nature of a penalty for not paying the tax and can be exacted only when the taxpayer is at fault, does not pay as required by statute, and has not received an extension from the State Tax Assessor. A compromise on the interest would not be in the nature of a penalty, but in the nature of a revenue to the State, and should be considered on a business basis and not on a penalty basis.

RALPH W. FARRIS  
Attorney General

March 31, 1948

To E. E. Roderick, Deputy Commissioner of Education

I have your memo of March 31st, requesting an interpretation of the phrase used in the act to incorporate a town school district without the emergency preamble, particularly that section which refers to the effective date of the act, which reads in part: "not later than 1 year after the approval of the act."

You state that your office has been requested to secure a legal interpretation of the term "approval of the act," and you ask, "Must the time be reckoned from approval of the act by the Governor, or the effective date of the act without the emergency preamble, which means ninety days subsequent to the adjournment of the legislature which enacted this law?"

In my opinion the words "not later than 1 year after the approval of the act," mean one year after the approval of the act by the Governor, because there is no constitutional or statutory approval by the legislature, as the legislature is the enacting body and the Chief Executive has the duty of approving the act.

I feel that we should take the act as it reads. It would be dangerous to try to interpret it as to the effective date of the act, especially as there are several other school district charters which use the word "approval" instead of "effective date."

RALPH W. FARRIS  
Attorney General