

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

September 12, 1949

To Marion E. Martin, Commissioner of Labor and Industry
Re: Elevator inspectors; chief boiler inspector

I have your memo of September 7th relating to the interpretation of Section 55 of Chapter 25, R. S. 1944 and Sections 6 and 7 of Chapter 59, R. S. 1944, as affected by Chapter 374 of the Public Laws of 1949, Section 99-D, and asking the following question:

“Are the chief boiler inspector and the supervising inspector of elevators subject to the Personnel Law?”

I have examined Section 55 of Chapter 25, which provides that the Commissioner shall appoint with the approval of the Governor and Council, and may remove for cause, when so appointed, a citizen of this State who shall have had at the time of such appointment certain experience, etc.; and the Commissioner may likewise appoint such deputy inspectors as are necessary to carry out the provisions of Chapter 25 relating to boiler inspection.

Section 99-D of Chapter 374, P. L. 1949, provides that the Commissioner shall appoint, with the approval of the Governor and Council, and may remove for cause, a citizen qualified to fulfill the functions of the office to serve as supervising inspector of elevators, and the Commissioner may appoint such elevator inspectors as are necessary to carry out the provisions of Chapter 374, P. L. 1949, provided that the applicants can successfully pass the examination. Examination is also provided for in Section 55 of Chapter 25.

Therefore in my opinion the chief boiler inspector and the supervising inspector of elevators are not subject to the Personnel Law, as the statutes of the State provide for special examinations under the direction of your department and not by the Personnel Board.

Sections 6 and 7 of Chapter 59 provide that the unclassified service shall comprise heads of departments and members of boards and commissions required by law to be appointed by the Governor with the advice and consent of the Council. Therefore it is my opinion that, theoretically, the Commissioner names the inspectors under both Section 55 of Chapter 25 and Section 99-D of Chapter 374, P. L. 1949, and they are approved by the Governor and Council. Therefore they come under subsection III of Section 7 of Chapter 59, which places them in the unclassified service, and they are not under the Personnel Board.

RALPH W. FARRIS
Attorney General

September 13, 1949

To Ernest H. Johnson, State Tax Assessor
Re: Interpretation of Chapter 438, P. L. 1949

I have your memo of June 23, 1949, relating to the provisions of Chapter 438 of the Public Laws of 1949, which replaces Sections 142-144-A and 142-154-A, relating to the taxation of deposits in savings banks and trust companies. You state in your memo that Section 1 of the new law provides that “Every savings bank, institution for savings and trust company incor-

porated under the laws of this state shall semi-annually . . . make a return . . . of the average amount of its deposits, excluding deposits of other banking and savings institutions, for the 6 months period, etc."

You then inquire whether in the phrase "excluding the deposits of other banking and savings institutions," the words "other banking and savings institutions" refer only to such banks as are subject to taxation under this law, or also include industrial banks, building and loan associations and national banks.

In interpreting the statute we must resort to the context and the subject matter, as enacted by the legislature.

Section 1 of Chapter 438 replaces Section 2 of Chapter 55, R. S., as amended, which relates to the deputy bank commissioner, examiners, expenses, etc. In the second paragraph of the new Section 2 of Chapter 55 the language reads as you quote in your memo, "Every savings bank, institution for savings and trust company incorporated under the laws of this state, etc." Therefore in my opinion savings banks, institutions for savings, and trust companies are the subject matter of this new amendment. Therefore it is my opinion that the legislature did not intend to include industrial banks, building and loan associations, and national banks, as they exclude deposits of other banking and savings institutions. Apparently they left out the words "savings banks" in the fifth line of said paragraph between the words "other" and "banking," because if they had intended to include industrial banks, building and loan associations and national banks, these institutions would have been referred to in the subject matter of this new section.

Paragraph 3 of the new section refers to "all loan and building associations and institutions other than savings banks, institutions for savings and trust companies," and taxes them a sum equivalent to \$2.50 for each \$100,000 or major portion thereof of their resources, etc. . .

RALPH W. FARRIS
Attorney General

September 13, 1949

To Philip A. Annas, Associated Deputy Commissioner of Education
Re: Legal Tuition Charge

I have your memo of September 13th, stating that an academy in this State proposes to charge \$200 tuition, and that the state average of per pupil cost in all schools last year was \$179.17, which amount is the maximum charge allowable to municipalities under Chapter 443, P. L. 1949, but that this academy, in dealing with students from towns not maintaining secondary schools, proposed to charge the town \$179 and the parent \$21. Upon this statement of facts you posed the following questions:

"(1) Is this procedure legal in the light of Chapter 443 (which amends Section 98, Chapter 37, R. S. 1944?)"

My reply to question 1 is in the negative.

"(2) Would such procedure be legal in the case of a public high school?"

My answer to question 2 is in the negative.