

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

to the System some few of many employees rather than the entire group. With respect to this I have no way of arriving at a logical conclusion without knowing more about the administrative and actuarial workings of the System.

I notice in the Commissioner's memo the question whether or not by not contributing to the Teachers Retirement Association that fact would constitute the exercising of an election not to become members. Just as an off-hand observation I would say that it would constitute such an election, particularly on reading the last clause of Chapter 428 of the Public Laws of 1949, "provided that such contributions have not been withdrawn," which clause seems to import an intent to permit continued coverage only to those who were in and had not withdrawn their contributions.

To summarize, but not necessarily to express an opinion with finality, the law seems to be that if Ricker Classical Institute has been supported at any time at least 3/5 by state or town appropriations, the teachers presently employed there may be admitted to the System; or if not so supported, if the teachers there formerly contributed to the Maine Teachers Retirement Association (presumably all of them) and have not withdrawn their contributions, then the teachers presently employed there are eligible for membership. The facts are entirely for the determination of the trustees of the Retirement System.

JOHN S. S. FESSENDEN
Deputy Attorney General

March 30, 1950

To Fred M. Berry, State Auditor
Re: Chapter 37, §§ 25 and 78-II

In connection with these sections you have asked,

"Shall all bills or invoices be approved individually by a majority of the members of the School Committee, or would a so-called warrant suffice when a listing of individual invoices by names and amounts is made with bills attached and approved in total by a majority of the members of the School Committee?"

It is assumed that in asking the question you are seeking an advisory opinion with respect to the suggestions, recommendations or advice that you should give to towns when your department has been requested to make an audit of town accounts. It is also assumed that you are not seeking an opinion from this office having the effect of a so-called Attorney General ruling, often misconstrued as regulating that which a town shall or shall not do.

In making suggestions or recommendations to a town, it is our opinion that you should recognize that the two sections of law referred to by you may permit of any number of accounting methods which might well comply with the statute, so that any expression from this office as to any particular method does not preclude the use of some equally statute-complying method.

Section 25 in referring to a "bill of items" certainly contemplates some form of listing bills payable so that the same may be readily scanned and the items avouched as to propriety for payment.

Subsection II of Section 78, when read alone, may suggest that each individual bill should bear the approval of a majority of the members of the superintending school committee. However, this subsection, when read in connection with Section 25, indicates that there would be no impropriety in attaching the individual bills to be approved to the "bill of items" so that the avouching of the "bill of items" constitutes an approval of the listed items as supported by the bills or vouchers attached thereto.

This does not preclude the municipal officers or members of the school committee in any community adopting a stricter procedure, such as that of requiring the signatures of the majority of the committee on each and every bill presented, which procedure, under certain circumstances, a town might think it the part of wisdom to adopt.

JOHN S. S. FESSENDEN
Deputy Attorney General

April 3, 1950

To Fred M. Berry, State Auditor
Re: Volunteer Fire Departments

In your memorandum of March 21, 1950, you inquire whether or not the practice of paying appropriated amounts directly to the treasurer of a volunteer fire department by a lump sum check fulfils the responsibility of a town treasurer.

The payment of amounts appropriated by a lump sum check payable to the treasurer of the volunteer fire department is a relatively common practice, particularly when the appropriation is actually for the nominal salaries paid to the respective members of the fire department.

This office actually, so far as the law is concerned, has no authority to give any advisory opinion with respect to the handling of town affairs. It would be the writer's personal opinion that financial obligations of volunteer fire departments should be paid on vouchers just as are other town bills. This for the reason that any funds not expended within an appropriation should lapse to the surplus, except of course in the categories of those things which by law are carried over.

JOHN S. S. FESSENDEN
Deputy Attorney General

April 3, 1950

To Lester E. Brown, Chief Warden, Inland Fisheries and Game
Re: Chapter 366, Public Laws of 1949

Chapter 366, P. L. 1949, refers to boats or canoes maintained for hire upon inland bodies of water to which the public has right of access. In performing the duties imposed upon the Department of Inland Fisheries and Game, the right and duty of the department to see that this chapter is complied with will be determined in each case by whether or not the boat or canoe is maintained for hire. If it is not so maintained, the owner will not have any duty to comply with this chapter.

JOHN S. S. FESSENDEN
Deputy Attorney General