

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

August 17, 1950

To Fred L. Kenney, Director of Finance, Department of Education
Re: Water Testing Law

I have your memo of August 11th, enclosing a copy of a letter which you wrote to Paul A. Smith Co. under date of February 13, 1948. You state that at the time Chapter 305, P. L. 1947, was enacted, the question arose as to whether the charges for water testing billed by the State Department of Health should be paid from municipal school accounts or from incidental or contingent funds. On February 12, 1948, Mr. Ladd, Deputy Commissioners Libby and Bailey, Deputy State Auditor Douglas and Chief Municipal Auditor Singer held a conference and concluded that the municipal officers should pay these bills from their incidental or contingent funds. As said Chapter 305, P. L. 1947, amended Chapter 22, R. S., the health chapter, not Chapter 37, the educational chapter, it seemed a very simple conclusion to make and superintendents have been advised accordingly since that date. However, you further state in your memo that several superintendents of schools are reluctant to ask the municipal officers to pay these bills from the incidental funds, and you would like a memo from me in support of your conclusion.

It seems to me that this is a matter of administration; but it is my opinion that as the amendment was to the health laws, the bills should properly be paid by the municipal officers from the incidental or contingent fund. This is a health measure and not an educational measure. That it happens to affect a group of children and teachers does not necessarily put the burden on the school funds to pay the cost of water testing under this amendment.

RALPH W. FARRIS
Attorney General

August 18, 1950

To J. W. Randlette, Chairman, County Commissioners' Court
Re: Mileage of County Attorney

Your letter of August 5th duly received, stating that the County Commissioners have asked for a ruling on the matter of travel mileage of your County Attorney, and quoting Chapter 79, Section 130, R. S., which states that the salaries of the county attorneys shall be paid by the state and no other fees, costs or emoluments shall be allowed them. Then you quote Section 131 of Chapter 79, which provides for duties in civil proceedings, compensation. This allows them actual expenses.

It is my opinion that mileage is an actual expense under this section, and my interpretation of Section 130 is that fees are not expenses, nor are costs expenses, nor emoluments, so that in my opinion a County Attorney, when performing his duty in the County of Sagadahoc, or anywhere in the State, is entitled to his actual expenses for mileage, hotels, and meals. He should receive the same mileage as deputy sheriffs.