

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

"2. To what extent is the probationary period of not more than three years met by a teacher already in the employ of a municipality previous to the passage of the Act?

"3. Assuming that a teacher has completed the probationary period but wishes to be contracted for only one year, can the employing agency issue such a contract for this less-than-two year term?"

The opinion of this office is in this manner:

1. Teachers' contracts entered into before the Act becomes effective are not concerned in any way. The Act will apply only to teachers' contracts made after the Act becomes effective. Previously made contracts may be carried out to their proper conclusion after as well as before the Act becomes effective.

2. When this Act becomes effective, the probationary period for any contracting teachers should be regarded as met to the extent of all teaching experience had both before and after the Act.

3. No. The provisions of this Act apply to all teachers' contracts and are to be read into them in all cases, whether there be a written contract which follows the Act or not, and likewise if the contract be oral. The teacher-contract may not effectively provide any arrangement which is contrary to this statute, which provides that after the probationary period, subsequent contracts shall be for *not less than two years*, etc.

NEAL A. DONAHUE

Assistant Attorney General

April 27, 1951

To William O. Bailey, Deputy Commissioner of Education
Re: Schoolhouse plans (Bingham)

Your memo of April 23, 1951, makes inquiry as follows:

"A School District was established for the Town of Bingham by the 94th Legislature. The trustees of that district immediately built a four-room elementary school building. They are now engaged in adding a second unit which consists of four more classrooms and a gymnasium. The superintending school committee gave verbal approval to the plans as originally submitted to this Department and the Department of Health and Welfare.

"Now the trustees have decided to change the plans and make the gymnasium considerably smaller. The superintending school committee does not approve of this change on the grounds that the resulting building will not adequately house the educational program that they propose to offer.

"1. Is it necessary that changes in the plans be approved by the State Department of Education and State Department of Health and Welfare?

"2. When a town votes to accept a school district offered by act of the Legislature, is it in effect voting to build a school house as referred to in Section 19 of Chapter 37?

"Note. (See sections 19 and 21 of Chapter 37)."

Answer to Question 1. Yes. When changes are proposed to be made in the plans which have been approved by the State Department of Education and

State Department of Health and Welfare, the plans as revised or changed must be again submitted to those departments for approval.

Answer to Question 2. When a town votes to accept a school district offered by act of the Legislature, it is taking one step in the direction of building a school house. Other steps are necessary. Trustees must be appointed, who are by the Act authorized to assume duties theretofore performed by the school board, namely, the financing and building of a school building or buildings and their attendant surroundings, procuring approval of the proper State departments, etc. There is no other or further vote of the town needed, after acceptance of the school district Act.

NEAL A. DONAHUE

Assistant Attorney General

May 11, 1951

To Ernest H. Johnson, State Tax Assessor

Re: Chapter 260, Public Laws of 1951, An Act Relating to Schooling in Unorganized Territory

I reply to your inquiry of May 4 raising the question whether any 1951 tax is assessable under the provisions of this Act.

The bill establishes an Unorganized Territory School Fund for the purpose of schooling children in the unorganized territory of the State. The Fund is to be made up of an annual property tax "assessed upon the property of said unorganized unit by the state tax assessor in accordance with the provisions of section 74-A of chapter 14. . ."

The effective date is stated by Section 3 of the bill which amends Section 148 of Chapter 37: "As soon as practicable after April 1, 1951, and on April 1, annually, thereafter, the total cost of school privileges . . . shall be assessed upon the property of said unorganized unit by the state tax assessor in accordance with the provisions of section 74-A of chapter 14 . . ."

Turning to Section 74-A of Chapter 14 we find a very explicit direction that the State Tax Assessor prepare a list of taxes due from each owner of land and stating the millage rate in determining the proportionate amount of taxes due from such owners. "Such list shall be filed in the office of the state tax assessor on or before the first day of July of each year, and shall be available for public inspection."

The effective date of the Act is, of course, 90 days after the closing of the session of the Legislature. Such date will unquestionably be no earlier than August, 1951. It is therefore impossible to carry out the terms of the bill in 1951 for the reason that it calls for a list to be filed some 45 days before the anticipated effective date. The effective date cannot be anticipated for it is always possible that the Legislature may take amendatory or supplemental action.

The requirement that a list be filed with the State Tax Assessor on or before July 1 is important. Without such list it is impossible for any taxpayer to determine whether he is being equitably billed in comparison with other taxpayers.