

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

The portions of said section to be considered read as follows:

“ . . . and 1 member of the state board of education to be appointed by the governor, to serve during their incumbency in said offices, and 3 members at large appointed by the governor for terms of 3, 4 and 5 years respectively. .

“Appointive members may be removed by the governor and council for cause.”

Article I, Part First, of the Constitution of Maine provides:

“ . . . and he (the Governor) shall also nominate, and with the advice and consent of the council, appoint all other civil and military officers, where appointment is not by this constitution, or shall by law be otherwise provided for. . .”

By the authority of Section 215, Chapter 405, P. L. 1951, the Governor is the appointing power, the removal of such members being subject to the Governor and Council.

Such power is not in contravention of the Constitution, which provides for nomination by the Governor and appointment with the advice and consent of the Council only in particular instances and when appointment is not by law otherwise provided for. In the problem at hand, appointment is provided for by law, and it is therefore our opinion that the Governor, without the advice and consent of the Council, may appoint the members of the Maine School Building Authority.

JAMES G. FROST
Assistant Attorney General

September 26, 1951

To Morris P. Cates, Deputy Commissioner of Education

Re: State Subsidy Payment Rates for Evening School Programs, 1950-51.

Your memo of September 19, 1951, has been received at this office. Relatively to Section 166 of Chapter 37, R. S. 1944, you state that certain local superintending school committees during the school year 1950-51 made provision for evening schools which would be reimbursed under Section 166 of Chapter 37 by a sum equal to 2/3 of the amount paid for instruction in such evening schools.

You also state that at this time the Department of Education is preparing certificates and warrants to distribute State reimbursements for the evening school program 1950-51. You further state that Section 166 of Chapter 37 was amended by Chapter 104, P. L. 1951, which provides that a sum equal to ½ the amount paid for instruction for such evening schools shall be reimbursed by the State. Your question is, then:

“Will state reimbursements for approved evening school programs operated by local superintending school committees during the school year 1950-51 be paid in accord with Chapter 37, Section 166 (2/3 the amount paid for instruction) or Chapter 104 – P. L. 1951, Section 166, amended (½ the amount paid for instruction)?”

It is our opinion that Chapter 104, P. L. 1951, is an ordinary act and not an emergency measure and, therefore, became effective in 90 days after the close of the legislative session, that is, on August 20, 1951, therefore becoming effective on a date later than the completion of those evening school programs, and that, as a result, the sums due these particular schools are 2/3 the amount paid for such instruction, and not 1/2 the amounts paid for such instruction.

JAMES G. FROST
Assistant Attorney General

September 26, 1951

To Frank S. Carpenter, Treasurer of State
Re: Refunding Highway and Bridge Bonds

By Chapter 209, P&SL 1951, there was enacted An Act to Provide for the Issuance of Bonds of the State to Refund Kennebec Bridge Loan Bonds. It is stated in that Act that the Treasurer of State is authorized to issue refunding bonds of the State with the approval of the Governor and Council. This law went into effect on August 20, 1951.

Going into effect on the same day was Chapter 338, P. L. 1951, An Act Relating to Method of Issuance of State Highway and Bridge Bonds, which provided for an Economic Advisory Board, which board would be consulted by the Governor and Council in relation to the issuance of such highway and bridge bonds.

You state that as of this date the members of the Economic Advisory Board have not been appointed; that you find it necessary to consider the issuance of bonds as provided for in Chapter 209, P&SL 1951. It is your opinion that you should not delay the issuance of such bonds until the Economic Advisory Committee has been appointed, and you ask if it is necessary that you do wait until such board has been appointed.

Refunding bonds merely change the form of the indebtedness, being originally authorized by the Governor and Council. It is the opinion of this office that, being merely a change in the form of indebtedness, refunding bonds may be issued without consultation of the Governor and Council with the Economic Advisory Board. Of course, approval must still be had by the Governor and Council. We do not suggest that this will be the standard procedure, but advise you to inform the Governor of the necessity of appointing this Economic Advisory Board and suggest that in the future all bonds, whether original bonds or refunding bonds be issued only with the approval of the Governor and Council after consultation with the Economic Advisory Board.

JAMES G. FROST
Assistant Attorney General

October 2, 1951

To Col. Francis J. McCabe, Chief, Maine State Police
Re: Salary of Major Young

Chapter 408, Public Laws, 1951, is an Act designed to increase the salaries