

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

of Sections 2 and 3 of Chapter 25, R. S. 1944, is broad enough to cover all types of industries within the State, non-manufacturing in general and contract construction in particular.

Section 2 recites:

“The department shall collect, assort and arrange statistical details relating to all departments of labor and industrial pursuits in the state. . .”

The inclusion of the words “all departments” in this sentence is not a limitation and the wording of the section is broad enough to cover all types of industries.

Your second question is if you may invoke through proper court action the penalties provided in Section 9.

Penalties for non-compliance with this statute may be invoked through proceedings in municipal courts in the localities where the violations occur.

NEAL A. DONAHUE  
Assistant Attorney General

October 30, 1951

To Honorable Frederick G. Payne, Governor of Maine  
Re: Tax Collector and Selectmen

. . . As you know, the general conduct of town affairs is not, properly speaking, a matter to be handled by State officials, as there are but few circumstances which will authorize any intervention in town affairs by State officers as such.

Usually in matters of this kind I advise the persons who are seeking information to consult with an attorney of their own choosing or with any attorney usually employed by the town to advise the town as to legal matters or to present their problems to the Maine Municipal Association, particularly if the town is a member of the Association. I have been informed by officials of the Association that, even if a town is not a member, they will not refuse to give such advice as they can.

The law provides that the treasurer and collector of taxes of a town may be one and the same person, but that such officers shall not be selectmen or assessors until they have completed their duties and had a final settlement with the town. This principle is clearly stated on page 88 of Volume 1 of Sullivan's *Maine Civil Officer*. As a matter of fact, Chapter 4 of the *Maine Civil Officer* is entirely devoted to the collection of taxes and is generally used by town officers as their “Bible”, so to speak, with respect to tax collection problems.

. . . I know of no provision of law authorizing action by State officials to investigate town affairs as such. Section 116, the second paragraph thereof, of Chapter 80 of the Revised Statutes provides for an audit by the State Department of Audit upon petition by 10% of the legally qualified voters of any town. . . If there is any question as to the legality of contracts made by the selectmen with the town, here again the law provides for action by the

people of the town rather than by State officials as such, in that such illegal contracts may be attacked by ten or more tax-paying citizens of the town. . .

JOHN S. S. FESSENDEN  
Deputy Attorney General

November 2, 1951

To Earle R. Hayes, Secretary, Maine State Retirement System  
Re: Social Security – Housing Authorities

We have your memo of October 23, 1951, and the attached letter from the Bureau of Old Age and Survivors Insurance, in answer to your letter of October 4, 1951 in request of answers to questions raised by Harold L. Arno, Executive Director of the Portland Housing Authority. . .

Mr. Arno's first question is: "Is it mandatory that the Housing & Home Finance Agency, Public Housing Administration and the Portland Housing Authority combined, proceed to enter into an agreement with the Maine Retirement System as Lessees and Lessors of the property that we operate as a political subdivision of the State?"

The answer is, Yes. If the purse strings of a political subdivision of the State are controlled by another agency, then of necessity the contract should be signed by both those bodies.

Question 2. "Will it be within the jurisdiction of the Maine Retirement System to enter into an agreement with the Portland Housing Authority wherein such agreement would contain an 'escape' clause permitting the housing authority to cease making contributions plus the pro rata cost of administration, if and when the Authority shall no longer exist with powers to function as a political subdivision in accordance with Federal and State laws?"

The answer to this question is, No. It appears that under Section 1 of Chapter 395 the State extends the benefits of Social Security to "employees of the political subdivisions of the State of Maine." If a political subdivision ceases to exist, then in that event contributions need not be paid by one who no longer has employees coming within the definition of the Act. Such an "escape clause" would not be needed. If in fact it was desired to cover such a situation and if desired for other purposes, it would not be permissible.

Question 3. "Will it be within the jurisdiction of the Maine Retirement System to enter into an agreement with the Authority wherein it would be specified that the Authority would be granted the right to prove our financial responsibilities annually to cover the necessary amounts for contributions and administrative costs in accordance with the established rates from year to year? The request for an answer to this question is made due to the fact that funds cannot be budgeted by any Federal Municipal Quasi-Organization for a period longer than one fiscal year."

This question poses administrative problems. Section 4, sub-section I, provides that the political subdivision submit a plan to the State agency for approval, and paragraph B contemplates that the political subdivision specify the source or sources from which the funds necessary to make the required