

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

You then ask the following question: "Must I apply the penalty of deducting salaries paid to teachers working less than half time in computing the next biennial computation for subsidy payments to municipalities in December 1953 and 1954?"

It is the opinion of this office that this paragraph really sets up the minimum salary for a certified teacher. The sentence quoted penalizes cities and towns which employ teachers who are not properly qualified and pay them less than the minimum salary. The fact that a teacher is employed at half-time or less does not authorize an amount to be deducted from the apportionment. If that teacher is paid in proportion an amount that would comply with the minimum salary, then no such penalty is authorized.

JAMES G. FROST
Assistant Attorney General

April 4, 1952

To Julius Greenstein, Chairman, Boxing Commission

Re: Imposition of Fines

You have requested this office to give an opinion as to whether or not the Commission may, in addition to suspending or revoking a license, or in lieu thereof, impose a penalty in the way of a fine for violation of the rules and regulations of the Commission.

Board and Commissions may exercise only those powers delegated to them by the legislature. The statutes relative to your Commission give no permission to impose fines.

The general rule is that under our Constitutions the power to fine is a judicial power and cannot be reposed in administrative tribunals, with the one exception that where permitted by the Constitution a fine may be imposed for contempt in violation of administrative orders.

It is our opinion, therefore, that your Commission may not impose a fine for violation of your laws, rules, or regulations.

JAMES G. FROST
Assistant Attorney General

April 4, 1952

To Earle R. Hayes, Secretary, Maine State Retirement System

Re: Participating Local Districts

This office is in receipt of your memo of March 27, 1952, in which you recall to mind our conversation of recent date relative to local participating districts.

Your office has prepared in mimeographed form condensations of the laws passed by the 1951 legislature amending Chapter 60 of the Revised Statutes of 1944. You state in this mimeographed form, which you distributed to participating local districts:

“In the absence of any specific provision to the contrary, we believe it to be the right of any Participating Local District already in the System to elect or reject any or all of the new amendments to the law.”

Chapter 60 of the Revised Statutes was revised by Chapter 384 of the Public Laws of 1947. By virtue of the provisions of Chapter 60 it was provided that any county, city or town might participate in the benefits extended by the chapter. The revised law was amended to include other quasi-municipal corporations of the State and stated that any county, city, town, water district, or other quasi-municipal corporation which on July 1, 1947, was a participating local district under the provisions of Section 15 of Chapter 60 of the Revised Statutes of 1944 shall be subject to the provisions of Chapter 384 of the Public Laws of 1947 unless it otherwise chose to remain under the provisions granted by Section 15 of Chapter 60 of the Revised Statutes.

On August 5, 1947, in an opinion addressed to you from Ralph W. Farris it was stated that any local district which was in the System as of July 1, 1947, might continue to operate under the original provisions of Chapter 60 of the Revised Statutes of 1944 or it might elect to take on any or all of the benefits and privileges as indicated in Section 22 of Chapter 384 of the Public Laws of 1947. Doubtless your understanding that participating local districts in the System might elect or reject any or all of the new amendments to the law was based on the above mentioned opinion.

Section 16 of Chapter 384 of the Public Laws of 1947 states that these political subdivisions of the State may participate in the Retirement System, provided the appropriate body of that political subdivision approves such participation and files with the Board of Trustees a certified copy of the resolution of the appropriate body approving such participation *and the extent of the benefits which shall apply.*

The above underlined phrase of Section 16 remains unchanged today and we are of the opinion that any political subdivision eligible to participate in the Maine Retirement System, which did not elect to remain under the provisions of Chapter 60 of the Revised Statutes of 1944 still has the right to elect the benefits which shall apply to it.

It is our opinion that the provisions of the 1951 amendments do not apply to participating local districts in the System on the effective date of said amendment, when those districts have elected to remain under the provisions of Chapter 60 of the Revised Statutes of 1944, as distinguished from the provisions of Chapter 384 of the Public Laws of 1947.

JAMES G. FROST
Assistant Attorney General

April 14, 1952

To Honorable Frederick G. Payne, Governor of Maine
Re: Powers of the Governor *in re* Strikes

Answering your recent request about the provisions of statute having to do with the powers of the Governor in case of strikes, it would appear that the following are pertinent: