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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA

December 3, 1952

To: Frank S. Carpenter, Secretary, Economic Advisory Board
Re: Issuance of Highway Bonds

You have requested our opinion on the following question: "Can the State of Maine issue in the immediate future all or any part of the \$23,000,000 of bonds remaining unissued, authorized for the Highway Accelerated Program by Chapter 201 of the Private and Special Laws of 1951?"

You have set forth in your request for this opinion that:

"There are reasonable grounds for anticipating a further rise in the interest rate on this type of bond. Under the authorizing act the payable rate of interest is limited to 'Not exceeding 2%'.

"The immediate sale of these bonds would insure the availability of the necessary funds to carry out the program as contemplated by the Legislature.

"Furthermore, the increase in costs shows that the originally contemplated \$4,000,000 per year is insufficient to carry out the program at the rate of construction progress contemplated by the Legislature."

Although at the time this bond issue was proposed to the people, it was not contemplated that the interest rate on bonds would rise (as it has), the wording in the Authorizing Act is definite and limits the rate of interest to 2%.

The Economic Advisory Board finds that there are reasonable grounds for anticipating a further rise in interest rates, and this is obviously the present thinking of banking experts.

If the interest rate that the State would have to pay should exceed 2%, it would be necessary to propose another Constitutional Amendment to the people before bonds could be issued. This procedure might delay the program two or three years. In fact, if the people deemed that 2% to be the maximum they wished to pay, the whole program would be lost.

At the time the Accelerated Program was authorized, it was estimated that the sale of \$4,000,000 of bonds per year would be the maximum needed to carry out the Program. It is a fact that, due to an increase in prices and an increase in the rate of construction, the State will be able to use all of the remaining \$23,000,000. of the bond issue within the next five years.

It should be remembered that the purpose of the Accelerated Program was to rebuild the main trunk-lines of the highway system as rapidly as possible, so that the expensive maintenance load could be reduced.

The words of the Act in re time of issuance are: "The said bonds shall be issued from time to time so as to meet the needs of the road building program as outlined by the 95th legislature, and as authorized by the legislature."

The major objective in the program, as outlined by the legislature, was the construction or reconstruction of the more important roads in the highway system as rapidly as possible.

The inadequacy of the existing ways, and the expense of maintenance were the reasons for the Program.

It is obvious that any delay in this Program, to say nothing of a two or three year delay, would defeat or obstruct the intent of the Legislature.


At the same session of the Legislature, the Economic Advisory Board was created. Section 104-B of Chapter 20 of the Revised Statutes as enacted by the Legislature reads:

"Issuance of highway and bridge bonds; duty of board. The state, under proper authorization of the governor and executive council, shall issue all highway and bridge bonds. The governor and executive council shall consult with the said board for its recommendations as to whether conditions are favorable for any such issuance. In making its recommendations, which report shall be public, the board shall give due consideration to such factors as method of the issuance of such bonds, including term of years and repayment, interest rates and probable trends, construction costs and probable trends, volume of unemployment and economic conditions in general with the objective that such bonds be issued at a time and under conditions which will be most advantageous to the state and the people thereof."

In line twelve above (line 8 as printed) the words "probable trends" should be noted, and at the end thereof the words, "with the objective that such bonds be issued at a time and under conditions which will be most advantageous to the state and the people thereof."

In their opinion, this time will be the most advantageous in which to issue the bonds. And since a delay in the issuance of the bonds might delay the whole Program, the issuance at this time would seem to meet the needs of the road building program.

Therefore it is our opinion that the answer to your question is, "Yes."



L. Smith Dunnack
Assistant Attorney General