

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

The above would apply also to the Clerk and Assistant Clerk of the House.

JAMES G. FROST  
Deputy Attorney General

November 12, 1953

To Honorable Leon M. Sanborn, Executive Council  
Re: Maine Port Authority – Contingent Account

. . . You ask, "Would you please be kind enough to give me a ruling as to whether a proper representative of the Maine Port Authority has authority to sign a council order requesting funds from the contingent fund."

It is the opinion of this office that the Maine Port Authority is such an agency of the State as can properly make a request for funds from the contingent account. It should be noted that under the provisions of the Act creating the Authority it is stated that the Authority is constituted a public agency of the State of Maine and that all property at any time owned in the name of the Port Authority shall be considered as the property of the State of Maine.

The council order should be signed by the chairman of the board of directors and the request should be accompanied by a certified copy of the resolution of the board authorizing the request to be made.

Whether or not the request shall be granted is entirely within the discretion of the Governor and Council, the fact situation making the request necessary being the determining factor. If such facts, in the opinion of the Governor and Council, amount to an emergency or otherwise come within the provisions of Section 24 of Chapter 14, then the request may be made.

JAMES G. FROST  
Deputy Attorney General

November 25, 1953

To Earle R. Hayes, Secretary, Maine State Retirement System  
Re: Chapter 400, Public Laws of 1953 – Teachers' Retirement

We have your memo of October 19, 1953, in which you ask our opinion as to the application of the provisions of Chapter 400 of the Public Laws of 1953, which Act amended Section 6, subsections IX, X and XI of Chapter 60, by increasing the retirement benefits of teachers "who have heretofore or shall hereafter retire" under said subsections.

Chapter 400 amended the above Section 6 by adding a new subsection, XII, which reads as follows:

"The increase in pensions hereinbefore authorized shall apply to all teachers who have heretofore or shall hereafter retire under the provisions of subsections IX, X and XI."

Both from your memo and from conversations had by us relative to this matter, the question would appear to be: Does subsection XII limit the

application of the increase authorized by Chapter 400 to teachers who have retired or who will retire under subsections IX, X and XI without having chosen an option under Section 7 of Chapter 60 of the Revised Statutes or is the increase authorized by Chapter 400 available to teachers who, while complying with the requirements of such subsections, have nevertheless chosen an option under Section 7?

It is the opinion of this office that the increase of pension provided for by Chapter 400 is available to any teacher who has heretofore retired or shall hereafter retire and who has retired either under the provisions of subsections IX, X and XI without having chosen the option or who, being otherwise eligible under subsections IX, X and XI to retire, has chosen an option under Section 7.

JAMES G. FROST  
Deputy Attorney General

November 25, 1953

To Spaulding Bisbee, Director, Civil Defense and Public Safety  
Re: Workmen's Compensation relative to Age

Replying to yours of November 17th, requesting an opinion on the Workmen's Compensation Act, relative to age:—

In Chapter 267, Laws of 1953, an Act relating to Civil Defense, the statement is made that this law was enacted "so all citizens will participate."

All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State of their residence. Citizenship is membership in a political society and imposes a duty of allegiance on the part of a member and a duty of protection on the part of the society. Age is not involved in citizenship.

Of course, enlistment in the Civil Defense Auxiliaries must be confined to those who can understand and subscribe to the oath in Section 14 of Chapter 298 of the Laws of 1949.

This office is of the opinion that there is no prohibition against having such members under the age of eighteen years, if otherwise eligible.

NEAL A. DONAHUE  
Assistant Attorney General

November 30, 1953

To Roland H. Cobb, Commissioner of Inland Fisheries and Game  
Re: Sheepscot Lake Water Level

This office has given consideration to your memorandum of November 5th on the above captioned subject, which has to do with a claim presented by a Mr. Bushey relative to flowage damage claimed to his land on Sheepscot Lake.

It appears that your Palermo dam, situated a short distance from this lake, controls its water level and that Mr. Bushey's land is across the lake from the outlet where the dam is situated. Your department bought two parcels