

MAINE STATE LEGISLATURE

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December 31, 1956

To Frank S. Carpenter, Treasurer of State
Re: Unemployment Compensation Funds

You inquire whether or not the State Treasurer is covered, under the State Treasurer's bond, for funds advanced to the State of Maine for use in payment of unemployment compensation to veterans and federal employees under the Unemployment Compensation Veterans and Unemployment Compensation Federal Employees program.

Your desire for an opinion arises as the result of a request from the Director of the Bureau of Employment Security, Mr. Robert C. Goodwin, that his office be furnished with a letter from the bonding companies covering you as State Treasurer, to the effect that such programs were embraced by the bond.

The bonding companies have responded by saying, Travelers and Maine Bonding and Casualty that the Attorney General should give an opinion on the question, American Fidelity that coverage is "none under our bond in connection with the State Treasurer himself."

The bond of the State Treasurer is required by Article V, Part Fourth, Section 2, of the Maine Constitution:

"The treasurer shall, before entering on the duties of his office, give bond to the State with sureties, to the satisfaction of the legislature, for the faithful discharge of his duties."

The conditions of the bond are set forth in Section 2 of Chapter 18, R.S. 1954:

"The condition of the treasurer's bond shall be for the faithful discharge of all the duties of his office, and that during his continuance in office he will not engage in trade or commerce, or act as broker, agent or factor for any merchant or trader; and that he, or his executors, administrators or sureties, or their executors or administrators, shall render a just and true account of all his agents' and servants' doings and transactions in the office, to the legislature. . . . on the 1st day of each regular session of the legislature, previous to the choice of a new treasurer, . . . ; and that he will settle and adjust and account and faithfully deliver to his successor in office or to such person as the legislature appoints, all moneys, books, property and appurtenances of said office, . . . and pay over all balances found due on such adjustment.

Such bond, when approved as the constitution prescribes, shall be lodged in the office of the state auditor."

In compliance with the Constitution, the Treasurer has supplied two bonds for faithful performance, each in the amount of \$75,000, one written by The Travelers Indemnity Company of Hartford, Connecticut, and the other by Maine Bonding and Casualty Company of Portland, Maine.

The Deputy Treasurer and seven clerks are also covered, under a blanket bond issued by the American Fidelity Company.

The funds in question are received and administered by the Commission by virtue of a written agreement executed by the Commission and the United States Department of Labor.

Authority for such agreement is contained in Section 5, Chapter 29, R.S. 1954. See particularly subsection XII thereof:

"The commission is authorized to enter into arrangements with the appropriate agencies of other states or the federal government whereby potential rights of individuals to benefits accumulated under the unemployment compensation or employment security laws of the several states or under such law of the federal government, or both, may constitute the basis for the payment of benefits to such individuals through a single appropriate agency under terms which the commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund; . . ."

Section 8, Chapter 29, sets up the Unemployment Compensation Fund, the fund with which we are concerned, and Section 9 of the same chapter provides that the Treasurer of State shall be the ex officio treasurer and custodian of the unemployment compensation fund.

Under such statutory authority we are of the opinion that the funds referred to are covered by the State Treasurer's bond in so far as the Treasurer's "faithful discharge of the duties of his office" is concerned.

You should be advised, however, that an opinion of this office is not binding upon the surety companies issuing the Treasurer's bond.

Inasmuch as the Director of the Bureau of Employment Security sought letters from the bonding companies, and not an opinion of the Attorney General, we would suggest that you refer the letters you have from the bonding companies to the Director.

James Glynn Frost
Deputy Attorney General

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