

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

“Except that after a probationary period of not to exceed 3 years, subsequent contracts of duly certified teachers shall be for not less than 2 years, and furthermore, that unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract shall be extended automatically for 1 year and similarly in subsequent years, although the right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties.”

You then ask whether or not the superintending school committee would have the right to make a reduction in the salary paid to a teacher who does not receive notice of termination of contract or a new contract. We answer your question in the negative.

We assume that a teacher's contract of employment expressly sets forth the salary to be paid the teacher. When such a contract is extended by the “self-executing” statute above referred to, the contract in all its essential elements but one (original term of contract) is extended from year to year. Such extension embraces the salary of the teacher. If the contract is so extended, it necessarily calls for the conclusion that the salary in the contract cannot be diminished.

JAMES G. FROST
Deputy Attorney General

December 10, 1957

To: Kermit S. Nickerson, Deputy Commissioner

Re: Town of West Paris

This will acknowledge receipt of your memorandum of December 6, 1957, in which you ask for an interpretation of Section 37, Chapter 364, Public Laws of 1957, with respect to the application of said section to the new town of West Paris.

The Town of West Paris is being organized in January 1958 at which time three members of the superintending school committee will be elected. This town was formerly part of the Town of Paris which was included in Maine School Union No. 26 composed of the towns of Hebron, Paris and Woodstock.

You state that because of the number of teaching positions, it will be necessary to include West Paris in the supervisory union and you inquire as to the procedure for adding a new town to an existing school union.

Our examination of the new law leads us to the conclusion that you can use the same procedure as has been used in the past for adding a new town to an existing union. Section 77 of Chapter 41 of the Revised Statutes of 1954, after stating that it is the duty of the Commissioner and the State Board of Education to regroup all of the towns in the State into unions, provides:

“Such supervisory unions as have been formed on June 30, 1946, may be dissolved by the Commissioner for the purpose of a more advantageous combination, provided that there has been obtained the approval of the majority vote of the members of the superintending school committees in the towns comprising such supervisory unions Whenever regroupings are made, the Commissioner and the State Board of

Education shall have authority to reallocate any town or towns in the unions affected to unions already organized.”

Section 37 of Chapter 364 of the Public Laws of 1957, after stating that it shall be the duty of the Commissioner and the State Board of Education to adjust the grouping of the school administrative units within the State, provides that:

“I. Existing supervisory unions employing over 35 teachers and paying the superintendent of schools an annual salary of over \$4,500 shall not be regrouped unless the proposed regrouping shall have first been approved by a majority of the school committee members in the administrative units involved.”

The primary problem will be in obtaining the affirmative vote of the majority of the school committee members in the administrative units.

While the provision that “regrouping shall be made only upon the expiration of the current contract of the superintendent or under conditions which shall safeguard the provisions of such contract,” contained in the Revised Statutes of 1954, was eliminated in the new law, such provision should still be complied with. It is a general principle, without legislation, that the State shall not pass any law impairing the obligation of the contract. It is also imperative that State officers take no action under a law that would have the effect of impairing the obligation of the contract. Thus the contract of the superintendent must be handled in a manner that contemplates the new town in a union, or the adjusting of the units should await the termination of the superintendent’s current contract.

JAMES G. FROST
Deputy Attorney General

December 10, 1957

To David H. Stevens, Chairman, State Highway Commission

Re: Reimbursement of Public Utilities under Chapter 378, P. L. 1957

You have requested my interpretation of Chapter 378 of the Public Laws of 1957 in regard to how much money is made available in what fiscal years for the purpose of reimbursing public utilities under the act.

The original draft of this act contemplated use of highway funds, and the current problem was not involved. It would appear that the draftors in the hasty redrafting did not fully appreciate the financial problem or were mainly interested in getting some kind of favorable legislation.

The last paragraph of Section 1 provides for the payment of the reimbursable costs from the general fund operation capital and repayment to the fund. This is clear and correct.

Section 2 is a limiting section. It says:

“The provisions of this act shall apply only to projects in said interstate system for which the contracts are signed prior to June 30, 1959, and at no time during the fiscal year 1957-58 or the fiscal year 1958-59 shall the amount paid from the general fund operating capital for the purposes of this act exceed the amount of the 90% federal funds to be