

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1957 - 1958**

Answer:

Such a change would be in direct conflict with the law.

“The commission is directed to assign such dates for holding harness horse races or meets for public exhibition, with pari-mutuel pools, as will best serve the interests of the agricultural associations of Maine and may accordingly refuse to issue a permit if the issuance of the permit would in the opinion of the racing commission be detrimental to the interests of said agricultural associations or any of them.” (Ch. 86, Sec. 11, par. 4, R. S. 1954, as amended).

Having reference to a letter dated February 28, 1958, from counsel for Gorham Raceway in which letter the question is asked if dates for racing as set by your Commission are legal dates, we believe the answer above will help you in determining the answers posed in the referred-to letter.

Once you administratively determine racing dates in compliance with your laws, giving full consideration to the direction in such laws, then the dates so established will be legal dates.

JAMES GLYNN FROST  
Deputy Attorney General

March 6, 1958

To Niran C. Bates, Director, Public Improvements

Re: Contracts in Anticipation of Available Funds

We are returning herewith agreements between the Department of Institutional Service and Bunker & Savage and between the Department of Education and Cooper Milliken, for architectural services, payment for which services is to be made after July 1, 1958, without our approval.

The legality of encumbering in the present fiscal year funds for work, payment for which is to come out of the next fiscal year, has caused us to scrutinize carefully the statutes relating to the administration of such matters. We are of the opinion that it is not proper for us to approve such contracts.

Some question as to the legality of such contracts arises as the result of the statutory provisions relating to the approval of allotments. Funds will be available for expenditure in the next fiscal year only after allotments have been made by the Governor and Council, and the ultimate allotment may be disastrously reduced by the Governor and Council, if circumstances are such as require such reduction. An obligation incurred in the present fiscal year would more or less impose upon the Governor and Council the moral obligation to pay such sum where their consideration at a later date might be to the contrary.

However, Chapter 401 of the Public Laws of 1957 seems to specifically consider such contracts as we are returning to you. Section 34-A, subsection IV, as enacted by said Chapter 401, reads as follows:

“Funds appropriated by the legislature to the construction reserve fund may be allotted by the governor, with the advice and consent of the council, whenever:

“IV. It appears to be in the best interests of the State to acquire real estate or to have estimates, *plans or specifications prepared for a*

*project in advance of the date on which funds may be made available therefor by the legislature, . . .”*

It thus appears that the legislature contemplated plans or specifications where the appropriation was needed in advance of the date when funds would be made available, and provided that they would be taken from the construction reserve fund.

For the above reasons we do not believe it proper for us to approve the within contracts at this time.

JAMES GLYNN FROST  
Deputy Attorney General

March 10, 1958

To Dr. Warren G. Hill, Commissioner Education

Re: Transfer of Funds—Community School District; Terms of School Board Members; Terms of School Director

This memorandum is in answer to the questions submitted by Senator McKusick.

Question No. 1:

“How would trustees of a community school district pay off bonds if district failed to transfer funds? (Town meeting having been held)”

Answer:

Section 111F of Chapter 443 of the Public Laws of 1957 places a duty by law each year on the School Administrative District to transfer funds necessary to amortize outstanding capital outlay indebtedness existing at the time when the operation of the Community School District was suspended. In the event such funds were not turned over to the trustees of the Community School District, appropriate legal action could be taken.

Question No. 2:

“School Board Members in towns—are their terms terminated when a district is formed?”

Answer:

Section IIIIR states that on the date that the School Administrative District becomes operative, the school director shall assume the management and control of the operation of all public schools within the district. The entire tenor of the act would indicate that the school board members in the individual school administrative units have no function. Whether their terms expire or not makes no difference since the school board members are non-functional after the School Administrative District becomes operational.

Question No. 3:

“When a town elects a school director at town meeting, will his term of office coincide with the time of the forming of the district (say July 1)?”