

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

No doubt a properly organized county program would incorporate within its framework programs in relation to unorganized towns.

JAMES GLYNN FROST
Deputy Attorney General

July 7, 1958

To Frank S. Carpenter, Treasurer of State

Re: Economic Advisory Committee

We have your memo dated July 3, 1958, which reads as follows:

“Is the Economic Advisory Committee to be used only on highway bonds, or are they to be asked for advice on all State bonds?”

“Will you please advise me at the earliest possible moment as we are beginning to work on the Penobscot Bay Ferry bonds?”

“I refer you to Chapter 23, Section 129 and 130 Revised Statutes of Maine, 1954, Volume I, Pages 389 and 390.”

It is our opinion that the Economic Advisory Committee is to be used only on highway and bridge bonds.

Section 129 of Chapter 23 of the Revised Statutes establishes the Economic Advisory Board and sets forth its position and structure. We herewith quote that portion of Section 130 of Chapter 23 which is pertinent to the present question:

“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.”

Under the provisions of law above referred to it appears that the sole function of the Economic Advisory Board is to give advice concerning the issuance of highway and bridge bonds.

JAMES GLYNN FROST
Deputy Attorney General

July 8, 1958

To Kermit Nickerson, Deputy Commissioner of Education

Re: Admission to Secondary Schools

You request an opinion regarding the authority of superintending school committees to set standards for admission to secondary schools.

(1) Pupils having completed the elementary schools in a unit not maintaining a high school are governed by Sections 105 and 107 of Chapter 41. If the administrative unit contracts with the superintending school committee or school directors of a nearby unit or with the trustees of an academy, there are two possible groups which could set admission standards: 1) the joint committee; 2) the school directors or trustees or the superintending school committee of the town furnishing the education. If the unit sams a high school does not contract for the education, the student may attend such a school elsewhere, where he can gain entrance from those in charge. Section 107 provides that the unit which

offered to contract for education with another unit may authorize students to attend the non-contracting unit. Again, the persons in charge of the non-contracting unit would determine the admission standards.

(2) Pupils having completed the elementary schools in a unit which maintains a secondary school come within the purview of Section 99 of Chapter 41; that is, the unit maintaining a secondary school is not obligated to pay tuition and the student who wishes to enter a secondary school in the unit in which he resides is governed by the admission qualifications of Sections 44 and 102. These sections provide that the superintendent, the superintending school committee, or the school directors shall examine the candidates for reasonable entrance qualifications.

(3) Pupils having completed the elementary schools in a unit not maintaining a secondary school and who wish to enter a community district high school must meet the entrance qualifications set up by the community school committee, since Section 117 provides that the community school committee shall have all the powers and duties with respect to the community school conferred upon superintending school committees under the general statutes and those enumerated in Section 114. This means that the community school committee has the same powers of examination for admission as do the supervisors under Sections 44 and 102. Section 124 provides that the superintending school committee of a town, community school committee, or school directors shall determine the qualifications.

(4) Pupils having completed the elementary schools in a unit which has joined a community school district and wish admission to the district's high school must conform to the qualifications for entrance set by the community school committee.

I have assumed in each of the above cases that a secondary school or free high school qualifies as such under Section 98, Chapter 41.

The standards set by the committees, as outlined above, must be reasonable and the judgment of the group setting entrance qualifications cannot be attacked unless it can be shown that the standards are unreasonable. In each of the specified cases there is statutory authority to set entrance requirements. There is no standard set by statute, therefore the group charged by the statute with this duty may exercise its discretion.

GEORGE A. WATHEN
Assistant Attorney General

July 8, 1958

To Max L. Wilder, Bridge Engineer, State Highway Commission

Re: Fishing from Bridges on Highways

You have requested my opinion as to the legal status of people fishing from the bridges on state or state aid highways.

Obviously, fishing is not a normal highway use. A bridge is a highway and its purpose is to permit travellers to cross the water. Although an abutter can use an easement highway to some extent, there cannot be any abutting land owner to a bridge. I can find nothing to permit the fisherman to fish from a bridge as a matter of right.