

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

It is my opinion that you are correct in your interpretation of Section 163, Chapter 16, R. S. According to the memo from Mr. Dillon the loss claimed by the taxpayer was due to malfunctioning meters in the delivery truck, thereby under-reading the actual gallonage that was distributed. This loss does not come within the purview of Section 163 of Chapter 16, R. S., and should not be allowed.

RALPH W. FARRIS
Assistant Attorney General

October 7, 1958

To Asa A. Gordon, Coordinator, Maine School District Commission

Re: 10% Bonus to be paid to School Administrative Districts

I have your request for an opinion concerning the payment of the 10% bonus to school administrative districts.

Sec. 237-E of Ch. 443, P. L. 1957, provides:

“When a School Administrative District has taken over the operation of the public schools within its jurisdiction, the subsidy payment that would normally be paid to the subordinate administrative units which operated the public schools within the confines of the School Administrative District prior to the formation of said district shall be paid directly to the School Administrative District.”

Sec. 237-G of Ch. 443, P. L. 1957, provides:

“When administrative units are reorganized by the formation of ‘School Administrative Districts’ as provided in sections 111-A to 111-U, the state subsidy paid annually to each such district, as determined in section 237-E, shall be supplemented by an additional 10% of the percent to which it is entitled through the computation in section 237-E.” Sec. 107 of Chapter 364 entitled “Appropriation” states:

“There is hereby appropriated from the general fund the sum of \$70,000 for the fiscal year ending June 30, 1958 and the sum of \$85,000 for the fiscal year ending June 30, 1959 to further encourage the formation of school administrative districts, by paying in December 1957 and in December 1958, directly to such districts, if such districts are established prior to November 1st of that year, the subsidy to which the participating municipalities would have been entitled and an additional 10% of that amount.”

Sec. 4 of Ch. 198, P. & S. L. of 1957, provides:

“Such portions of sections 106, 107 and 108 of Chapter 364 of the public laws of 1957 as pertain to appropriations for the fiscal year ending June 30, 1958 are repealed.”

It is my opinion that the 10% bonus to be paid school administrative districts this year, if paid out of the appropriations under sec. 107 of Ch. 364, as I assume such bonus payment will be, has a cut-off date of Nov. 1, 1958, for the eligibility for such payments. Normally an appropriation states only the amount and the purposes for which the money is to be used. Section 107 provides that the school administrative districts must be established before November 1. The word “estab-

lished" must, by its use in this section, mean organized and in operation, since this section provides that the subsidy will be paid to the district. A district is not eligible to take money until it is in operation (Sec. 111-R, Ch. 443, P. L. 1957). Sec. 237-E further buttresses this interpretation. This appropriation section (107) will only be operative for this year and the general law will apply hereafter.

GEORGE A. WATHEN
Assistant Attorney General

October 23, 1958

To R. E. Libby, Chairman, Veterinary Examiners

Re: Remuneration from Two Sources

. . . You state that you are employed by the State of Maine as State Veterinarian in the Division of Animal Industry of the Department of Agriculture, and also chairman of the Board of Veterinary Examiners.

The Board of Veterinary Examiners reimburses its officers at the rate of \$10 per day for two days of each year for work performed. You ask if, for services performed by you in your capacity as chairman of the board, you may receive the per diem above mentioned, if you were to consider those days as vacation time, from your duties with the Department of Agriculture.

It appears that this question arises because of the rejection of such bills upon the basis that no person should receive pay from two State agencies.

It is our opinion that, consistent with Rule 11.10 promulgated by the Department of Personnel, with the approval of the Commissioner of Agriculture you may receive the per diem paid by the Board of Veterinary Examiners, if you consider the two days worked as vacation time from your duties with the Department of Agriculture.

JAMES GLYNN FROST
Deputy Attorney General

October 23, 1958

To C. Keith Miller, Inland Fisheries and Game

Re: Sale of Fish Cultural Station

We have reviewed the original deed and the correspondence with the General Services Administration relating to the above captioned property.

On examining this material we realized that the transfer to the State of Maine was not accomplished by a taking (eminent domain) or by purchase, but on the consideration that the property be used as a reserve for the conservation of wild life.

It thus appears, consistently with opinion of this office dated September 17, 1956, the property not having been taken or purchased, that a conveyance to the United States cannot be made under the provisions of Section 8 of Chapter 37, R. S. 1954.

We would recommend that a Resolve be prepared for consideration by the legislature. . . .

JAMES GLYNN FROST
Deputy Attorney General