

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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which application may be made by the Commissioner of Education and to expend such Federal funds as may be granted under the provisions of P. L. 874 when so authorized by the Commissioner of Education for current expenditure purposes for the schooling of children in unorganized units would be sufficient to invoke the authority contained in Section 176 of Chapter 41 and Section 15 of Chapter 11.

JAMES GLYNN FROST
Deputy Attorney General

January 6, 1959

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

Re: Subsidy Payments under Chapter 41 to School Administrative Districts

You have requested the opinion of this office concerning the method of computing subsidy payments to a school administrative district.

When a school administrative district is formed and in operation, it is an administrative unit as defined in Section 237-E of Chapter 41. For the first year the subsidy payment of the subordinate units are to be paid to the school administrative district (Section 237-E). After the first year, in this particular fact situation, the school administrative district is classified for the purposes of the foundation program in the same manner as a municipality pursuant to Sections 237-D and 237-E.

GEORGE A. WATHEN
Assistant Attorney General

January 9, 1959

To: H. H. Harris, Controller

Re: Unexpended Balances from Appropriations under Chapter 378, P. L. 1957

My opinion has been requested as to the effect of the last sentence in Section 3 of Chapter 378 of the Public Laws of 1957.

Section 14 of Chapter 15-A of the Revised Statutes of 1954, as enacted by Chapter 34 of the Public Laws of 1957, reads as follows:

“All appropriations by the legislature for the construction of buildings, structures, highways and bridges shall constitute continuous carrying accounts for the purposes designated by the legislature in such appropriations. The state controller is authorized to carry forward all such appropriations to the succeeding fiscal year, provided the construction shall have been begun by the letting of a contract or contracts or by actually starting the work during the year for which the appropriations were made. Any balance remaining after the completion of the object of the appropriations shall revert to the general fund in the state treasury or to the fund from which it was apportioned under existing provisions of law.”

It is evident that the legislature directed that construction accounts that were encumbered because of agreements made within any fiscal year should not lapse. This statute was enacted at the same session as Chapter 378 and became effective on the same date.

The language used in Section 3 was copied from language used in former years to carry out the general policy of lapsing unexpended balances exclusive of construction accounts.

It is my opinion that the appropriation set up in Chapter 378 is definitely a construction account and that the use of the last sentence in Section 3 was not intended to change the law regarding construction accounts, but to provide for the lapsing upon the completion of the projects.

This opinion is further based on my personal knowledge that the drafters of the act had no intention to permit the lapsing of such funds, because they knew that there would be a considerable time lag between agreements and planning and the completion of the projects.

L. SMITH DUNNACK
Assistant Attorney General

January 12, 1959

To: Clayton Osgood, Chief of Division of Inspection, Agriculture

Re: Export of Substandard Sardines

I have your request for an opinion on the question of sardines which have failed to pass inspection as standard sardines, but are intended for export. As I understand the facts, these fish are packed containing at least the minimum fish per can and at least the minimum quantity of oil or sauce as required by Section 263. The cans were labeled "sardines". No broken fish were packed initially, but upon inspection, they were found to be below standard.

There are two criteria under Section 263 of Chapter 32 requiring fish to be marked "herring", namely, less than the minimum count of fish per can and less than the minimum quantity of oil or sauce. I have not been able to find any regulations issued by the Commission setting the standards for herring other than those in the statute.

Therefore, it is my opinion that in this situation, if the exporter is in compliance with the last paragraph of Section 263, that these fish can be shipped without being marked "herring".

GEORGE A. WATHEN
Assistant Attorney General

January 12, 1959

To: David H. Stevens, Chairman, State Highway Commission

Re: Authorization to Accept Federal Grant in Regard to Billboards

You have requested my opinion as to the authority of the State Highway Commission to accept the new bonus offered by the federal law in regard to billboard control.