

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

is eligible for the school construction aid under Revised Statutes, Chapter 41, Section 237-H.

Revised Statutes, Chapter 41, Section 237-H, provides in part as follows: “. . . Said apportionment (construction aid) shall apply similarly to payments made for capital outlay purposes on school construction, approved by the commissioner after August 28, 1957, in single municipality administrative units where the April 1st enrollment of resident and tuition pupils in grades 9 through 12 for that year is over 700 pupils. . .”

The approval of the commissioner indicated above is the approval contained in Revised Statutes, Chapter 41, Section 26, which provides,

“. . . all plans and specifications for any such proposed school building and plans for the reconstruction or remodeling of any school building, the expense for which shall exceed \$500, shall be submitted to and approved by the Commissioner and the Bureau of Health before the same shall be accepted by the superintending school committee. . . .”

The facts relevant as to whether or not the town qualifies for the construction aid are as follows: The town authorized a \$650,000 bond issue on May 27, 1957, and sold the bonds on August 1, 1957. The plans and specifications for the construction were submitted to the Department of Education for the Commissioner's final approval on or about April 10, 1958. On June 11, 1958, the contract for construction was executed. The plans were finally approved by the Commissioner of Education on May 26, 1959. No moneys were expended for construction nor was construction commenced until after August 28, 1957.

Although the plans and specifications for the construction were not approved until after construction was begun, in contravention to Chapter 41, Section 26, of the Revised Statutes, since no funds were expended and no construction was begun until after August 28, 1957, the town qualifies for the construction aid under Revised Statutes, Chapter 41, Section 237-H. The fact that the town voted the bond issue and the bonds were dated before August 28, 1957, are not the determining factors in the above situation but rather the expenditure of money, commencement of construction and final approval of the plans after August 28, 1957, are the determining factors.

RICHARD A. FOLEY

Assistant Attorney General

October 9, 1961

To: Steven D. Shaw, Administrative Assistant, Executive Department

Re: Associate Judge, Auburn Municipal Court

This will answer your verbal request for the basis of the judge of the Auburn Municipal Court appointing an associate judge of said court.

The charter of the Auburn Municipal Court was revised in 1915, Private and Special Laws, Chapter 194. Section 4 of the charter was amended by Private and Special laws of 1955, Chapter 124, section 2, and reads as follows:

“The recorder of said court shall be a citizen of said Auburn and a member of the bar of the county of Androscoggin, and shall be ap-

pointed by the Governor, by and with the advice and consent of the Council, for a term of 4 years; and he shall be sworn, and give bond to the county as required by law. In case of the absence of said recorder from court, or should a vacancy occur in the office of recorder, the judge may appoint a recorder, pro tempore, who shall be sworn by said judge, and act during such absence, or until such vacancy be filled. Said recorder shall receive an annual salary of \$2,250 and an annual allowance of \$1,400 for clerk hire, to be paid to him in monthly payments from the treasury of the county of Androscoggin.”

As you can see from the second sentence of section 4, when a vacancy occurs in the office of recorder, the judge may appoint a recorder pro tempore who shall act during such absence or until such vacancy be filled.

In the Public Laws of 1959, Chapter 42, we find — “From and after the effective date of this act the title ‘recorder’ of any municipal court shall be ‘associate judge’ of the said municipal court, provided said recorder is an attorney at law.”

By virtue of the Auburn Municipal Court charter and the above-quoted provision of the statutes, it appears that the judge of the Auburn Municipal Court has the authority to appoint an associate judge after a vacancy had occurred in that office by the death of the associate judge and the further fact that the vacancy had not been filled by gubernatorial appointment.

GEORGE C. WEST

Deputy Attorney General

October 11, 1961

To: Governor John H. Reed

Re: Councillor District, Re Apportionment and Continuation of

Reference is made to your memo of October 10 in which you refer to Chapter 109, Resolves 1951. “Resolve, Dividing the State into Executive Councillor Districts.” You further state: “It would appear, after reviewing the content of the Resolve, that the districts therein created would cease to exist after December 31, 1962.” You have asked the following questions:

1. Is the observation made in the first paragraph substantially correct?

*Answer:* Yes. This Resolve provides in part — “That for the years 1953 to and including the year 1962, the state is hereby divided into 7 councillor districts, . . . ” Very definitely this Resolve extends only to the end of the year 1962 so that the effect of this Resolve expires December 31, 1962.

2. If the answer to Question Number 1 is in the affirmative, would you kindly elaborate, for my information, on the representation status of the Executive Councillors providing that legislative action is not taken to continue the Executive Councillor Districts or recreate these or other Districts?

*Answer:* An examination of the Public Laws or Revised Statutes discloses that there are no provisions for the distribution of Executive Councillors throughout the state.

The Constitution of Maine, Article V, Part Second, Section 2, provides that the Councillors shall be chosen biennially on the first Wednesday of January by