

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

has actually commenced business within two years from the above-mentioned date.

I would be glad to examine with you the information which you acquire relative to this corporation's activities since September 12, 1959 to determine whether or not it has commenced actual business under its charter.

GEORGE C. WEST

Deputy Attorney General

January 18, 1962

To: Frederick N. Allen, Chairman of Public Utilities Commission

Re: PUC Identification Plates for Interstate Motor Carriers

Reference is made to your memo of January 17, 1962. You have asked if the Public Utilities Commission can authorize the issuance of floater plates to an interstate carrier authorized to do business in Maine in lieu of the present distinguishing plates.

An examination of chapter 48 reveals that the answer to this problem is contained in sections 24 and 25 II.

Section 24 provides in part:

“ . . . every person, firm or corporation transporting freight or merchandise for hire by motor vehicle . . . between points within and points without the state . . . is required to obtain a permit for such operation from the commission.”

This section refers to interstate motor vehicle carriers and further provides that —

“such permits shall issue as a matter of right upon compliance with such regulations and payment of fees.”

The two important matters in this section in relation to your question are:

1. The permit issues to the “person, firm or corporation,” not to a vehicle or vehicles.

2. The “person, firm or corporation” must pay a fee.

Nothing is contained in this section concerning plates for individual vehicles.

We turn now to section 25 II which provides in part:

“Each application for a . . . permit shall be accompanied by a fee of \$25. . . .”

In the usual course of procedure the “person, firm or corporation” now has a permit upon payment of a \$25 fee. Reading further in section 25 II we find:

“Distinguishing plates . . . shall be prescribed and furnished by the commission for, and shall be displayed under rules to be prescribed by the commission at all times, on each motor vehicle, trailer and semi-trailer.”

Thus we find that the commission, by its regulations shall:

1. Prescribe and furnish “distinguishing plates.”

2. Provide for manner and method of display of such plates on “each motor vehicle, trailer and semi-trailer.”

Inasmuch as the type of plate issued and the manner and method of displaying such plates is regulated by the commission, we see no reason why the commission cannot amend its regulations to provide for issuance of floater plates to interstate carriers.

GEORGE C. WEST

Deputy Attorney General

January 23, 1962

To: Ober C. Vaughan, Director of Personnel

Re: State Employee as political candidate

We have your request for an opinion with regard to whether or not State employees can be members of the State Legislature if granted leaves of absence in order to attend the sessions of that legislature. We understand that your original request for an opinion would involve a determination of whether any State employee could ever run for an elective office. As this question must be determined on an individual basis, we are limiting our opinion to the situation to which a State employee desires to run for the State Legislature.

We would call your attention to an opinion issued by this office on May 29, 1956 to the effect that no State employee, as a member of the executive branch of State government, could carry out the duties of a member of the legislature and that no State employee could be given leave to attend the annual session of the legislature or any special session thereof. We have examined this question anew, but can find no reason why this opinion should be altered.

It is, therefore, our opinion that no State employee can run for or be elected to the State Legislature whether or not he has been granted a leave of absence by his department.

THOMAS W. TAVENNER

Assistant Attorney General

January 29, 1962

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

Re: Incompatibility of Office

We have your request of January 6, 1962, for our opinion as to whether a member of the State Board of Examiners of Funeral Directors and Embalmers could at the same time hold the office of member of the Governor's Executive Council.

The Constitution of Maine, Article V, Part Second, Section 4, provides as follows:

“Persons disqualified. Not to be appointed to any office.”

“Section 4. No member of Congress, or of the legislature of this state, nor any person holding any office under the United States, (post officers excepted) nor any civil officers under this state (justices of the peace and notaries public excepted) shall be counsellors. And no