

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

Second: Subsection VIII provides:

"To approve all proposals, plans, specifications and contracts for public improvements which require their submission to the governor and council for their final approval and acceptance;"

Inasmuch as the final contract for building educational television facilities must be approved by the Governor and Council, section 9, plans and specifications must be approved by the Bureau before they are advertised for bids.

Third: The bids for construction of the facilities must be opened by a committee of the Council and the Trustees authorized to sign a contract with the successful bidder. The contract must be approved by the Director of the Bureau of Public Improvements and as to form by the office of the Attorney General.

Fourth: Subsection IX states the inspection duties of the Bureau. Thus all, so-called, change orders must be approved by the Bureau.

Fifth: Subsection XIV, together with section 6 of the ETV bond issue, requires the Director of the Bureau to approve all claims for payments submitted by the architect or engineer and the general contractor.

Sixth: Subsection X requires that the Director of the Bureau promptly inspect all public improvements upon completion and to make recommendations for the acceptance or rejection of the project.

The legislature certainly intended this procedure to be followed in the construction of educational television facilities. This is the normal procedure followed by all state departments and the Bureau in the construction of state buildings and facilities.

It should be noted, however, that everything appearing in this opinion is confined solely to the construction of educational television facilities under Private and Special Laws 1961, Chapter 247. Nothing contained in this opinion is to be used or construed as applying to any other construction project involving the University of Maine.

GEORGE C. WEST

Deputy Attorney General

January 9, 1963

To: Governor John H. Reed, Executive

Re: Deduction of Labor Union Dues

In answer to your request for an opinion relating to labor union dues deductions, the following answers are respectfully submitted:

1. No payroll deductions may be made without appropriate legislation or, in the absence of the legislature, authorization by the Governor and Council. This would apply to deductions for labor union dues.

2. If such action is sought while the legislature is in session, the usual procedure of drafting a bill and having a sponsor should be followed. When authorization from the Governor and Council is sought, in the absence of the legislature, a council order may be presented by any person. Such an order does not have to originate from a state official.

3. The authorization of union dues deductions does not carry with it any incidental right of collective bargaining and/or arbitration. The only benefit that the union derives is that of having the dues deducted, and nothing more. In fact, collective bargaining, in the sense that private industrial employees are entitled to it, is not generally accorded to public employees, except in rare and isolated situations. See *Norfolk Teachers' Assoc. v. Board of Education*, 138 Conn. 269, 83 A. 2d 482; *Miami Water Works Local No. 654 v. Miami*, 157 Fla. 445, 26 So. 2d 194; *Mugford v. Mayor & City Council of Baltimore*, 185 Md. 266, 44 A. 2d 745; 31 A. L. R. 2d 1155-1159, 1170-1172.

4. The specific employees affected must authorize the dues deduction. See *Mugford v. Baltimore*, 185 Md. 266, 44 A. 2d 745; *Kirkpatrick v. Reid*, 193 Misc. 702, 85 N. Y. S. 2d 378. The State would not have the power to make the deduction of any labor union dues mandatory.

GEORGE C. WEST
Deputy Attorney General

January 15, 1963

To: Ernest H. Johnson, State Tax Assessor
Bureau of Taxation

Re: R. S. Chapter 16, sec. 199—Gasoline Road Tax on Motor Vehicles

Your memorandum of January 8, 1963, received requesting answers to questions propounded relating to R. S., chapter 16, sec. 199, Gasoline Road Tax on Motor Vehicles.

Question 1. If a truck is registered for a gross weight of from 16,001 lbs. to 18,000 lbs., paying \$100 registration fee, can it be considered as being "licensed" for a gross weight of in excess of 20,000 lbs. during the months of December, January and February, under sec. 199 of Chapter 16, since under sec. 19 of Chapter 22 the vehicle may be operated with any overload during that period?

Answer: Section 19 of Chapter 22 provides the registration fees for trucks. The fourth paragraph of that section states that trucks for the registration of which a fee of \$100 or more has been paid may be operated on the highways during the months of December, January and February with any overload provided it is not in excess of the provisions of sec. 109 of Chapter 22.

It is our opinion that a vehicle which is registered under sec. 19 of Chapter 22 for a gross weight of 20,000 lbs. or less is not "licensed" for a gross weight of in excess of 20,000 lbs., under sec. 199 of Chapter 16, even though under sec. 19 of Chapter 22 overloads are permitted during certain months of the year so that in those months the vehicle may be operated with a gross weight of over 20,000 lbs.

Question 2. If a truck is registered for a gross weight of 16,001 lbs. to 18,000 lbs., paying a \$100 fee, and subsequently the owner pays the additional fee required for a "short-term permit" under the sixth paragraph of sec. 19 of Chapter 22, under which the vehicle is permitted to operate with