

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

February 8, 1963

To: Vance G. Springer, Director
Bureau of Administration, Health and Welfare

Re: Tuberculosis Hospital Building, Fort Fairfield

You have advised that construction of the above building has been completed. It is now necessary to provide for certain custodial care of the building until funds to equip and staff it are made available. Such custodial care includes watchmen, heat, utilities, and water, at least.

The question is whether these services may be provided out of construction funds provided by the General Fund Bond Issue of 1959.

We believe they can.

The bond issue was provided by Chapter 175, Private and Special Laws 1959. Section 1 provides in part:

“ . . . serial coupon bonds . . . for the purpose of raising funds to provide for such construction, repairs, equipment, supplies and furnishings, as authorized by section 6.”

Section 6 is the allocation from General Fund Bond Issue. One paragraph of section 6 provides:

“The Commissioner of Health and Welfare is authorized to contract with the trustees of the Community General Hospital for necessary services after the construction. Such services shall include, but not be limited to, food, heat, sewerage, water and other services necessary for the well-being of the patients in the annex.”

The language of the Act is broad enough to allow the Commissioner to use construction funds for custodial care until funds are provided by the legislature.

GEORGE C. WEST

Deputy Attorney General

February 14, 1963

To: Honorable Walter A. Birt
House of Representatives
State House
Augusta, Maine

Dear Representative Birt:

Your letter received February 13, 1963, is answered below.

Facts:

At a 1962 annual town meeting, the town elected one member to the superintending school committee to fill the vacancy arising due to the expiration of that particular post. Shortly after the annual town meeting all three of the superintending school committee members resigned necessitating the special election of three new members of the superintending school committee. These newly elected members were to serve terms which would expire at the next annual town meeting (1963).

Question:

Whether, at the 1963 annual town meeting, the members of the superintending school committee may be elected for specified terms, i. e., one for

a term of three years, one for a term of two years, and one for a term of one year?

Answer:

The members may not be elected for specified terms.

Reason:

On the basis of the facts presented to this office, there is required, at the annual town meeting, an election of a superintending school committee consisting of those members. The necessity exists by reason of the special election of a superintending school committee to fill the vacancies occurring from the resignations of the superintending school committee members after the annual election. Though the law provides that the superintending school committee may fill vacancies occurring between annual town meetings (§ 45, c. 41, R. S.), such provision was ineffective because no such committee existed after its complete resignation.

Following the annual town meeting the newly elected members of the superintending school committee shall, by lot, determine the length of their terms as provided by said section 45, certifying such designation to the town clerk.

The law contains no provision for electing an entire superintending school committee *and*, at the same time, designating a varying length of their individual terms of office. Furthermore, the law provides that the single designation that may be made, relative to the length of a member's term, shall concern the succeeding annual elections of members whose terms expire and that in such cases the newly elected members shall be elected for three year terms.

Very truly yours,

JOHN W. BENOIT

Assistant Attorney General

February 14, 1963

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: School Construction Aid

Your memorandum of February 11, 1963, is answered below.

Facts:

A Maine town, by legislative enactment (chapter 191, Private & Special Laws of 1961) and resulting vote of acceptance by the townspeople, caused the creation of a school administrative district in the town. The town is constructing a new high school which will be ready for occupancy in the fall of 1963. The school officials desire to use the old high school as an upper grade elementary school; for grades 6, 7 and 8.

Question:

(1) Whether the certain proposed renovations in the old high school building are eligible for state construction aid?

Answer:

Yes. The proposed renovations qualify for state construction aid.