

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

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.

Question:

(2) If eligible for such aid, must the work be completed before occupancy by the different grade level groups?

Answer:

Yes. The work should be completed prior to occupancy.

The applicable provision of law is section 237-H of chapter 41, R. S., as amended. (The entire section is not quoted here for the reason of its extreme length.) The pertinent portions of section 237-H are:

" . . .

" 'Capital outlay purposes' as the term is used in this chapter shall mean the cost of new construction, expansion, acquisition or major alteration of a public school building, . . . the cost of furnishings and equipment, . . .

" . . .

"The term 'major alteration' as used in this section shall mean the cost of converting an existing public school building to the *housing of another* or additional *grade level group*, or providing additional school facilities in an existing public school building but shall not include the restoration of an existing public school building or piece of equipment within it, to a new condition of completeness or efficiency from a worn, damaged or deteriorated condition.

" . . . " (Emphasis ours).

There is no need to set forth the proposed renovations for the reason that all the items qualify for school construction aid as "cost[s] of converting an existing public school building to the housing of another . . . grade level group. . . ." The renovations will not affect the housing of high school grades; the former tenants of the building. Rather, the renovations will affect housing of grades 6, 7 and 8; other grade level groups.

The work may not be done over a period of years. Prior to the opening of the school in the fall, there should exist sufficient facts giving the indication that certain workmen have obligated themselves to perform the various tasks of renovation.

JOHN W. BENOIT

Assistant Attorney General

February 19, 1963

To: Honorable Bradford Wellman
Majority Floor Leader
House of Representatives
State House
Augusta, Maine

Re: L. D. 811 Resolve, Relating to Apportionment of Representatives from Penobscot County.

Dear Representative Wellman:

You have asked this office for an opinion as to the constitutionality of the above resolve. This resolve seeks to amend the 11th paragraph of Chap-