

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

February 28, 1963

To: Honorable Dwight A. Brown
Senate Chambers
State House
Augusta, Maine

Re: L. D. 440 — An Act providing County Funds for Insurance for Firemen

Dear Senator Brown:

You ask whether the above-mentioned proposed legislative measure, if passed into law, would be constitutional in its mandate authorizing the expenditure of county funds for the purchase of accident and disability insurance for firemen.

This bill would not be violative of any of the three provisions found in the Constitution of Maine, Article IV, Part Third, Section 16. This bill would not be an infringement of the right of home rule.

It is well established that the Legislature has the power to authorize the counties to expend funds. (See *Sawyer v. Gilmore*, 109 Me. 169 at page 186.)

We have grave doubts, however, as to the constitutionality of the emergency preamble for the reason that the necessary facts to constitute an emergency appear to be lacking. (See *Payne v. Graham*, 118 Me. 251.) L. D. 440 appears to state conclusions rather than the necessary facts which are required by Article IV, Part Third, Section 16, *supra*. This preamble could, of course, be amended to state the necessary facts constituting an emergency.

In conclusion, therefore, if the bill is amended to state the necessary emergency facts in accordance with the constitution, it would be the opinion of this office that it is not in violation of the constitution of this state or of the United States.

Sincerely,

WAYNE B. HOLLINGSWORTH

Assistant Attorney General

March 1, 1963

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: State School Construction Aid

Your memorandum of February 21, 1963 is answered below:

Facts:

A school committee proposes to develop land adjacent to the high school which would include the following undertakings: Construction of a football field; a track and field events area; tennis courts and outdoor basketball courts; a baseball field; a boys' physical education play area and a girls' physical education play area with a girls' athletic field.

Question:

Are the above developments eligible, jointly or severally, for state school construction aid?