

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

Dear Representative O'Leary:

Your request for an opinion dated February 25, 1963, is answered below:

Question:

May municipal funds be raised and appropriated for a blood bank program under the heading of Civil Defense?

Answer:

No.

Reason:

A municipality may appropriate funds for civil defense. *R. S., c. 90-A, sec. 12, VII and sec. 12 of c. 12, R. S.*

Section 12 of the Maine Civil Defense and Public Safety Act of 1949 provides, among other things:

"Each political subdivision (county, city, town or village corporation) shall have the power to make appropriations in the manner provided by law for making appropriations for the *ordinary expenses of such political subdivision for the payment of expenses of its local organization for civil defense and public safety*. In making such appropriations, such political subdivision shall specify the amounts and purposes for which the moneys so provided may be used by the local organizations for civil defense and public safety." (Parenthesis and emphasis supplied).

"Civil defense and public safety" is defined in section 3 of the aforementioned Act. These words mean both "the preparation for and the carrying out of all emergency functions." Those functions do include medical and health services.

In order, then, that such appropriation be legally made certain prerequisites must exist. The expenditure must be one which (1) is for the payment of expenses of the local organization and (2) for a Civil defense and public safety purpose.

According to the correspondence attached to your request for an opinion, the municipality would vote to raise an amount of money equal to an amount representing .30 for each person in the municipality. These moneys would be turned over to the Walking Blood Bank Association of Dixfield, Maine. These facts reveal no "expense of the local organization" or of "a civil defense and public safety purpose."

Very truly yours,

JOHN W. BENOIT,

Assistant Attorney General

March 1, 1963

To: Paul A. MacDonald, Secretary of State

Re: L. D. 204 — An Act Relating to Reciprocity Under Financial Responsibility Law.

You have asked for an interpretation of subsection III, section 79, of Chapter 22, as proposed by the above legislative document. You asked specifically if you may invoke section 77-V B if this bill becomes law.

Subsection III relates to a Maine resident who may be involved in an accident in another state having a financial responsibility law. There is particular concern because some states have a lower damage figure than Maine, and also many states do not have the same discretionary powers possessed by the Secretary of State in section 77-V B.

Subsection III provides that upon certification that the operating privilege of a Maine resident has been suspended or revoked in another state because of failure to file the proper security or proof of financial responsibility "*under circumstances which require the Secretary of State to suspend a nonresident's operating privilege had the accident occurred in this State.*" (emphasis supplied) the Secretary of State shall suspend the license and registration of the Maine resident.

Subsection I of this proposed act provides in part "Sections 75 to 82 shall apply to any person who is not a resident of this State. . ." Therefore, a nonresident involved in an accident in Maine has the protection of the \$100 minimum damage as well as the Secretary of State's discretionary power stated in section 77-V B. It follows from this that a Maine resident has the protection of the \$100 minimum damages of the Maine law as well as the Secretary of State's discretionary power stated in section 77-V B when the Secretary of State is asked to suspend or revoke his license and registration because of suspension or revocation in another State.

GEORGE C. WEST

Deputy Attorney General

March 4, 1963

To: Earle R. Hayes, Executive Secretary, Maine Retirement System

Re: Out-of-State Credits

In your memo of February 26, 1963, you have asked for an abstract interpretation of subsection XII of section 4 of Chapter 63-A of the Revised Statutes. There is no specific case that calls for an interpretation. Consequently, only generalization can be used.

Section 4 relates to creditable service. Subsection XII concerns only out-of-state service and under what conditions it may be used toward creditable service. Paragraph A applies only to "out-of-state service rendered prior to July 1, 1955" and how allowable.

Paragraph B applies to "out-of-state service rendered after July 1, 1955, or rendered prior thereto if not allowed as creditable service under the provisions of paragraph A of this subsection." Therefore, paragraph B can be said to cover persons having out-of-state service who do not qualify under paragraph A.

Whereas paragraph A has more rigid requirements as to length of creditable service in Maine necessary before eligibility for out-of-state service may be considered (so far as the favored teaching profession is concerned) yet payment into the retirement fund is more favorable.