

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

August 9, 1963

Warren G. Hill, Commissioner

Education

Frank E. Hancock

Attorney General

Reorganization of School Administrative District No. 3; Chapter 175, P & S Laws 1963.

Your memorandum of July 3, 1963, is hereby acknowledged.

FACTS:

The 101st Maine Legislature enacted a Private and Special Law entitled "An Act to Provide for the Reorganization of School Administrative District No. 3." Chapter 175, P & S Laws 1963. This Act makes no mention of the issuance of an amended certificate of organization by the Maine School District Commission to the reorganized district. The general law, R. S. 1954, c. 41, § 111-G, provides for the issuance of such a certificate by the Commission following the organization of a district. Too, the Act makes no mention of the first meeting of the district as is enumerated in R. S. 1954, c. 41, § 111-J. Finally, the Act is silent upon the point of the issuance by the Commission of an amended certificate due to a change in the district boundaries as is provided for in R. S. 1954, c. 41, § 111-P.

QUESTIONS:

Because of the plural number of questions and the attending possibility of confusion arising from but one joint discussion thereon, we present each question with a separate reasoning for the attending answer.

QUESTION #1:

Shall the Commission, on October 1, 1963, issue an amended certificate of organization to School Administrative District #3 and file the same with the Secretary of State?

ANSWER:

No.

August 9, 1963

REASON:

P & S Laws 1963, c. 175, effects a reorganization of the district while c. 41, § 111-G of our statutes provides for the initial organization of administrative school districts. Note that both § 111-G and 111-P require the Commission to make "findings of fact" as a prerequisite to the issuance of a certificate; no such condition exists in the Act. Because the Act gives no authority to the Commission to issue a certificate to the reorganized district and because the general law does not reach the circumstance of district reorganization by the legislature, the Commission is without a statutory basis upon which to rest the issuance of a certificate to the reorganized district.

QUESTION #2:

Will the certificate of organization issued to the eleven town School Administrative District #3 still be effective after October 1, 1963?

ANSWER:

Yes, as evidence of the lawful initial organization of the district.

REASON:

At the present time, the district exists pursuant to the general law; P & S Laws 1963, c. 175, is not yet in effect. The Commission has issued a certificate of organization to the district and has filed a copy of same with the Secretary of State all in accordance with § 111-G. Section 111-G states, inter alia, that: "The issuance of such certificate by the School District Commission shall be conclusive evidence of the lawful organization of the School Administrative District." The certificate issued pursuant to § 111-G was evidence to the effect that the district was lawfully organized, i.e., in the manner prescribed in the law. Events such as the reorganization of the district occurring after the issuance

August 9, 1963

of the certificate have no retroactive effect. In other words, the reorganization of something does not work any invalidity upon the initial organization of that something. On the contrary, a reorganization gives recognition to some initial and proper organization; reorganization is merely organizing anew.

Thus, the certificate will always be effective but only for a specific purpose which is to attest to the fact that sometime prior to the date of the certificate certain statutory provisions were followed to a particular conclusion.

QUESTION #3:

Whether this reorganized school administrative district may operate in Maine sans the certificate of organization provided to school administrative districts formed under the general law?

ANSWER:

Yes.

REASON:

We have noted that the issuance of the certificate following the organization of a school administrative district is evidence of the lawful organization of the district. C. 41, § 111-G, R. S. 1954. We note, further, that upon the addition of a municipality or municipalities to a school administrative district the issuance of an amended certificate is "evidence of the admittance of that municipality to the school administrative district." C. 41, § 111-F, R. S. 1954. Turning to the Act, we note that there is a provision contained therein which has the same effect as that achieved by the issuance of the Commission's certificate, i.e., the validation of past action. P & S Laws 1963, c. 175, § 2.

QUESTION #4:

Whether the School District Commission need notify the directors of the reorganized district to hold an organization meeting on October 1, 1963 in accordance with the general law?

ANSWER:

No.

Warren G. Hill, Commissioner -4- August 9, 1963

REASON:

The Act contains no mandate directing the Commission to call for a meeting of the directors of the reorganized district. The Commission having concerned itself with the organization of the present School Administrative District #3, has performed the required statutory directives. Neither the general law nor the Act requires the doing of further action relative to the organization of the District.

RECOMMENDATION:

Because of the answers given above concerning the non-issuance of a Commission certificate the remaining questions involving a certificate are moot.

Respectfully submitted,

Frank E. Hancock
Attorney General

John W. Benoit
Assistant Attorney General

FEB/slf