

MAINE STATE LEGISLATURE

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August 4, 1965

Keith E. Crockett, Secretary-
Treasurer

Maine School Building Authority

John W. Benoit, Assistant

Attorney General

Maine School Building Authority; Extent of Borrowing by School
Administrative District.

FACTS:

The Directors of School Administrative District #43 have requested of the Maine School Building Authority that the Authority assist the District in the latter's efforts to increase its borrowing capacity for the purpose of financing the construction of a new secondary school. The Directors have requested whether the Authority could assist the District by an issuance of bonds for an amount of money in excess of the statutory limitation set for district construction.

Section 304 of Title 20, R. S. 1964, limits the Authority of district directors to issue bonds and notes of the district for capital outlay purposes.

"To procure funds for authorized purposes of the district, the school directors of said district are authorized to borrow funds to pay current operating expenses of the district but said loans must be repaid within one year. To procure funds for capital outlay purposes, as defined in section 3518, the school directors of said district are authorized to issue bonds and notes of the district, not to exceed in the aggregate, at any one time outstanding, the limit of indebtedness of 12 1/2% of the total of the last preceding state valuation of all the participating towns including all outstanding school indebtedness assumed by said district. The issuing of bonds or notes for capital outlay purposes shall first be approved by a majority of those qualified voters of the district voting at an election called by the school directors and held as provided in section 225, except as is otherwise provided in this section. Contracts, leases or agreements with the Maine School Building Authority shall not be debts or liabilities within this section. * * *

Section 3507 of Title 20, R. S. 1964, permits the Authority to contract with a school administrative district.

Your memorandum states, inter alia, that the Maine School Building Authority has repeatedly adhered to the principle of limiting bond issues to administrative units to 12 1/2% of the local unit's state valuation; in a very few isolated cases, 15% has been allowed.

QUESTION:

Whether a school administrative district may legally possess a lease agreement with the Maine School Building Authority at a time when the district has bonded itself to the full extent of the statutory 12 1/2%?

ANSWER:

Yes.

REASON:

The Maine Legislature had decreed that a school administrative district may procure funds for capital outlay purposes through the issuance of bonds and notes of the district. The statutory limit of indebtedness, in this respect, is "12 1/2% of the total of the last preceding state valuation of all the participating towns including all outstanding school indebtedness assumed by said district." 20 M.R.S.A. § 304. This reference provision further states that contracts, leases, or agreements existing between the Authority and a district "shall not be debts or liabilities within this section." (For a related matter, see Article IX, Section 15 of the Maine Constitution wherein rental agreements made by cities or towns with the Maine School Building Authority are decreed not to be debts or liabilities for the purpose of determining whether the statutory limit of 7 1/2% of valuation has been exceeded.) In passing, we note that the Law Court has held, in Opinion of the Justices, 153 Me. 469, 472, that: "The indebtedness of a School Administrative District thus is not the indebtedness of such municipalities." It was further stated, in the reference case, that the municipal indebtedness limitation did not apply to a school administrative district. Opinion of the Justices, supra, 473.

Assuming that a lease agreement can be legally executed between the reference District and the Maine School Building Authority, we conclude that any such lease agreement is not to be considered by

either the District or the Authority when computing the debt status of the District. (For a case of similar import, see State ex rel. Board of Education of Bloom Twp., Etc. v. Fotts, Com. Pl., 16 Ohio Supp. 193, where it was held that bonds to be issued for the purpose of rebuilding a schoolhouse destroyed by fire were valid, although the indebtedness of a school district would thereby exceed a limitation, since such bonds came within the exception which provided that bonds issued for the reference purpose should not be considered in determining the debt limit.)

John W. Benoit
Assistant Attorney General

JWR/eh