

MAINE STATE LEGISLATURE

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August 4, 1965

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Commissioner
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Vocational-technical school facilities.

FACTS:

The 102nd Legislature appropriated funds for the construction of facilities at the four state-operated post-secondary vocational-technical schools as follows:

Maine Vocational-Technical Institute	
Laboratory building.....	\$354,000
Androscoggin State Vocational-Technical Institute	
Addition to building under construction.	269,500
Penobscot Vocational-Technical Institute	
Buildings for new school	1,000,000
Northeastern Maine Vocational-Technical Institute	
Addition to auto body shop.....	68,000

Under Federal Public Law 88-210 the State of Maine is allotted funds for vocational education a portion of which may be used by the State Board of Education for construction of area vocational school facilities. The Federal funds provided in this act must be matched dollar for dollar, and in the case of construction, on a project-by-project basis.

In some of the foregoing projects it would seem logical and in keeping with long-range planning to expand facilities beyond the scope contemplated by the state appropriation through use of Federal funds.

QUESTION:

May the State Board supplement state appropriations with Federal funds and thereby extend the scope of the projects approved by the Legislature.

ANSWER:

See OPINION following.

OPINION:

The four appropriations listed in the facts are included in P. & S. L. 1965, chapter 161. Chapter 161 does no more than appropriate funds and make provision concerning the lapsing or non-lapsing of the appropriations. The legislation is silent as to size of the buildings or the use of Federal funds to supplement state money.

In the ordinary course of legislative procedure, there was presented to the proper committee proposals for the need of new buildings for vocational-technical training. These proposals were in the form of rough plans showing dimensions, costs, equipment and supplies necessary to operate the buildings. Assumedly, the committee and subsequently the whole legislature deliberated on the subject and decided which buildings could be built and how much the state could afford to put into the buildings, equipment and supplies.

In arriving at the ultimate answer we must assume that the legislature considered the cost of maintenance and staffing of the new construction. One legislature cannot bind a subsequent legislature. Likewise a department cannot so conduct itself as to place binding burdens upon future legislatures. Departments are but creatures of the legislature and dependent upon it for future financial support. However desirable a program may be, the legislature delineates its limits and each department is bound by that delineation.

Certainly Federal funds may be used to match those appropriated by the State for construction purposes. Care must always be taken however that in using the extra funds that construction does not exceed the point where succeeding legislatures are forced to supply maintenance, personnel and equipment beyond that reasonably contemplated by the present appropriating legislature.

In an opinion dated January 2, 1964, to the Bureau of Public Improvements, we said:

"QUESTION NO. 3.

"May a department or agency supplement any individual project by gifts or grants, or may the funds be used to match Federal funds which may have become available since the funds became available?"

"ANSWER:

"A qualified, Yes.

"OPINION:

"In general, as indicated in our answer to question No. 1, funds provided for capital improvements must be used for the purposes specified in the act appropriating the money. It appears that in some instances Federal funds may become available to match State funds for the constructing and equipping of certain buildings. There is nothing written into any of the cited acts which prohibits the acceptance of matching Federal funds. Also, there is nothing in the acts which authorize the use of the funds to match Federal grants.

"It would seem most inappropriate to rule that State funds appropriated for construction purposes could not be used to match Federal funds. All the legislature did was limit the amount of State funds to be used for a given project. Undoubtedly this was the result of two considerations, (1) the amount of money available for construction and equipment and (2) the added operational and maintenance costs to be absorbed by a future legislature.

"In considering the use of Federal funds the first consideration, above, has already been determined by the legislature by fixing the amount of State funds available for a given project. The second consideration is not so easily spelled out. It is a more or less intangible figure until the facility is finished and ready for use. It then becomes a most realistic and practical matter of equipping, maintaining and staffing the new facility.

"Certainly, then, we can say that Federal funds may be accepted and used as long as their use does not create a greater facility which will add extra maintenance, operation, and equipment costs not reasonably anticipated by the 101st Legislature. Certainly the use of additional Federal funds to provide a better constructed facility is not objectionable. Use of Federal funds by matching with State funds for a different facility cannot be done.

"What has been said above concerning Federal funds applies equally to gifts or donations from other sources."

Therefore, it is necessary to consider each proposed item of construction to determine to what extent Federal funds may be used or conversely beyond what limit they may not be used.

George C. West
Deputy Attorney General

GCN/eh