

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

**ATTORNEY GENERAL**

for the calender years

1965 - 1966

devoted to a public use as is one constructed under the provisions of Revised Statutes 1954, Chapter 96, section 129 through 150 inclusive, it appears that the provision extending the tax exemption for such sewage facilities is only attributable to those facilities acquired or constructed under the provisions of Chapter 235 as explained above.

Therefore, in answer to your question No. 3 you are justified in concluding that section 4262 of Title 30 applies only to such sewage facilities acquired or constructed through issuance of revenue bonds, and acquired or constructed subsequent to enactment of what is now Chapter 235 of Title 30.

Therefore, under the present statutes (Title 36 M.R.S.A. § 6517, sub. D), the facilities in question are taxable by the town of Paris since they are located without the corporate limits of the town of Norway.

JON R. DOYLE  
Assistant Attorney General

June 29, 1966  
Education

Kermit S. Nickerson, Deputy Commissioner

Regional Technical and Vocational Centers; Exceeding Amount of Appropriation

*FACTS:*

In 1965, the Legislature enacted legislation providing for the establishment and operation of regional technical and vocational centers. *P. L. 1965, c. 440*. Section 4 of the reference Act contains the following language re appropriation of moneys:

“Sec. 4. Appropriation. In order to carry out the purposes of this Act, there is appropriated out of any moneys in the General Fund not otherwise appropriated in the sum of \$210,000 for the fiscal year ending June 30, 1967. \* \* \*”

The total number of applications filed with the State Board of Education pursuant to the provisions of the subject Act (20 M.R.S.A. § 2356-A to 2356-H) would, if approved, exceed the amount of \$210,000 by a sizable sum. Your memorandum recites that approval of the present applications together with expected additional applications would increase the State's involvement and would obligate future legislatures to raise additional appropriations of considerable size.

*QUESTION:*

Does the State Board of Education possess authority to approve applications for the reference regional technical and vocational centers although to do so means that future State aid would exceed the appropriated sum of \$210,000?

*ANSWER:*

Yes.

*REASON:*

An administrative unit seeking to offer a program of technical and vocational

education, as is specified in Section 2356-A of said Act, may establish regional centers for vocational or technical education. Said section provides that the administrative unit must secure the approval of the State Board of Education. 20 M.R.S.A. § 2356-A. The reference Act (P. L. 1965, c. 440, § 3) does not contain language which conditions State Board of Education approval upon the amount of money appropriated by the legislature.

According to applicable provisions of the reference Act, the matter of approval is vested in the State Board of Education; and the manner of payment is delegated to the Commissioner of Education. 20 M.R.S.A. § 2356-A and § 2356-B. Section 2356-B specifies that the Commissioner of Education shall make grants to qualifying administrative units "from any funds appropriated for these purposes, in the apportionment of which special funds which are or may become available to the State Board of Education for distribution for these purposes from Federal grants or from other sources may be used in part payment of, but shall not be in addition to, grants authorized by this section \* \* \* ." It would appear that if the State Board of Education approves a plan for a regional center in a particular administrative unit, then the Commissioner of Education is to make a grant of monies to said administrative unit pursuant to the language recited immediately above. (The reference Act became effective September 3, 1965; and it contained no appropriation for the fiscal year ending June 30, 1966.)

A reading of the subject Act does not admit of an interpretation that the State Board of Education is not to approve additional applications for regional technical and vocational centers, once plans have been presented and approved which would involve State grants totaling \$210,000. Any such interpretation places a premium upon the element of haste. We do not read the provisions of the reference Act as placing a premium upon 'the earliest post-marked application'. Suppose that the State Board of Education should approve a plural number of applications equaling the appropriated sum of \$210,000. There is not guarantee that all of such centers would be completed so as to take advantage of the present appropriated monies. (State grants are not made until the administrative unit has completed construction of the center, inter alia. 20 M.R.S.A. § 2356-B.) So it might be that certain of the appropriated monies could lapse after the fiscal year ending June 30, 1967; leaving certain of the centers without State aid unless the legislature appropriates further monies. Because the reference hypothetical situation would "commit future legislature(s) to additional appropriations" (to use the words of your memorandum), that argument does not appear to be applicable in arriving at an answer to the posed question.

In conclusion, it should be pointed out that the appropriated funds are not the criteria set up by the legislature for the Board to use in approving regional technical and vocational centers. Rather we refer you to section 2356-A wherein 3 criteria are set forth.

1. It shall be a regional center for vocational or technical education.
2. It shall be established, maintained and operated only in accordance with a plan approved by the State Board of Education as to educational need, scope of program to be offered, location and area to be served.
3. This particular criteria goes to school programming and is not necessary to be repeated.

We point out only the expressed function of the Board to first set up a *state-wide plan* of technical and vocational school regions. Once this plan has been conceived, then the Board may act upon individual applications provided they fit into the approved scheme of such school regions. The proposed school *must* be a regional center. The Board is vested with the discretion of delineating the size of the reference school regions.

Such school regions are to be equated to the educational needs and scope of the programs to be offered. In short, the Board should not approve every application that may be submitted, because it looks promising. The first question the Board must ask is: Does it fit into our state-wide plan for technical and vocational schools, including those operated by the Board?

JOHN W. BENOIT  
Assistant Attorney General

July 13, 1966  
Maine Industrial Building Authority

Roderic C. O'Connor, Manager

Reference is made to your memo and letter of June 17, 1966 in which you ask two questions.

*QUESTION NO. 1:*

May the Authority insure payments for a loan solely made for personal property, i.e., machinery and equipment?

*ANSWER NO. 1:*

Yes.

*REASON:*

The amendments which were enacted by the 102nd Legislature in its special session changed the statutes to conform to changes made in the Constitution. Basically, the changes were made to authorize the Industrial Building Authority to insure first mortgages on machinery and equipment as well as on real estate.

The significant amendments were to 10 M.R.S.A. § 703 and § 803 by P.L. 1965, Chapter 471.

An analysis of these amendments reveal the following conclusions: In § 803 it is provided that the authority is authorized to "insure mortgage payments required by a first mortgage on any industrial project."

§ 703 subsection 3 defines an industrial project in part as:

"Any building or other real estate improvement and, if a part thereof, the land upon which they may be located, and all real properties *and machinery and equipment deemed necessary*" etc. (Underlined words added by P.L. 1965, Chapter 471.)

Hence the legislature has now authorized the Authority to insure first mortgage payments on machinery and equipment.

Also note amendment to § 703, subsection 6, wherein a mortgage is defined as a "mortgage on an industrial project and . . . means such classes of first liens . . . given to secure advances on or the unpaid purchase price of, real estate *or personal property* . . ." (Underlined words added by P.L. 1965, Chapter 471.)

Also note § 803, subsection 2, as amended by P.L. 1965, Chapter 471, wherein it provides that a mortgage to be eligible for insurance must involve a limited principal obligation "not to exceed 90% of the cost of the project related to real estate and 75%