

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

Our statutes, section 1 of Title 9 in the third paragraph provides:

“During his term of office the commissioner . . . shall not be an officer, director . . . in any financial institution or National bank . . . or *receive, directly or indirectly, any payment or gratuity from any such institution . . .*” (Emphasis supplied)

The question is therefore raised as to whether or not the receipt of the pension from the First-Manufacturers National Bank of Lewiston and Auburn, Maine is a payment or gratuity from a National bank.

We answer in the negative. The language of the statute contemplates a payment or gratuity from a bank for a current service being rendered to that institution. A pension is a payment for past services rendered and a recognition of long years of service. It is not a payment or gratuity for a present service and, therefore, does not bring the recipient within the prohibitions of the statute.

Respectfully,

GEORGE C. WEST
Deputy Attorney General

June 17, 1969
Treasury

Richard L. Bailey, Accountant

Intra-departmental Transfer of Funds

SYLLABUS:

A transfer of funds from one account to another within a department may be made by the Governor and Council when recommended by the department head and the State Budget Officer.

FACTS:

The office of the Treasurer of State has in its Debt Retirement Appropriation (Account) some surplus funds. The Interest on Bonded Debt Appropriation (Account) has not sufficient funds to meet interest payments which will become due on some temporary loans.

QUESTION:

May funds be transferred from the Debt Retirement Appropriation (Account) to the Interest on Bonded Debt Appropriation (Account) both being within the office of the Treasurer of State?

ANSWER:

Yes.

OPINION:

In general, the question was answered by the opinion of the Attorney General dated April 4, 1955, copy of which is attached hereto. The statute cited is now 5 M.R.S.A. § 1585 and is unchanged other than the addition of the words "or agency" after the word "department" in three places.

By 5 M.R.S.A. § 150, the Legislature authorizes the making of temporary loans. It provides a general appropriation of \$10,000,000 for payment of temporary loans. Loans not only must be repaid, but the cost of the use of the money in the form of interest must be paid. If there is not sufficient money in the account set up to pay interest, then money may be transferred from another departmental account in accordance with 5 M.R.S.A. § 1585.

GEORGE C. WEST
Deputy Attorney General

July 17, 1969
Park and Recreation Commission

Frederick M. Bartlett

School Administrative Districts as Recipients of Land and Water Conservation Funds

SYLLABUS:

School Administrative Districts may not enter into agreements with the State of Maine for the acquisition and/or development of public outdoor recreational facilities with financial assistance from the Land and Water Conservation Fund.

FACTS:

The Maine State Park and Recreation Commission, on behalf of the State of Maine, is responsible for the administration of the Land and Water Conservation Fund program which provides, inter alia, for a 50% reimbursement from the federal government for the acquisition and development of public outdoor recreational facilities. Under the provisions of the Act governing this program, public agencies or political subdivisions of the State are eligible to participate. You have provided this office with a project agreement to be used by the State of Maine and political subdivisions of this State which incorporates provisions of compliance and responsibility of the State in accordance with the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964) and provides that the political subdivision (called the Recipient) is also bound by the provisions of said Land and Water Conservation Act.

QUESTION:

Can a School Administrative District contract with or enter into with the State of Maine for the acquisition and/or development of public outdoor recreational facilities?

ANSWER:

No.