

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

November 17, 1969

Governor Kenneth M. Curtis
and Executive Council
State House
Augusta, Maine

Gentlemen:

SYLLABUS:

The Governor and Council do not have authority to transfer funds from an appropriation account to a bond issue account.

FACTS:

The 103rd Legislature, by Private and Special Law Chapter 152, proposed a bond issue in the amount of \$350,000 for construction of a regional facility for the mentally retarded. The federal government will match this amount. At the present time the proposed facility will cost more than the amount of the bond issue and the amount of the federal funds.

In order to provide sufficient funds to meet the cost of the proposed facility, the Department of Mental Health and Corrections has presented an order to the Governor and Executive Council by which a sum would be transferred from an appropriation to that Department to the bond issue account. Funds would be taken from Personal Services and All Other of an appropriation made to the Department by the 104th Legislature.

QUESTION:

May the Governor and Council transfer funds from an appropriation account to a bond issue account?

ANSWER:

No.

REASONS:

The Council Order referred to in the Facts presumably is based on the provisions of Title 5 M.R.S.A. § 1585. This section reads as follows:

“Any balance of any *appropriation or subdivision of an appropriation* made by the Legislature for any state department or agency, which at any time may not be required for the purposes named in *such appropriation or subdivision*, may, upon the recommendation of the department or agency head concerned and the State Budget Officer, be transferred by the Governor and Council, at any time prior to the closing of the books, *to any other appropriation or subdivision of an appropriation* made by the Legislature for the use of the same department or agency for the same fiscal year.” (Emphasis supplied)

It is to be noted that this provision relating to transfers uses the word “appropriation” throughout. It states very clearly that the balance of any

“appropriation” made by the Legislature may be transferred “to any other appropriation.” In short, the Legislature has authorized the Governor and Council to transfer within a Department funds from one appropriation to another appropriation.

There is no provision in the statutes whereby the Governor and Council are authorized to transfer funds from an “appropriation” to a “bond issue account.” A “bond issue account” is not an “appropriation.” A bond issue is proposed by the Legislature and approved by the people. An “appropriation” is credits advanced to a department or agency out of funds under the control of the Legislature and by legislative act which does not need the approval of the people.

The two accounts are of a different nature and the Governor and Council have not been given authority to transfer funds from one to another. It, therefore, follows that the proposed transfer is not within the jurisdiction of the Governor and Council.

Very truly yours,

GEORGE C. WEST
Deputy Attorney General

November 19, 1969

Dr. Keith L. Crockett
Assistant Commissioner
Department of Education
State Office Building
Augusta, Maine

Dear Dr. Crockett:

SYLLABUS:

A municipal corporation or school administrative district is required to obtain a license for its school buses from the Public Utilities Commission before it operates them for the purpose of transporting passengers other than students to and from school and students and chaperones to and from school activities.

FACTS:

A municipal school department or a school administrative district owns and operates certain vehicles which are primarily utilized to transport school children to and from schools and to and from school activities. On occasion, however, these vehicles are utilized for other purposes, such as the transportation of:

- a. Children from the community (district) to a city in which such activities as the Shrine Circus are being performed. The children may pay their bus fare individually or it may be paid by some organization which is sponsoring the trip;
- b. People over 75 years of age from the community (district) to a second community where an activity such as the Three-Quarter Century Club annual meeting is being held, the fare being paid either by the individual passengers or the organization sponsoring the trip;
- c. Children from the community (district) to a nearby community where the Red Cross is conducting a swimming instruction program, the transportation fare to be paid by the children individually or by some sponsoring organization.