

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

QUESTION:

Whether, pursuant to 5 M.R.S.A. § 1094 subsection 14, a teacher who has rendered service in an out-of-state parochial school may include those years of service, after payment, as creditable service.

ANSWER:

No.

REASON:

The first two sentences of 5 M.R.S.A. § 1094, subsection 14 provide:

“Private and parochial school credit. Any public school teacher who rendered teaching service in any parochial school or public or private academy may purchase up to 10 years creditable service. Such service credit to be creditable must have been performed in a school approved by the State Department of Education while holding the appropriate teaching certificate during the time of said non-public school service, and such prior service credit can only be secured after 10 years of service in the public schools”

The requirement that the service be performed in a parochial school “. . . . approved by the State Department of Education while holding the appropriate teaching certificate during the time of said non-public school service” necessarily implies that the non-public school be located within this State.

The State Department of Education does not have jurisdiction over schools beyond the borders of this State and any “appropriate teaching certificate” issued in this State would not necessarily entitle one to teach in an out-of-state school.

If the Legislature intended to extend the benefits of this State’s Retirement System to service performed by a then out-of-state employee it should do so with clear and express language. Absent any such expressed intent of the Legislature it must be presumed that the legislatively expressed purpose of the Retirement System, to wit; “. . . for the purpose of providing retirement allowances and other benefits under this chapter for employees of this State”, was to apply to service performed by state employees while they were employees within this State.

In conclusion, the service performed in an out-of-state parochial school may not be considered teaching service for purposes of 5 M.R.S.A. § 1094 subsection 14.

CLAYTON N. HOWARD
Assistant Attorney General

April 27, 1971
Environmental Improvement Comm.

George C. Gormley, Chief
Bureau of Water Pollution Control

Eligibility of Residents of Unorganized Territory for Preliminary Planning Grants.

SYLLABUS:

Residents of unorganized territory are ineligible under 38 M.R.S.A. § 412 to receive grants from the Environmental Improvement Commission for preliminary planning of pollution abatement facilities.

FACTS:

The Town of Stockholm, acting through its municipal officers, and the inhabitants of the unorganized territory known as T. 16, R. 4, acting through the County Commissioners for the County of Aroostook, have indicated their intent to make a joint application to the Environmental Improvement Commission under the provisions of 38 M.R.S.A. § 412 for a grant to cover their expenses incurred in preliminary planning of pollution abatement facilities.

The reference statute authorizes the Commission to make such grants to “. . . municipalities, quasi-municipal corporations, regional planning commissions and councils of governments . . .”.

QUESTION:

Are the residents of the unorganized territory eligible for a preliminary planning grant under 38 M.R.S.A. § 412?

ANSWER:

No.

REASON:

The Legislature has specified those entities eligible to receive preliminary planning grants. Residents of unorganized territory have not been included.

We point out, however, that nothing prevents the municipality from making the application covering both the municipality and the unorganized territory, and at the same time entering into an inter-local cooperation agreement with the county commissioners acting on behalf of the residents of the unorganized territory in order to administer the grant.

ROBERT G. FULLER, JR.
Assistant Attorney General

May 5, 1971
Treasury Department

Norman K. Ferguson, State Treasurer

Location of Trust Company or Banking Institution for Bank Stock Tax Purposes

SYLLABUS:

THE PORTION OF THE BANK STOCK TAX ATTRIBUTABLE TO SHARES OWNED BY NONRESIDENTS AND CORPORATIONS MUST BE RETURNED TO THE MUNICIPALITY WHERE THE PRINCIPAL OFFICE OF THE TRUST COMPANY OR BANKING INSTITUTION IS LOCATED.

FACTS:

A number of Maine trust companies and banking institutions have branch offices in