

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

Asa A. Gordon, Asst. Commissioner

Request for State School Construction Aid Required to Service School Building Lot

SYLLABUS:

An administrative unit's cost of extending water and sewer lines to the boundary of a school lot, from points located some distance from the school lot, along accepted city streets, do not qualify for State school construction aid under 20 M.R.S.A. § 2356-B, incorporating the provisions of 20 M.R.S.A. § 3457 to § 3459.

FACTS:

A city has selected a site for the construction of a regional technical and vocational center at the secondary level. 20 M.R.S.A. § 2356-A to § 2356-H. * In order that the site be utilized for such purpose, it is necessary to extend water and sewer lines to the site, from points located some distance from the proposed school lot, along accepted city streets. The sewer line will be extended 200 feet at a cost to the city of \$2,000. The water line will be extended 3200 feet at a cost to the city of \$36,000. The moneys so expended by the city on behalf of the board of education will involve contracts entered into with the two quasi-municipal corporations concerned with extensions of the two lines. The city is like any other customer asking that sewer and water lines be extended; the cost falls upon the customer being provided with the reference services.

City officials ask that State school construction aid be paid the municipality because if the municipality were to drill a well on the school lot in order to obtain water to be used for school purposes, and if the municipality were to establish sewer treatment facilities on the site for school purposes, the State would pay school construction aid. Also, municipal officials have suggested that if school construction aid was paid by the State for the extension of the two lines, any rebates paid the city by reason of other persons connecting to the water and sewer lines so extended would be proportioned back to the State.

QUESTION:

Whether the costs to the city of extending water and sewer lines to the boundary of the selected school lot, from points located some distance from the site, along accepted city streets, would qualify for State school construction aid under 20 M.R.S.A. § 2356-B incorporating the provisions of 20 M.R.S.A. § 3457 to § 3459?

ANSWER:

No.

* The provisions of 20 M.R.S.A. § 2356-B relating to construction aid incorporate by reference the provisions of 20 M.R.S.A. § 3457 to § 3459.

REASONS:

The analogy cited by city officials in support of the request for State school construction aid is correct to the extent of the recital that a drilled well or sewer treatment facility *on the site* would qualify for school construction aid. *Schofield v. School District No. 113, Labette County*, 105 Kan. 343, 184 P. 480. In that case, the word "appendage" used in a state statute authorizing a district school board to provide the necessary "appendage" for the schoolhouse included a well *on the school premises*. Also see to the same effect *Hemme v. School District No. 4*, 30 Kan. 377, 1 P. 104, and *In re Bozeman*, 42 Kan. 451, 22 P. 628. The reference offered analogy concludes that State school construction aid should be paid on the extension lines brought to the school building lot because it is a situation not substantially different from digging an artesian well on the school lot. We cannot concur in that conclusion. Whereas in one case the drilled well and sewer treatment facilities would be wholly within the confines of the school site, in the other instance, offsite facilities are involved; in one case (the water line) to the extent of 3200 feet. Also, water and sewer facilities located entirely on the school lot are part and parcel of the school property whereas offsite extension lines cease to be an "appendage" of the school site at the lot boundary line. *Doughton v. City of Camden*, 72 N.J.L. 451, 63 A. 170. In that case, a water pipe under a road bed of a public street laid for the distribution of water for the use of a city and of its inhabitants was considered not to be an "appendage" to or a part of the adjoining lot. The distinguishing factors existing between *on site* and *offsite* construction expenses are material and bring about a different result respecting requested State school construction aid. Otherwise, where is the line to be drawn regarding eligibility of offsite expenses? Since the water line will be extended 3200 feet, payment of State subsidy for its construction would lend credence to the position that no line is to be drawn at all. This opinion draws the line at the property line of the school lot. Otherwise, State school construction funds would be utilized to subsidize construction of municipal facilities off the schoolhouse lot; facilities available to private property owners (at a cost, to be sure) abutting the length of the extended lines along the public way. The aspect of rebates to the State of a proportion of expended State aid only serves to point out that the expenditure, if made in the first instance, was involved in funding something not completely related to school costs.

The provisions of 20 M.R.S.A. § 3457 authorize the Commissioner of Education to appropriate moneys to administrative units for eligible capital outlay purposes. The phrase (capital outlay purposes) means, among other things, the cost of new construction of a public school building. Nothing appears in the reference section allowing us to interpret eligibility for State school construction aid on the basis of offsite costs such as those involved here.

JOHN W. BENOIT, JR.
Deputy Attorney General

February 24, 1972
Maine Land Use Regulation Comm.

James Haskell, Director

The Shoreland Zoning Law and The Maine Land Use Regulations Law.

SYLLABUS:

12 M.R.S.A. § 685-A.5 (P.L. 1971, c. 457 § 5) in no way limits the responsibility of the Maine Land Use Regulation Commission to act together with the Maine