

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

implemented in the second, third, or fourth quarter?

Answer: No.

*REASONS:*

Inasmuch as the rates set up in column F, previously referred to, are already in effect, the only action open to the Commission would be to increase those rates up to .5% if in its opinion an emergency exists such as to seriously impair the Unemployment Compensation Fund.

Obviously, the purpose of the provision for imposing such an increase is to prevent endangering the status of that fund and it should be construed so as to best accomplish that purpose. The statute states that after public hearing the Commission may *forthwith impose* the increase in rates under discussion.

BLACK'S LAW DICTIONARY, Revised Fourth Edition, defines *forthwith*:

"Forthwith. Immediately; without delay, directly, hence within a reasonable time under the circumstances of the case; promptly and with reasonable dispatch . . . Within such time as to permit that which is to be done, to be done lawfully and according to the practical and ordinary course of things to be performed or accomplished."

Under Commission regulations, computation of contributions due is on wages paid during a calendar quarter. Such computation must be on the basis of the rate applicable to the quarter involved.

It is our opinion that if, during the current calendar quarter, the Commission is of the opinion that an emergency exists such as to seriously impair the fund, it may – within the current calendar quarter – after reasonable notices and public hearing, impose up to .5% increase in the rates shown in aforesaid column F, to be effective for the calendar quarter ended March 31, 1972.

In view of the limitations stated in our opinion relative to the current calendar quarter, it follows that it is our opinion that action under Section 1221, subsection 4, paragraph C resulting in increases in rates up to .5% can be made effective no earlier than for the quarter in which all necessary action has been taken.

FRANK A FARRINGTON, Assistant Attorney General  
MERRILL A. TRACEY, Assistant Attorney General

April 7, 1972  
Education

Asa A. Gordon, Asst. Comm. School Adm. Serv.

Computation of General Purpose Aid

*SYLLABUS:*

A corrected and final biennial computation of general purpose aid under Title 20, M.R.S.A. § 3732, must be based upon the certified state valuation for the same ensuing biennium which the State Tax Assessor is required by Title 36, M.R.S.A. § 381 to file before the first day of February of each regular legislative session.

*FACTS:*

The budget for paying State school subsidies, pursuant to Title 20, M.R.S.A. § 3732, is prepared by the Commissioner of Education based upon State valuations that exist during the summer in the year preceding the convening of each Legislature. In the past corrections were made, pursuant to the provisions of section 3732, in the computation of these school subsidies after the final biennial State Valuation was filed. This filing was required by Title 36, M.R.S.A. § 381 to take place on or before each December 1st preceding the convening of the Legislature. Section 381 of Title 36 was amended by the Public Laws of 1969, chapter 502, section 4, so that the final State valuation has to be filed "as soon as completed and before the first day of February of the regular sessions of the Legislature." Therefore, it is no longer certain that the biennial computation of the State school subsidy can be corrected and thereby finalized prior to the convening of each regular session of the legislature.

*QUESTION:*

In view of the fact that the biennial State Valuation is no longer required to be finalized and filed prior to the convening of the Legislature, is the Commissioner of Education required to submit a budget for paying State school subsidies, under Title 20, section 3732, based upon the State Valuation that was certified and filed during the regular Legislative session next preceding the session which will consider said budget?

*ANSWER:*

No.

*REASONS:*

As already noted, section 381 of Title 36 was amended by section 4 of chapter 502 of the Public Laws of 1969 so as to change the final date for filing the biennial State Valuation from each December 1st preceding the regular session of the Legislature to "the first day of February of the regular sessions of the Legislature." It appears that the only reason for this change was to give the Municipal Valuation Appeals Board, which was created by section 3 of chapter 502 of the Public Laws of 1969, sufficient time to hear and decide any appeals that might be filed with it by municipalities deeming themselves "aggrieved by the State Valuation." Under the provisions of section 292 of Title 36, the Municipal Valuation Appeals Board must render its decisions on or before January 15th (of the regular sessions of the Legislature). Therefore, there does not seem to be any evidence that the Legislature, in making the above-described amendment to section 381 of Title 36, intended to change the basis of the biennial computation of general purpose aid under section 3732 of Title 20.

Furthermore, when the pertinent provisions of Title 36, M.R.S.A. §§ 208, 292 and 381 and Title 20 M.R.S.A. § 3732 are read together, they indicate an overall intent on the part of the Legislature that a *biennial* computation of general purpose aid under section 3732 of Title 20 should be based, in its final corrected form, upon the certified State valuation *for the same ensuing biennium* which the State Tax Assessor is now required by section 381 of Title 36 to file, "as soon as completed, and before the first day of February of the regular sessions of the Legislature." This construction is also required in order to maintain the biennial structure of the State's budget and finances.

The Commissioner of Education would, therefore, have to initially submit the portion of his Department's biennial budget which deals with the computed general purpose aid under section 3732 on a tentative basis. Any changes in the general purpose aid computation which might be required by adjustments made in the biennial State Valuations by the Municipal Valuation Appeals Board, pursuant to Title 36, M.R.S.A. §§ 208 and 292, would then have to be brought to the attention of the Joint Legislative Committee on Appropriations and Financial Affairs after the State Tax Assessor has certified and filed the valuations pursuant to section 381 of Title 36.

CRAIG H. NELSON  
Assistant Attorney General

April 7, 1972  
Commission of Pharmacy

Richard O. Campbell, Secretary

Pharmacy – Hospitals

*SYLLABUS:*

A hospital does not need an apothecary business license in order to dispense drugs to its bona fide outpatients. A hospital employee is not per se an outpatient of that hospital. Non-licensed personnel of a hospital pharmacy may not dispense drugs.

*FACTS:*

Stated in the questions.

*QUESTIONS:*

1. Does Maine Law require licensure for an institution to dispense Legend and/or Controlled Drugs to outpatients?
2. Are employees of this institution considered by Maine Law as the equivalent of outpatients in regards to dispensing of these substances (g.v.)?
3. Can non-licensed pharmacy personnel dispense to these employees, or must they be dispensed by a duly licensed Pharmacist?

*ANSWERS:*

1. No.
2. No. But see "Reasons."
3. No; Yes.

*REASONS:*

Your first question is construed to be: whether or not a hospital must obtain an apothecary business license in order to dispense drugs to its bona fide outpatients. The answer to that question is negative for the following reasons. 32 M.R.S.A. § 2801 provides:

"No person shall within the limits of this State conduct the business of an