

MAINE STATE LEGISLATURE

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Health and Welfare

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Notarization of Returns Received from Municipal Officers

SYLLABUS:

The municipal officers who submit a monthly return to the Department of Health and Welfare to secure reimbursement of costs expended for local general assistance must swear to the return.

FACTS:

Public Laws of 1973, Chapter 470, states that to secure reimbursement of costs expended for local general assistance "the municipal officers shall submit to the Department of Health and Welfare a monthly return under oath on forms provided by the Department. . . . " Accordingly, the forms provided by the Department of Health and Welfare call for notarization and are so indicated with appropriate space provided. At the same time another revision of the statutes, Public Laws of 1973, Chapter 64, dealing with "reports by sworn officials" states:

"A municipal official who has been sworn to the faithful performance of his duty need not swear to any report, account or statement to be filed with any of the state departments."

QUESTIONS:

1. Are municipal officers required to swear to monthly returns submitted to the Department of Health and Welfare to secure reimbursement of costs of local government for general assistance?
2. Does P.L. 1973, Chapter 64, apply to all municipal employees as well as elected municipal officials?
3. Does P.L. 1973, Chapter 470, apply to the individuals who are appointed or hired by the elected council or selectmen and are responsible for administering the local welfare program?

ANSWERS:

1. Yes.
2. Chapter 470 applies to elected or appointed officials.
3. No.

REASONS:

1. Chapter 64 and 470 (both P.L. 1973 and both quoted in the opinion) are contemporaneous enactments. Chapter 64 states a general rule. Chapter 470 states a special rule, applicable to monthly returns of general relief. The indications of a legislative intent to establish a special rule are:

(a) The requirement for the "monthly return under oath on forms provided. . . " is highly explicit and is preceded by the phrase "For the purposes of this section. . . ." Such explicitness in the description of the requirement and in its introductory qualification, seems to indicate a legislative intent to give this particular "return" special treatment. Thus, we conclude that this was intended as an exception to the general rule, i.e., C. 64.

(b) The amendments made by C. 470, P.L. 1973, are a part of Chapter 1251, T. 22. Section 4461, another part of Chapter 1251, T. 22, requires that all persons performing duties imposed by that Chapter "shall be sworn." Thus, all persons submitting the monthly returns under 22 M.R.S.A. § 4499 must be persons sworn to faithful performance of duty. Hence, if C. 64, P.L. 1973, is operative as to 22 M.R.S.A. § 4499, we would seem to have to conclude (1) that the Legislature enacted (by C. 470, P.L. 1973) a requirement in § 4499 that the return be notarized even though made by an official sworn to faithful duty, and (2) by the contemporaneous enactment of C. 64, P.L. 1973, simultaneously repealed such notarization requirement.

(c) The requirement of notarization even though already sworn to faithful duty is not a useless requirement; it serves as a special reminder of the need for truthfulness. The Legislature may well have concluded that in this particular area there was a need for a special reminder.

2. Chapter 64 applies to municipal officers only, and a municipal officer is defined by Chapter 64 to mean any elected or appointed member of a municipal government. 30 M.R.S.A. § 1901(8).

3. Chapter 470 states that the persons submitting the return to the Department must be the municipal officers. A municipal officer is defined by Chapter 470 to mean the mayor and alderman of cities, the selectman of towns, the assessors of plantations and the overseers of the poor. 1 M.R.S.A. § 72(12); P.L. 1973, Chapter 470.

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