

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

STATE OF MAINE

Inter-Departmental Memorandum Date June 17, 1974

To John V. Keaney, Chairman

Dept. Industrial Accident Commissioner

From Leon V. Walker, Assistant

Dept. Attorney General

Subject Mandatory Workmen's Compensation Law (P.L. 1973 c. 746)

You ask if a charitable, religious, educational or other nonprofit corporation is subject to the mandatory provisions of the reference law. Chapter 746, Sec. 1, amends 39 M.R.S.A. §2 sub § 1, to read as follows:

~~"1. Employer. 'Assenting-employer Employer' shall include all private employers who have become assenting employers in accordance with sections 21 to 27, and it shall include all towns voting to accept the Act. This Act shall be compulsory as to private employers, the state, counties, cities, water districts and all other quasi-municipal corporations of a similar nature, but said sections 21 to 27 shall not apply thereto or to assenting towns except as hereinafter provided."~~

Employer is further defined in 39 M.R.S.A. §2, sub §6, which was amended by Chapter 746, Sect 2, to read as follows:

"Employer further defined. 'Employer shall include corporations, partnerships, natural persons, the State, counties, water districts and all other quasi-municipal corporations of a similar nature, cities and such towns as vote to accept this Act, and if the employer is insured it includes the insurer unless the contrary intent is apparent from the context or it is inconsistent with the purposes of this Act."

39 M.R.S.A. §2, sub § 5 c, without any amendment by Chapter 746, provides:

"C. Notwithstanding any other provision of this Act, any charitable, religious, educational or other nonprofit corporation that may be or become an assenting employer under this Act, may cause any duly elected or appointed executive officer among those to whom such corporation secures payment of compensation in conformity with subchapter II; and such executive officer shall remain an employee of such corporation under this Act while such payment is so secured. With respect to any such corporation that secures compensation by making a contract of industrial accident insurance, specific inclusion of such executive officer in such contract shall cause such officer to be an employee of such corporation under this Act."

You ask whether the language emphasized above, remaining in subsection 5 c, of the Act, after the amendments contained in Chapter 746, is sufficient to permit a legal interpretation that a charitable religious, educational or other nonprofit corporation is subject

AN INFORMAL OPINION

to the mandatory provisions of Chapter 746. We answer in the affirmative, except for the provision relating to executive officers.

It is clear from the above quoted provisions, and from the fact that any reference to assenting employers, except as in § 2, sub-§5C, has been deleted from the Act by other sections of Chapter 746, that the Act is mandatory for all employers, including the reference corporation. The only exception is in the case of the executive officers of such corporations, who may be included as employees by the voluntary act of the employer in securing payment of compensation to them in accordance with the Act.

LVW/bls/mf

Leon V. Walker
Assistant Attorney General