

MAINE STATE LEGISLATURE

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March 17, 1975

Asa A. Gordon, Deputy Commissioner

Educational and Cultural Serv

John W. Benoit, Jr., Deputy

Attorney General

Construction of Regional Vocational School Facilities

This is a reply to your inter-departmental memorandum dated March 5 posing four questions.

1. First, you ask,

"If a municipality gives a 99-year lease on a piece of land to the cooperative board, may the citizens vote to build a building on that leased land, and may the State pay aid on such a building constructed on leased property?"

The provisions of 20 M.R.S.A. § 2356-A provide that: "The cooperative boards of the 11 new regions for vocational education as set forth in this subsection shall have all the rights and duties that are set forth in sections 309, 309-A and 309-B." Turning to the provisions of 20 M.R.S.A. § 309-B, we note that the Legislature has authorized a cooperative board to lease real property for educational purposes. In the event that the cooperative board of a regional vocational facility leases land and constructs a school building thereon, the State is authorized to pay aid on such a building.

2. Your second question asks,

"May a cooperative board lease a building with the intention to buy and be reimbursed on expenditures made to renovate the building for vocational needs?"

We are orally informed that this question intends to reach the situations wherein a cooperative board leases a vacant building located, for example, in a shopping center or in an industrial park, with the intention of purchasing the building at some future date. The leasing power of a cooperative board, specified in the answer to the first question, equally applies to this question, and for that reason the answer to the second question is in the affirmative.

3. The third question posed is,

"May the voters of an administrative unit vote to give land to the cooperative board upon which that board may build vocational facilities?"

By use of the term "give," in the question, we assume you mean to grant as by deed. The answer to the question turns upon the facts of each case. To the extent that the land in question involves a Maine School Building Authority project, the sections in Title 20 pertaining to that Authority must be given consideration together with the terms of the trust agreement that the Authority holds with the trustee bank. Moreover, existing obligations of the administrative unit in the form of bonds must be given attention. To the extent that the land in question stands as security for the bondholders, a grant might constitute impairment of that security. We do not intend that the previous sentence be taken out of context. In situations contemplated by the question, bond counsel representing the administrative unit should be contacted for an opinion. The provisions of 20 M.R.S.A. § 225, authorize school administrative district directors to dispose of real property in the event the voters of the district so approve. Other administrative units have similar powers under other applicable Maine statutes. In conclusion, Maine law does provide for disposition of school property by school officials subject to the administrative unit's responsibilities, if any, created by outstanding bonds, or other similar factors.

4. Your last question asks,

"May a cooperative board build a shop area and attach it to a school building owned by an administrative unit provided that the land under the building is deeded to the cooperative board?"

This question is more appropriate for counsel representing the administrative unit in question. An examination of the laws relating to public schools does not reveal statutory language either affirmative or negative in the matter.

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