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STATE OF MAINE

Inter-Departmental Memorandum Date July 8, 1975

To W. G. Blodgett, Ex. Director

Dept. Maine State Retirement

From Donald G. Alexander, Assistant

Dept. Attorney General

Subject Eligibility of Vocational Education Regions to Participate in Social Security Program under 5 M.R.S.A. § 1222 sub-§5

Your memorandum of June 26, 1975 asked if Vocational Education Regions established pursuant to P.L. 1973 Chap. 605 are "political subdivisions" within the meaning of 5 M.R.S.A. § 1222-6 and thus eligible to participate in the social security program.

The answer is No.

Pursuant to 5 M.R.S.A. § 1222-6 a unit of government, to be an eligible political subdivision must be: "a juristic entity which is legally separate and distinct from the State or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision."

20 M.R.S.A. § 2356-A-5 does provide that: "Each vocational region is declared to be a quasi-municipal corporation within the meaning of Title 30, section 5053, and all the provisions of said section shall be applicable thereto." However, 30 M.R.S.A. § 5053 relates only to debt liability. The section reads as follows:

"The personal property of the residents and the real estate within the boundaries of a municipality, village corporation or other quasi-municipal corporation may be taken to pay any debt due from the body corporate. The owner of property so taken may recover from the municipality or quasi-municipal corporation under Title 14, § 4953."

Beyond this provision relating to debt liability there is no provision creating vocational regions as a public body corporate and politic or otherwise setting these regions off as separate and distinct political entities.

The cooperative agreements to create vocational regions may be mandatory. The initial language of 2356-A-5 states that: "There are created 11 new regions for vocational education whose boundaries are set forth in this subsection." The vocational regions so created, however, are largely controlled and directed by their participating administrative districts. The governing body, decisions to organize and allocations of costs and representation are not controlled by any set structure but by cooperative agreements among the participating administrative districts.

Though the Board has authority to borrow funds in anticipation of members payments, decisions to issue bonds and notes for capital construction must be reached under the same procedures as are followed by school administrative districts with a referendum vote in each participating municipality. Further, the annual budget of the cooperative board must be submitted to and approved by the Legislative body of each municipality within the region with a majority vote of the municipalities determining the budget. This is unlike the procedure in school administrative districts where the financial decisions are basically made by citizen meetings called by the school administrative district. (Compare 20 M.R.S.A. §§ 225, 226, 305).

Further, Chapter 605 was in the nature of an amendment to a longer section, 20 M.R.S.A. § 2356-A which generally authorizes administrative units to create regional, technical and vocational education centers.

Thus the vocational centers appear to be centers established and controlled by agreement of the participating school administrative districts and the municipalities in those districts. A governmental entity so restricted in its authority, even if it is a quasi-municipal corporation, is not a juristic entity sufficiently separate from other subdivision to be considered a political sub-division within the meaning of 5 M.R.S.A. § 1222-6.

DGA/mf