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December 9, 1975

H. Sawin Millett, Jr., Commissioner

Educational & Cultural Services

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Attorney General

Borrowing Money for School Bus Purchases

Your memorandum of November 3, 1975, described a situation in which a school administrative district has received the approval of your Department, pursuant to 20 M.R.S.A. § 220, for the purchase of three school buses. The district will have to procure a short-term loan in order to finance the purchase, but it is assumed that there will be no regularly scheduled district meeting to discuss budget matters in the near future. It is proposed that the district hold an emergency meeting to obtain voter approval of the short-term finance plan.

On the basis of the foregoing facts, your first question is:

"In light of the wording in Section 220, of Title 20, may a School Administrative District borrow money when authorized at a special meeting for the purpose of purchasing a school bus or buses?"

The answer to this question is affirmative. The wording in 20 M.R.S.A. § 220 to which you refer is:

"The Commissioner of Educational and Cultural Services shall have the responsibility of approving or disapproving all school bus purchases, contracts, and leases. The school directors are authorized to procure short-term loans not to exceed 3 years for the purchase of school buses when such authorization has been approved at the annual budget meeting."
(emphasis supplied)

The question is actually whether the underlined words act as words of limitation, so that only loans approved at the "annual budget meeting" would be legal. In our opinion, a restrictive interpretation of this nature should not be used as it would not advance the legislative intent of the statute, and could cause unnecessary hardship for the districts.

The sentences quoted above were added to section 220 by P.L. 1975, c. 111 (L.D. 1205), enacted on an emergency basis effective March 27, 1975. The substantive parts of the emergency preamble read: "Whereas, there is widespread concern over the proliferation of unwise school bus purchases, contracts and leases; and Whereas, legislation is vitally necessary at the earliest possible moment to prevent such abuse." The limited discussion of the measure in the Legislature

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also focused on the provision that the Commissioner would review school bus matters to prevent unwise business decisions. Legislative Record - House and Senate, March 26, 1975. There was no indication in the legislative history that there was to be a restriction as to when loans may be approved by the voters, in terms of regular versus special meetings.

Presumably the "annual budget meeting" specified in section 220 is the meeting which is held in each district pursuant to 20 M.R.S.A. § 305. Although this meeting is to be held once a year at a time to be determined by the school board, there is also provision in that section for special meetings to pledge the district's credit in emergency situations. Similar provision for emergency meetings is found in 20 M.R.S.A. § 226. Since statutes are to be construed harmoniously where possible [Cram v. Inhabitants of Cumberland County, 148 Me. 515 (1953)], without doing violence to the legislative intent, Section 220 may be properly construed as not excluding approval of short-term loans at special budget meetings. The Commissioner must still approve the bus purchase, so the legislative intent of the amendment is served. Moreover, such construction would avoid potentially serious hardship in the district. Therefore, the answer is that a district may borrow money to purchase school buses on an emergency basis when authorized to do so at a special district meeting, just as the district could borrow for other purposes when authorized in this manner.

Your second question is:

"If [a] School Administrative District borrows money as the result of a special meeting, for the purchase of school buses, will State reimbursement on those bus expenditures be appropriate?"

The answer is that expenditures based on borrowing authorized at a special district meeting, should be treated no differently for State reimbursement purposes than expenditures based on borrowing authorized at the regular annual budget meeting. Expenditures of either type would be treated the same in light of the interpretation of 20 M.R.S.A. § 220 in answer to the first question. These expenditures would be included in the computation of the unit allocation of funds under the School Finance Act of 1975 (20 M.R.S.A. § 3711, et seq). As provided in 20 M.R.S.A. § 3713, 1, C, (3), "Expenditures for transportation of pupils, including the purchase of school buses;" are to be included in computing these allocations.

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