

MAINE STATE LEGISLATURE

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20 M.R.S.A. § 161-5

May 21, 1976

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W. G. Buschmann, Assistant Attorney General
Teacher Contracts, Chapter 723 of the Public Laws of 1975

FACTS:

Chapter 723 of the Public Laws of 1975 amends the second sentence in the first paragraph of 20 M.R.S.A. § 161, sub-§ 5 by reducing the maximum length of the probationary period for teachers from 3 years to 2 years. This amending Act will become effective on July 29, 1976. Most teachers who are completing their second year of probation have signed third year probationary employment contracts for 1976-77.

QUESTION:

What effect does Chapter 723 of the Public Laws of 1975 have on teachers who complete their second probationary year of employment and who sign a third year probationary employment contract for 1976-77?

ANSWER:

Chapter 723 of the Public Laws of 1975 has no affect upon probationary period contracts executed before July 29, 1976, regardless of whether the contract is for a second or a third year of probationary employment. Since there is nothing in the Act which clearly indicates that the 107th Legislature intended a retroactive application of Chapter 723, the Act must be applied prospectively only. Langley v. Home Indemnity Company, 272 A.2d 740 (Me. 1971); Dalton v. McLean, 14 A.2d 13, 137 Me. 4 (1940).

Therefore, contracts entered into before July 29, 1976, for a third probationary year of employment are valid and should not be treated as continuing contracts. It should be noted that Chapter 723 substantively amends the authority of the administrative units relative to the probationary period which may be required of teachers prior to having to decide whether to grant them continuing contracts. Since the substantive rights between the administrative units and the third year probationary teachers are fixed at the date upon which the contracts are executed, these contracts are probationary ones and not continuing contracts, C.F. Batchelder v. Tweedie, 294 A.2d 443 (Me. 1972).

1/ Statutes and Statutory Construction (Sutherland), Sands, C. Dallas (4th Edition - Callaghan & Company, 1973) § 41.04.

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