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Education: Line Item Transfers
20 M.R.S.A. § 3752 - 8

STATE OF MAINE

Inter-Departmental Memorandum Date December 3, 1976

To Asa A. Gordon, Deputy Commissioner Dept. Educational & Cultural Services

From W. G. Buschmann, Assistant Dept. Attorney General

Subject Interpretation of 20 M.R.S.A. § 3752, ^{1/}sub-§ 8 (Line Item Transfers)

QUESTION:

Is a request for line item transfers pursuant to 20 M.R.S.A. § 3752, sub-§ 8, subject to the time limitation set forth in sub-§ 1?^{2/}

ANSWER:

No. It is my opinion that sub-§ 8 of 20 M.R.S.A. § 3752 permits "school committees or school directors" to request line item transfers at any point during the school year. Sub-§ 1 states that:

"Meetings to reconsider actions or to ask for additional appropriations must be called within 30 days of the regular budget meeting."

It is my opinion that line item transfer requests were not intended by the 107th Legislature to be requests "to reconsider actions or to ask for additional appropriations," but rather the 107th Legislature intended that such requests be given separate consideration. If a line item transfer request were to be treated as only another request to reconsider action taken on the budget, then the addition of sub-§ 8 to § 3752 would be surplusage. It is to be presumed that the 107th Legislature intended to give separate meaning and force to sub-§ 8. See Finks v. Maine State Highway Commission, 328 A.2d 791.

1/ This opinion refers only to 20 M.R.S.A. § 3752 as enacted by P.L. 1975, c. 738, § 3. Note that P.L. 19753, c. 746, § 24-Y enacted a separate § 3752 without reference to P.L. 1975, c. 738.

2/ This is an oral request from Deputy Commissioner Asa A. Gordon. The opinion is necessary so that, pursuant to 20 M.R.S.A. § 102, sub-§ 6, the Commissioner of Education, H. Sawin Millett, Jr., may advise school officers of the effect of the recent passage of 20 M.R.S.A. § 3752, sub-§ 8.

Sub-§ 8^{3/} has its own time frame of 15 days within which notice of meetings to approve a line item transfer "must be posted." There is no reference to sub-§ 1's 30-day limitation. Also, since the 30 days referred to in sub-§ 1 would have tolled before the school year would have begun, it would be illogical for school committees or directors to be confined to the 30-day limitation. It would be during the school year that the school committees or directors would have the need to request approval for line item transfers, not before the school year begins. The practical consequences of interpreting sub-§ 8 not to be subject to the 30-day limitation spelled out in sub-§ 1 would make sub-§ 8 a meaningful and useful addition to § 3752 so that fiscal emergencies which might arise during the school year might be dealt with. See Tidemann v. Johnson, Me., 316 A.2d 359 at 364 (1974).

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Assistant Attorney General

WGB/ec

3/ "8. Line item transfers. Meetings required by school committees or school directors for the purpose of transferring funds from one category or line item to another must be posted for voter approval or council action within 15 days of the date of the request.