

# MAINE STATE LEGISLATURE

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Debt Limit  
20 M.R.S.A. 3471  
" " 3472

Me Court Act 7 sec. 17

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July 21, 1977

H. Sawin Millett, Jr., Commissioner  
Educational and Cultural Services  
State House  
Augusta, Maine 04333

Re: L.D. 583 - AN ACT Relating to Approving and Financing  
School Construction

Dear Mr. Millett:

FACTS:

Section 7 of L.D. 583 would enact chapter 502 of Title 20, Maine Revised Statutes Annotated, entitled "School Construction Projects." Presently, school construction projects are controlled by 20 M.R.S.A., chapter 501. The new chapter 502 would replace the construction laws contained in chapter 501 for projects approved after July 1, 1977.

Under the School Finance Act of 1976, a moratorium had been declared on all new school construction projects during the 1977 fiscal year. See 20 M.R.S.A. § 3750. In the Statement of Fact attached to L.D. 583 it was declared that one of the purposes of L.D. 583 is to end the moratorium.

Pursuant to the proposed language contained in L.D. 583, in particular 20 M.R.S.A. § 3471, sub-§ 2, paragraph A, the "State Board of Education is authorized to approve projects as long as no project approval will cause debt service costs, as defined in section 3743, sub-§ 10, paragraph A, to exceed \$30,000,000 in any subsequent fiscal year."

Pursuant to the proposed section 3472, sub-§ 1, the administrative unit's share of the total cost of "each project shall be either 5% of the total cost or the equivalent of one mill multiplied by the

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unit's state valuation, whichever is less." Since the unit's share is limited to the above, the balance of the cost of the project is presumed to be the state's share of the project. Finally, pursuant to the proposed section 3472, sub-§ 1, paragraph C, "the State shall pay its share of project costs to units as the bonds become due."

In anticipation of L.D. 583 becoming law, the State Board of Education has scheduled a meeting on Thursday, July 21, 1977, to consider applications for new school construction projects.

QUESTION:

If L.D. 583 becomes law, would the State Board of Education have authority under the proposed chapter 502 of Title 20, Maine Revised Statutes Annotated, to approve school construction projects during the fiscal year 1978?

ANSWER AND REASONS:

Under L.D. 583 the State Board of Education is authorized to approve school construction projects during the fiscal year 1978. However, the language contained in L.D. 583 raises questions as to whether the State Board of Education may exercise that authority without conflicting with the constitutional prohibition set forth in M.R.S.A. Const. Art. IX, section 14, "State Debt Limit." In particular, section 14 prohibits loans backed by the credit of the State except within specific guidelines contained in section 14; those guidelines do not apply to L.D. 583.

If the effect of the State Board's authorizing school construction projects in fiscal year 1978 is to create a debt which would exceed the debt limit of the State, then the authorizing statute would be unconstitutional and the State Board would not be able to approve school construction projects in fiscal year 1978. However, if the approval of the school construction projects by the State Board merely places a moral obligation on the State to subsidize the cost of school construction projects and does not pledge the credit of the State in this regard, then the statute would not violate Art. IX, Section 14.

A basic role of statutory construction is that if a statute is "susceptible of a reasonable interpretation which would satisfy constitutional requirements" then the statute should be so interpreted. Portland Pipeline Corporation v. Environmental Improvement Commission, Me., 307 A.2d 1, 15 (1973).

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Pursuant to the language contained in the proposed 20 M.R.S.A. § 3471, sub-§ 2, paragraph A, the "State Board of Education is authorized to approve projects as long as no project approval will cause debt service costs as defined in section 3743, sub-§ 10, paragraph A, to exceed \$30,000,000 in any subsequent fiscal year." Although this language, coupled with the language found in other sections of L.D. 583, appears to authorize the State Board to create state debts in violation of Art. IX, section 14 of the Maine Constitution, there are other statutory indications to the contrary. Specifically, 20 M.R.S.A. § 3753 provides, in pertinent part:

"All bonds, notes or other evidences of indebtedness issued for school purposes by the administrative unit . . . for capital outlay purposes [school construction projects] . . . shall be general obligations of the administrative unit. The municipal officers, school directors, trustees or other governing board exercising like functions in each administrative unit shall require the sums as may be necessary to meet in full the principal of and interest on these bonds, notes or other evidences of indebtedness payable in each year to be assessed and collected in the manner provided by law for the assesement and collection of taxes, provided that the sums be so assessed and collected shall be reduced by the amount of any allocation of funds appropriated by the legislature and to become available to the unit to pay the principal and interest in the year as shall be certified to the unit by the commissioner of Educational and Cultural Services on or before April 1st."

Since these bonds and notes are general obligations of the administrative unit, it may be inferred that they are not obligations of the State.

Therefore, it is my opinion that the State debt limit will not be affected by the action of the State Board of Education in approving school construction projects in fiscal year 1978. For case law supporting the position that the bonds and notes sold to finance these school construction projects are not general obligations of the State, see Borchert v. Scott (Ark., 1970) 460 S.W.2d 28, 31, and Davis v. Phipps (Ark., 1935), 85 S.W.2d 1020.

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In order to advise applicants that the State's credit does not stand behind the sale of bonds for school construction projects the following language should be included in the concept approval and the final certificate of approval issued for each project by the Board:

"All bonds, notes or other evidences of indebtedness issued for school construction projects as a result of this approval shall be the general obligations of the administrative unit receiving this approval. The State's participation in subsidizing the retirement of those bonds, notes or other evidences of indebtedness is limited to the amount of any allocation of funds appropriated by the Legislature for this purpose in any given fiscal year."

Sincerely,

JOSEPH E. BRENNAN  
Attorney General

JEB:mfe