

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04330

RICHARD S. COHEN  
ATTORNEY GENERAL

September 19, 1979

The Honorable James K. McMahon  
State Representative  
Box 125  
Kennebunk, Maine 04043

Re: Reconsideration of S.A.D. Cost Sharing Formula

Dear Representative McMahon:

This is in response to the several questions you raised in your letter of September 12, 1979. Your first question inquires as to whether the language in 20 M.R.S.A. §305 would allow a municipal officer to vote by proxy or to cast an absentee ballot at the meeting authorized in the third paragraph of §305. The specific language in the third paragraph of §305 states that "any change in the method of sharing costs must first be approved by a vote of 2/3 of those present and voting." (Emphasis supplied) The Legislature thereby authorized only those individuals who are present to be able to vote on the proposed change. With that legislative limitation, a municipal officer who is unable to attend the meeting is not authorized to send a proxy or to vote by absentee ballot.

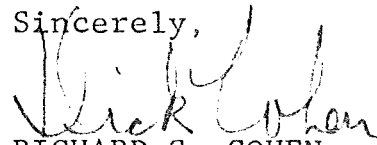
The second question you have raised is whether the vote cast by 2/3 of those present and voting must be cast in accordance with the weighted vote which the school administrative district's board of directors utilize. Again, the Legislature has been very specific as to how the vote would be cast at the meeting authorized in the third paragraph of §305 and there is no reference to a weighted vote being utilized. Rather, it appears that the Legislature has granted each participant an equal voice in the vote.

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The final question you have raised is whether a teacher, who is a municipal officer, is eligible to participate in the meeting outlined in the third paragraph of §305. Since 30 M.R.S.A. §2251.4 specifically authorizes a municipal officer to hold a teacher's contract with the municipality which he serves, it would appear that there is less chance of a conflict of interest if the municipal officer is teaching in the district which serves the municipality. In effect, there is an additional buffer zone between the teacher/municipal officer and the affairs of the school administrative district which serves the municipality. Since there does not appear to be any conflict of interest for the teacher to serve as a municipal officer of one of the member municipalities of the school administrative district, then it would appear that the teacher is authorized to fulfill his municipal officer's duties in accordance with the third paragraph of §305. In reaching this conclusion, we would note that it is unlikely that the teacher/municipal officer would have any special pecuniary interest in the outcome of the cost-sharing vote by virtue of his or her position as a teacher.

Please feel free to contact me if you have further questions regarding this matter.

Sincerely,



RICHARD S. COHEN  
Attorney General

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