

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



84-12

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

March 15, 1984

Honorable Philip C. Jackson
Maine House of Representatives
State House Station #2
Augusta, Maine 04333

Dear Representative Jackson:

I am writing in response to your inquiry of January 12, 1984, requesting the interpretation of this Office of P.L. 1983, ch. 544, "AN ACT to Equitably Share the Cost of Police Training," to a situation which has recently arisen in the Town of Mechanic Falls. Chapter 544 enacted 25 M.R.S.A. § 2807 which provides, among other things, that whenever a law enforcement officer on the payroll of a particular municipality is trained at the Maine Criminal Justice Academy on or after September 1, 1983 at the municipality's expense, and whenever such officer leaves employment of the paying municipality and is hired by another municipality during the first year after his graduation from the Academy, the second municipality shall reimburse the first for the full cost of training.

The facts of the situation in Mechanic Falls, as you related them to my staff, are as follows: The town had in its employ a law enforcement officer whom it sent, at its expense, to the Maine Criminal Justice Academy after September 1, 1983. Upon the officer's return from the Academy, he resigned his position on the local police force in order to further his education at an institution of higher learning. The officer is now considering employment as a part-time law enforcement officer with the Town of Bridgton. Your question is whether

the Town of Bridgton, if it hires the officer, would be obliged to compensate the Town of Mechanic Falls for the officer's education at the Maine Criminal Justice Academy.

The key portion of the statute governing this situation is its final paragraph, which provides:

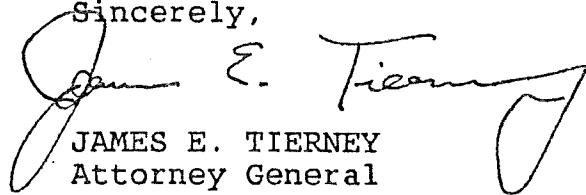
Reimbursement shall not be required when the trained officer hired by a governmental entity had his employment with a prior governmental entity terminated at the discretion of the governmental entity. (emphasis added).

The question in the case at hand, therefore, is whether the termination of the officer's employment with the Town of Mechanic Falls occurred at his or the town's initiative. The precise facts on this point are unclear. The officer apparently is of the view that on returning from the Academy, he made himself available to the Town on a part-time basis, which offer the Town refused. The Town, however, with whose Manager my staff has spoken, indicates that no such offer was made, but that even if it were, the officer would be ineligible for employment because he now lives in Bridgton and is thus in violation of a town rule that law enforcement personnel live within ten miles of Mechanic Falls. Finally, it is not clear whether the officer was living in Bridgton at the time of his former employment with Mechanic Falls, or only moved there upon his return from the Academy.

In view of this uncertainty on the true facts of the situation, I regret that my Department is unable to answer your question. The most that can be said is that if Mechanic Falls did offer the officer employment on a part-time basis, but he declined and then moved to Bridgton, or if the officer, knowing of Mechanic Falls' ten-mile rule, moved to Bridgton and only then inquired at to part-time employment, Mechanic Falls would be entitled to compensation for his training were he to be subsequently hired as a part-time officer by Bridgton since he would not have left Mechanic Falls' employment "at the discretion of" the town. If, on the other hand, the officer, still residing in Mechanic Falls, offered to work for the Town on a part-time basis and the Town refused the offer, compensation would not be required, since Mechanic Falls would have been responsible for not employing him.

Even though my office is in no position to resolve the factual issues necessary to resolve the question, I hope that you find the foregoing helpful. Please feel free to reinquire if you think that I can be of any further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "James E. Tierney". The signature is written in dark ink and is positioned above the typed name and title.

JAMES E. TIERNEY
Attorney General

JET/dab

cc: Hon. Richard L. Trafton