

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Victor Christgau
Director

14:CP:C

DATE: April 15, 1954

FROM : Perrin Lowrey, Assistant Director

SUBJECT: Ratification of Modification No. 15 of the Coverage Agreement with
The State of Rhode Island

Enclosed for the Director's ratification is the above identified modification of a Federal-State agreement extending coverage to additional coverage groups.

2 Copies Enclosed for Signature Unknown No. of Employees

1 Total No. of Coverage Groups 12/20/51 Date of Execution of
Original Agreement

Executed for State by: Raymond H. Hawksley

Types of Coverage Groups: 1 Bridge Commission

Effective Date of Coverage: January 1, 1952

Remarks:

The modification was executed by the regional representative pursuant to year end delegation of authority. The Office of the General Counsel had some reservation as to whether the Jamestown Bridge Commission constituted a "city or town" or instrumentality thereof within the meaning of the statutory definition. The Attorney General has advised the State official that the bridge commission is an instrumentality of the Town of Jamestown. The Attorney General's opinion is enclosed for your information.

It is recommended that the Director ratify, date and sign the enclosed modification pursuant to the authority delegated by the Secretary and that the enclosed letter to the State official be released. This submittal and the enclosed modification have been cleared with the Office of the General Counsel.

Perrin Lowrey
Perrin Lowrey

Enclosures (3)

Cleared by Office of General Counsel *H.P.*

Ratified
Approved
4-21-54

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MODIFICATION NO. 15

Ray
CONTROL

TO RHODE ISLAND STATE SOCIAL SECURITY AGREEMENT BRANCH

The Secretary of Health, Education and Welfare and the State of Rhode Island acting through its representative designated to administer its responsibilities under the Agreement of December 20, 1951, hereby accept as additional coverage groups under said Agreement and acknowledge the full applicability of the original Agreement to the following:

<u>COVERAGE</u>	<u>NAME</u>
Jamestown Bridge Commission	Commodore Cary W. Magruder Chairman Jamestown, R. I.

The effective date for coverage of this group shall be January 1, 1952.

Approved for the State of Rhode Island this twenty-first day of October 1953.

by Raymond H. Hawkesley
GENERAL TREASURER

Approved for the Secretary of Health, Education and Welfare this 31st day of December 1953.

Secretary of Health, Education and Welfare

by Robert C. Kelly
~~Director~~
~~Bureau of Old-Age and Survivors Insurance~~

John R. Campbell Regional Representative
Bureau of Old-Age and Survivors Insurance

IT IS FURTHER AGREED THAT THIS MODIFICATION IS EXECUTED SUBJECT TO RATIFICATION BY THE DIRECTOR, BUREAU OF OLD-AGE AND SURVIVORS INSURANCE OF THE SOCIAL SECURITY ADMINISTRATION.

Ratified this 21st day of April, 1954

By Victor Christgau
Victor Christgau, Director
Bureau of Old-Age and Survivors Insurance

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STATE OF RHODE ISLAND
DEPARTMENT OF THE ATTORNEY GENERAL
PROVIDENCE COUNTY COURT HOUSE
PROVIDENCE

WILLIAM E. POWERS
ATTORNEY GENERAL

EDWARD F. J. DWYER
FRANCIS J. FAZZANO
ARCHIE SMITH
WILLIAM J. COUNIHAN, JR.
RAYMOND J. PETTINE
ASSISTANT ATTORNEYS GENERAL

March 25, 1954

JOHN F. O'CONNELL
OVILA LAMBERT
ALFREDE E. MOTTA
ARTHUR W. COSTANTINO
COUNSEL

Hon. Raymond H. Hawksley
General Treasurer of Rhode Island
State House
Providence, Rhode Island

Dear Mr. Hawksley:-

We are replying herewith to your request for supplementation and clarification of our opinion to you under date of September 1953. Specifically you ask:-

1. In referring to the Jamestown Bridge Commission as "board or commission" is it your interpretation that the aforesaid Jamestown Bridge Commission is an integral part of the Town of Jamestown or more in the nature of an instrumentality which would constitute a separate legal entity?

Upon examination of our opinion to you we find that there could be some misinterpretation in the first question you raise. The Jamestown Bridge Commission is not a department, or board, or commission of the Town of Jamestown in the sense that it is an integral part of the town, but is rather an instrumentality, a distinct juridical entity. It is as it were a corporation owned by the town and in our opinion comes within the definition of city or town as provided in Chapter 2675 Public Laws of 1951. You will note that in our opinion we pointed out it would be the bridge commissioners and not the town council who would be required to effectuate an agreement between the commission and the General Treasurer.

You further ask:-

2. Your clarification of the ambiguity which arises from the fact that the commission is stated to be a state agency and your opinion that control is vested solely in the Town of Jamestown, since there seems to be some confusion based on the decision of the Supreme Court, Powers v. Caswell, 79 R. I. P. 188 will also be appreciated.

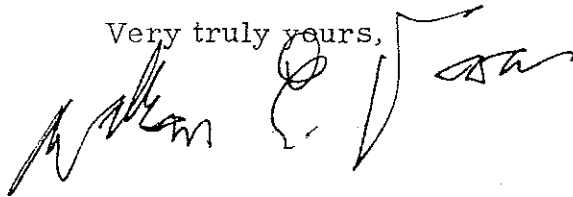
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Because the election and control of the Bridge Commission is by the qualified electors of the Town of Jamestown, it is our opinion that this is a municipal and not a state agency despite the language of Chapter 2675, P. L. 1951. It is historic in Rhode Island that whenever the highways of the state are the subject of legislation by the General Assembly, the term "state agency" or "agency of the state" invariably is used because of the indispensable link which any bridge or highway has in the network of transportation facilities throughout the state. This is true even though the bridge or highway is owned by, maintained by and supervised by a municipality exclusively without aid from the state.

It is our opinion that Powers v. Caswell 79 R. I. P. 188 supports our point of view. There the court followed the historical and statutory provisions of Rhode Island law and procedure that no elected body can fill a vacancy within that body. Whenever a vacancy occurs in any board, commission, or agency of a city or town, the vacancy is filled by the Town Council, but the Town Council in turn cannot fill a vacancy created by the death or resignation of one of its members. The reason for this is clear. It is designed to prevent the electors who chose this Bridge Commission, or Town Council, or School Committee, on the belief that the people elected would serve, from being deceived through a process of resignations with the resulting vacancies filled by persons not acceptable to the qualified electors. The court acknowledged that if elected commissioners fail to serve, there must be some method whereby it could be established they had abandoned their positions and others appointed to serve in their stead.

We hope that the foregoing will be of some assistance to you in clarifying the questions which you raise. If we can be of any further service do not hesitate to call upon us.

Very truly yours,



Attorney General

WEP:oh

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