

MAINE STATE LEGISLATURE

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December 23, 1936

Mr. H. S. Weymouth
Supt. State Aid Roads
Highway Department
Augusta, Maine

Dear Sir:

At the request of Roy Owsley, I am writing you relative to the construction of a state highway between Brownville and Millinocket, and especially as to the authority of the Board of County Commissioners to assess a portion of the costs of construction against the land owners of an unincorporated township under the provisions of sections 54 and 56 of Chapter 13, Revised Statutes (1930) as amended by Chapter 216 of the Public Laws of 1933.

You will notice that section 54 provides that: "When a road is laid over lands under section fifty-five of chapter twenty-seven, the county commissioners shall at their first regular session thereafter assess thereon and on adjoining townships benefited thereby, such an amount as they judge necessary for making, opening, and paying expenses attending it:..".

Section 55 of Chapter 27, provides that: "The county commissioners, on petition ****, may lay out, alter, or discontinue a highway on any tract of land in their county, etc."

It, therefore, appears that section 54 relates solely to roads laid out by the county commissioners, and would not apply to the road or highway in question which, as I am informed, was laid out by the State Highway Commission.

Section 56, amended as aforesaid, provides that: "Said county commissioners in October annually****shall make an inspection of all county roads, State and State-aid highways and other roads located as town roads in the unincorporated townships in their counties and shall thereupon make an estimate of the amount needed for repairs, maintenance, snow

H. S. Weymouth
Supt. State Aid Roads
December 23, 1938
Page 2.

removal and improvements so as to comply with the provisions of the State Highway laws, and to otherwise make them safe and convenient for public travel for the following year and assess thereon not exceeding 2 percent of the valuation thereof, etc."

It is apparent that the provisions of this section apply only to repairs and improvement of roads already constructed.

I understand your inquiry is concerning new construction of a road laid out and being constructed by the State Highway Commission, consequently, I have to inform you that I do not know of any provision of our statutes which authorizes the assessment of the tax you mention.

I do not know why the tax provided for in section 54 is limited to roads laid out by the County Commissioners except that it was enacted before any other agency had power to establish roads in unorganized townships.

In case the County Commissioners should decide to assess the tax provided for in Chapter 216, P. L. 1933, it is possible that no objection would be made by parties in interest.

Very truly yours,

Sanford L. Fogg
Deputy Attorney General

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