

MAINE STATE LEGISLATURE

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September 17, 1956

To H. S. Weymouth, State Aid Engineer, Highway
Re: Town Improvement Anticipation

You have requested my opinion as to whether the Commission may approve anticipation of next year's state aid money and the transfer of the fund to Town Road Improvement as a simultaneous deal.

As I understand Section 135 of Chapter 23, it permits the town to anticipate the money to be paid to it and to borrow or otherwise obtain the funds to do the work earlier than the appropriation would permit.

The mechanics of the section as it applies to the Commission are two-fold:

1. It approves of the anticipation;
2. It reimburses the town for "expenditures previously made for the improvement of state aid roads".

Section 55 provides for the use of state aid funds in conjunction with Town Road Improvement money on unimproved roads, if the Commission authorized the transfer. This section was enacted later than the Town Road Improvement law and can be construed as amendatory thereof. It intended to permit the use of state aid funds on unimproved roads if the Commission approved.

Section 135 was amended in 1955 with but one purpose in mind, i.e., to limit the long-range anticipation that had been increasing every year. However, the legislature could have amended the section to include Town Road Improvement funds and it did not do so.

Section 135 permits "reimbursement" for "expenditures previously made for the improvement of state aid roads". A strict interpretation of the language would negate reimbursement, if the funds were not spent on "state aid" roads.

The reimbursement is for funds expended. Funds cannot be advanced by the State. There is no language in the statute to provide reimbursement for funds expended on Town Road Improvement anticipation. On the contrary, the language in the original Town Road Improvement Act was carefully limiting.

Although Section 55 permits extension of aid to Town Road Improvement projects, the history of the legislation would indicate that the language should be strictly construed.

It is my opinion that, under the present law, the State Highway Commission could not reimburse towns for money spent on Town Road Improvement projects under the anticipation theory of Section 135.

L. Smith Dunnack
Assistant Attorney General

LSD/ek