

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

✓  
20

November 8, 1963

Walter B. Steele, Jr., Exec. Sec.

Maine Milk Commission

John W. Benoit, Assistant

Attorney General

**Transfer of Dairy Council Funds to Maine Milk Commission;  
Assessment of Costs.**

Your memorandum of October 11, 1963, is acknowledged.

**FACTS:**

It is estimated that expenditures by the Milk Commission will very soon exceed revenues realized. A bill has been prepared for possible introduction into the forthcoming special session of the Maine Legislature amending the Maine Milk Commission law so that the necessary funds may be realized in the future. However, it is anticipated that additional funds will be necessary to properly administer the law prior to this special session (expected in early 1964). The Maine Milk Commission and the Maine Dairy Council have discussed this matter and the Dairy Council is willing to provide the Milk Commission with necessary funds in any way which is deemed to be legal and proper.

The Maine Milk Commission has not, at any time, withheld funds for the expenses incurred in collecting the Dairy Council's portion of the total hundredweight fee assessments, such as the cost of the proper reporting forms, postage, clerical time, travel by (our) field staff and other general costs necessary to administer the provisions of the Maine Milk Commission Law.

**QUESTIONS:**

1. Whether the Maine Milk Commission may by statute, or whether said Commission has the inherent right to, assess the Dairy Council for these administrative costs?

2. If not, would it be legal and proper for the Dairy Council to transfer the necessary funds -- as a grant -- to the Milk Commission?

**ANSWERS:**

1. No.

2. No.

**REASON:**

Applicable effective statutory provisions are set forth in Revised Statutes, chapter 33, as amended.

"Sec. 6. Records and fees.

. . . .

"Each licensed dealer shall pay to said commission an annual license fee of \$1 and the sum of 3¢ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. . . ."

"Sec. 7. Expenditure of funds.

Moneys received through the provisions of this chapter shall be paid forthwith to the Treasurer of State and shall be appropriated and used for the following purposes:

- I. For the collection of all fees and assessments provided for by this chapter;
- II. For the cost of administering the provisions of this chapter;
- III. 66 2/3% of such moneys raised by assessments for the promotional, educational, experimental plans and the research and advertising purposes as determined by the Maine Dairy Council Committee and for the compensation of and the expenses incurred by the Maine Dairy Council Committee.

Moneys received through the provisions of this chapter shall remain a continuing carrying account and shall not lapse."

The 94th Legislature in 1949 enacted chapter 278 entitled "An Act Imposing an Assessment of One Cent Per Hundredweight on milk for Advertising and Research of the Milk Industry." This chapter increased the hundredweight fee from one cent to two cents and provided that one-half of the sum be allocated for use by the

✓  
Maine milk advisory committee (forerunner of the Maine Dairy Council Committee) for "promotional, educational, experimental plans and the research and advertising purposes." Presently, the substance of the law is the same as that enacted in 1949; and the only changes made since 1949 have been in the amount of the hundredweight fee and in the percentage of the moneys to be utilized by the committee.

✓  
The 96th Legislature in 1953 enacted chapter 370 entitled "An Act Relating to Assessments on Milk Dealers and Producers for Promotional Purposes." Both the hundredweight fees and the percentage of moneys to be utilized by the committee were increased.

✓  
Prior to the enactment of the Public Laws of 1949, chapter 278, creating the Maine milk advisory committee, the Maine Milk Commission made use of the full amount realized from the collection of license fees and the hundredweight fees for the administration of the provisions of the law. Public Laws of 1935, c. 13, § 7. Our Legislature, in 1935, established the hundredweight fee at one cent; and although the amount presently is set at three cents, the Commission is entitled to make use of but one cent in administering the provisions of the law. Annual license fees collected by the Commission are also used to defray Commission administration costs.

✓  
The Maine Milk Commission has no authority to assess the Maine Dairy Council Committee for Commission expenses. Commission expenditures are to be met in the manner prescribed by the Legislature. R. S., c. 33, § 7, I, II, III, as amended.

✓  
The Maine Dairy Council Committee is not authorized to transfer moneys to the Maine Milk Commission. Our Legislature has designated particular uses of moneys by the Committee; and a disbursement to the Commission is not one of the enumerated uses. R. S., c. 33, 7, III, as amended.

JWB:H

John W. Benoit  
Assistant Attorney General