

# MAINE STATE LEGISLATURE

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October 7, 1965

Charles Boothby, Executive Secretary

Soil and Water Conservation  
Committee

Phillip M. Kilminster, Assistant

Attorney General

**Soil and Water Conservation District Financing**

In your memorandum of September 8, 1965, you submit four questions for our consideration. The first question, which refers to the possibility of long term borrowing by soil and water conservation districts is answered below.

**QUESTION:**

Are there any specific state restrictions on the length of time for which money can be borrowed or restrictions on the length of time for deferred payments by Soil and Water Conservation Districts?

**ANSWER:**

See opinion.

**OPINION:**

Among the designated powers which the legislature has granted to districts is the power to borrow money. This power is set forth in 12 M.R.S.A. § 6 (8) and provides that districts shall have the power:

" . . . ; to borrow money and to execute promissory notes, bonds and other evidences of indebtedness in connection therewith."

There is no particular statute which establishes the outermost limits, time wise, for the repayment of loans or other forms of indebtedness. It does not necessarily follow that soil and water conservation districts may therefore engage in long term borrowing transactions however. The power to borrow money implies that the debtor have the ability to repay.

There is every indication to believe that the legislature intended that districts should negotiate only short term loans in order to meet normal operating expenses. Soil and Water Conservation Districts, although agencies of the state, are properly categorized as quasi-municipal corporations. Their corporate rights are strictly derivative of the statutory law which creates them. Unlike certain other quasi-municipal corporations, soil and water conservation districts possess virtually no power to raise revenue. Their source of income is greatly limited. Districts receive money allocated to them from the State Soil Conservation Committee pursuant to the terms of 12 N.R.S.A. § 201. Such revenue is small in amount and designed to meet primarily administrative expenses of the districts.

Although districts may acquire property and income therefrom by way of gifts and bequests pursuant to 12 N.R.S.A. § 6 (3) (7) and may require contributions from those who will benefit from the work of said districts pursuant to subsection (9) of the same section, such source of income hardly represents a reliable source of revenue with which to repay any future indebtedness, long term or short term.

A further reason for the belief that the legislature intended that districts should borrow only on a short term basis lies in the unique fashion in which such districts may be discontinued. Districts may be terminated at any time after 5 years of their organization by petition of land occupiers and State Committee approval as set forth in 12 N.R.S.A. § 7. When the purposes of a district have been fulfilled, or when it becomes evident that a district cannot obtain its objectives, dissolution of said district should result. A district should not have to be maintained merely for the purpose of paying off previously incurred long term indebtedness.

We therefore conclude that the power to borrow money and incur and execute other evidenced of indebtedness refers to short term transactions.

It is stated that several municipalities are interested in developing basic recreational facilities (benches, bath house facilities etc.) on impoundments created through The Watershed Protection and Flood Prevention Act, P. L. 866. Cost of such projects will be borne in part by the municipality involved, and it is hoped that payment of such costs may be effectuated through the increased taxation from shoreline development. Three questions are posed in regard to this matter:

**Questions:**

**How does a municipality proceed to organize a special purpose district or organization to accomplish this purpose?**

**Could such a special purpose district or organization raise money in excess of the legal municipal debt limit, as school administrative districts do?**

**Could the provisions of Title 30, Chapter 242, Municipal Industrial and Recreation Obligations Act, passed by the 102nd Legislature, be applicable in such a situation?**

With some degree of reluctance I must state that the three questions presented are not sufficiently related to the area of Soil and Water Conservation so as to merit an opinion from this office. Each municipality desirous of developing the recreational facilities referred to above should consult its own counsel as to the most efficient means by which to establish said facilities.

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**Phillip M. Kilmister**  
**Assistant Attorney General**