

# MAINE STATE LEGISLATURE

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Title to balances remaining after bond retirement in municipal sinking funds absorbed by School Administrative Districts pursuant to Me. Rev. Stat. Ann., Tit. 20, § 217 (1964).

**FACTS:**

Certain municipalities in the State, unable due to debt limitation or other cause to finance school building construction, have been aided in obtaining needed educational facilities through the auspices of the Maine School Building Authority. The municipality conveys land to the Authority, the Authority sells bonds, and with the money thereby raised erects school buildings on the land and leases back the land and buildings to the grantor municipality for a term of years. After the bonds financing a particular project are retired, the Authority is required by statute to convey the land and buildings to the municipality. Me. Rev. Stat. Ann., Tit. 20, § 3512 (1964). Generally the municipality sets up a sinking fund to amortize the bond principal, and the lease payments are sufficient to cover the debt service charges.

Some of the municipalities which took advantage of Authority aid subsequently joined School Administrative Districts, which Districts assumed the municipalities' obligations on the leases and the bonds. Upon such assumption the Districts then by law became entitled to the use of any sinking funds set aside by the municipalities for the payment of such obligations. Me. Rev. Stat. Ann., Tit. 20, § 217 (1964). The law contains a proviso, however, that the District directors shall only use these funds to retire the assumed indebtedness for which they were previously dedicated. Ibid.

It now appears that in some cases there will be balances remaining in the sinking funds after the bonds have been retired.

QUESTIONS:

In view of the foregoing, the Authority inquires:

1. In the event of a balance in the sinking fund after retirement of the bonds, is the original lessee administrative unit (i.e. the municipality) entitled to any part thereof, as against the District?

2. If it be determined that the District is entitled to such balance, should such balance be carried forward by the District for capital outlay purposes?

OPINION:

As to the first question presented, it is apparent from the statute that a District which assumes any indebtedness of a municipality is entitled to the use of any sinking fund set up by that municipality to retire such indebtedness. Ibid. The statutory language appears sufficient to divest the municipality of all rights in such funds, and any balance remaining after retiring the Authority bonds is properly the District's.

The second question poses a policy problem which should be determined by the District directors in consultation with professional advisors, rather than by this office. The statutory proviso that the funds may not be used for any purpose other than retiring the assumed indebtedness for which they were originally dedicated would appear to be satisfied by the liquidation of such indebtedness.

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