

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

OPINION:

In general, the question was answered by the opinion of the Attorney General dated April 4, 1955, copy of which is attached hereto. The statute cited is now 5 M.R.S.A. § 1585 and is unchanged other than the addition of the words "or agency" after the word "department" in three places.

By 5 M.R.S.A. § 150, the Legislature authorizes the making of temporary loans. It provides a general appropriation of \$10,000,000 for payment of temporary loans. Loans not only must be repaid, but the cost of the use of the money in the form of interest must be paid. If there is not sufficient money in the account set up to pay interest, then money may be transferred from another departmental account in accordance with 5 M.R.S.A. § 1585.

GEORGE C. WEST
Deputy Attorney General

July 17, 1969
Park and Recreation Commission

Frederick M. Bartlett

School Administrative Districts as Recipients of Land and Water Conservation Funds

SYLLABUS:

School Administrative Districts may not enter into agreements with the State of Maine for the acquisition and/or development of public outdoor recreational facilities with financial assistance from the Land and Water Conservation Fund.

FACTS:

The Maine State Park and Recreation Commission, on behalf of the State of Maine, is responsible for the administration of the Land and Water Conservation Fund program which provides, inter alia, for a 50% reimbursement from the federal government for the acquisition and development of public outdoor recreational facilities. Under the provisions of the Act governing this program, public agencies or political subdivisions of the State are eligible to participate. You have provided this office with a project agreement to be used by the State of Maine and political subdivisions of this State which incorporates provisions of compliance and responsibility of the State in accordance with the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964) and provides that the political subdivision (called the Recipient) is also bound by the provisions of said Land and Water Conservation Act.

QUESTION:

Can a School Administrative District contract with or enter into with the State of Maine for the acquisition and/or development of public outdoor recreational facilities?

ANSWER:

No.

OPINION:

For purposes of the Land and Water Conservation Fund Act a public agency, as well as a political subdivision, may be eligible to receive federal land and water conservation funds from a State. The Bureau of Outdoor Recreation, U.S. Department of the Interior, defines a public agency as follows:

“PUBLIC AGENCY: Any non-private entity which serves a governmental purpose. The term includes but is not limited to State agencies, political subdivisions, and public authorities and commissions having governmental functions. For purposes of this manual, it does not include agencies of the Federal Government.” Bureau of Outdoor Recreation Manual. Grants-in-Aid Series. Part 600. General. Chapter 2 Definitions. 600.2.1 (Con.)

Thus, the project agreement by and between the State of Maine and one of its political subdivisions could be changed so that a public agency instead of a political subdivision was a party to the project agreement. It does not follow, however, that all public agencies could enter into such an agreement with the State of Maine, and more specifically a School Administrative District, even though it falls within the Bureau of Outdoor Recreation’s definition of a public agency, could not enter into a Land and Water Conservation Fund project agreement.

School Administrative Districts are established by Maine statute for educational purposes. Our Maine Legislature has set forth its policy in permitting the establishment of School Administrative Districts by the following statutory language:

“Declaration of policy. It is declared to be the policy of the State to encourage the development of school administrative units of sufficient size to provide a more equalized educational opportunity for pupils, to establish satisfactory school programs and to achieve a greater uniformity of school tax rates among the School Administrative Districts and a more effective use of the public funds expended for the support of public schools.” 20 M.R.S.A. § 211.

The provisions of the Maine Revised Statutes relating to School Administrative Districts do not expressly, or by implication, authorize School Administrative Districts to operate and maintain outdoor recreational facilities for the general public.

JEROME S. MATUS
Assistant Attorney General

July 30, 1969

To: Ernest H. Johnson, State Tax Assessor, Bureau of Taxation

Subject: Corporate Franchise Tax, Title 36 M.R.S.A. Sections 2401 Through 2407

SYLLABUS:

LOAN COMPANIES AND INDUSTRIAL BANKS ORGANIZED PURSUANT TO TITLE 9 ARE SUBJECT TO CORPORATE FRANCHISE TAX.

FACTS:

Title 9 of the Revised Statutes permits the organization of certain corporations with fixed capital which engage in banking and financial business, such as trust companies,