

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)

STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

July 21, 1970
Environmental Improvement Comm.

William R. Adams, Director

Formation of Sewer Districts.

SYLLABUS:

A sanitary district formed under the provisions of 38 M.R.S.A. § 1101 (Public Laws, 1965, c. 310, as amended by P. L. 1967, c. 524) cannot include only parts of two municipalities but must include all of the two municipalities.

The municipalities comprising the district must convey title to the district of that part of their sewer property determined by the trustees of the district to be "necessary to carry on the functions of the sanitary district" including "all public sewers".

FACTS:

The cities of Rumford, Maine and Mexico, Maine propose to form a sanitary district under the provisions of Chapter 11, Title 38 M.R.S.A. The district proposed is to include only parts of each town, and it is further proposed that each town will retain ownership and control of its own sewer system and become a customer of the district which will have ownership and control of the interceptor system and the treatment plant.

QUESTIONS:

1. May sanitary districts be comprised of only parts of municipalities?
2. May towns comprising a sanitary district keep control and ownership of their own public sewer systems with the district having control and ownership of only the interceptor system and the treatment plant?

ANSWERS:

1. No.
2. No.

REASONING:

1. The language of 38 M.R.S.A. § 1062 and § 1101 (P.L. 1965, c. 310 as amended by P.L. 1967, c. 524) clearly states the intent of the Legislature that only complete municipalities may form sanitary districts. 38 M.R.S.A. § 1062 states:

"It is declared to be the policy of the State to encourage the development of sanitary districts consisting of a *municipality* or *2 or more municipalities* of sufficient size. . . . A sanitary district consisting of a *municipality, 2 or more municipalities, . . .*" (Italics supplied.)

38 M.R.S.A. § 1101 states:

"The residents of and the territory within a single *municipality* or *within 2 or more municipalities* . . . may form a sanitary district . . . *The municipal officers of the municipality or municipalities* . . . shall file an application . . . setting forth the name or names of the *municipality* or *municipalities* . . . that propose to form said district. . . ." (Italics supplied.)

The law does not refer to “parts” or “portions” of municipalities but speaks in terms of whole entities.

2. The language of 38 M.R.S.A. §1103 and §1106 (P.L. 1965 c. 310, as amended by P.L. 1967, c. 524) sets forth the intent of the Legislature that the sanitary district formed shall have complete ownership and control of the sewer property or properties necessary to carry on the functions of the district. 38 M.R.S.A. § 1103 states:

“ . . . the trustees of said sanitary district shall determine *what sewer property or properties* including treatment plants owned by any municipality within said sanitary district *shall be necessary to carry on the functions of the sanitary districts* and shall request in writing that the municipal officers of any municipality within said sanitary district convey the title to such sewer property . . .” (Italics supplied.)

38 M.R.S.A. §1106 states:

“ . . . the sanitary district shall become operative and *the trustees shall assume the management and control* of the operation of *all of the public sewers, storm and surface water drains*, treatment plants and related structures within the sanitary district and *the municipalities . . . shall have no responsibility* for the operation or control of *the public sewers and storm and surface water drains* and treatment plants within their respective jurisdictions. . . .” (Italics supplied.)

The law thus implies that “the public sewers and storm and surface water drains” are “necessary to carry on the functions of the sanitary district(s)” and thus must be transferred to the trustees of the district.

E. STEPHEN MURRAY
Assistant Attorney General

August 13, 1970

Dean Fisher, M.D., Commissioner, Department of Health and Welfare

Title 32, section 4182 M.R.S.A. (Certification of Social Workers without examination)

SYLLABUS:

The State Board of Social Worker Registration acted beyond its authority by establishing regulations relating to qualifications of social workers for the purpose of certification with the Board which were in direct conflict with Title 32, section 4182, M.R.S.A.

FACTS:

On or about January 15, 1970, the State Board of Social Worker Registration established and circulated regulations as to who could be certified by them as either Registered Social Workers or Associate Social Workers. Among others, the regulations provided that only those applicants with full Masters or Bachelors Degree credentials would be certified without examination, pursuant to Title 32, section 4182, M.R.S.A.

QUESTIONS:

1. Did the State Board of Social Worker Registration act within its rule making authority in establishing regulations requiring Masters or Bachelors Degrees of those persons applying for certification under Title 32, section 4182, M.R.S.A.?