

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

municipalities other than the municipality where the principal office of the trust company or banking institution is located. A bank stock tax is assessed by the State Tax Assessor on the value of the shares of the trust company or banking institution after making adjustments for the value of real estate, vaults and safe deposit plant. There is a statutory obligation on the part of trust companies and banking institutions to pay the assessment to the State Tax Assessor who pays over all receipts from the tax to the Treasurer of State. The portion of the tax attributable to shares of stock owned by nonresidents or corporations must be returned by the Treasurer of State to the municipality in which the trust company or banking institution is located.

QUESTION:

Where is a trust company or banking institution located for purposes of returning the portion of bank stock attributable to shares owned by nonresidents and corporations?

ANSWER:

In the municipality where the principal office of the trust company or banking institution is located.

REASONS:

The pertinent statutory language to be construed is as follows:

“The tax assessed under sections 4751 and 4752 upon shares of such trust company or banking institution owned by nonresidents or by corporations shall be returned by the Treasurer of State, on or before the first day of August, to the municipality in which such trust company or banking institution is located”
36 M.R.S.A. 4753 *emphasis supplied.*

The statutory language refers to “. . . the municipality in which such trust company or banking institution is located” This language does not contemplate more than one municipality otherwise language would have been used such as “the municipalities in which such trust company or banking institution is located.”

The municipality where the principal office of a trust company or banking institution is located is the municipality designated in two certificates filed with the Secretary of State as the municipality where the business of the trust company or banking institution is to be transacted. The two certificates referred to are the Certificate of Organization and the certificate issued by the Bank Commissioner authorizing the trust company or banking institution to transact business. In these certificates filed with the Secretary of State there are often references to branch locations where the trust company or banking institution will carry on business. However, as only one location is contemplated by the statute, the one location is the principal place of business and not a branch location.

JEROME S. MATUS
Assistant Attorney General

May 6, 1971
Aeronautics

Linwood F. Wright, Director

“Airport Construction Fund”; Aroostook Regional Airport Authority; Construction Grant Re Northern Aroostook Airport.

SYLLABUS:

The Director of Aeronautics, with the consent of the Governor and Council, may grant moneys from the "Airport Construction Fund" to a regional airport authority formed by a group of towns under an interlocal cooperation agreement.

FACTS:

The 104th Legislature, at special session, appropriated \$57,500 captioned for use concerning "Northern Aroostook Airport", placing said moneys in the Department of Aeronautics. *P.&S. Laws, 1969, c.254*. The reference legislation carried an emergency preamble and became effective February 10, 1970.

Pursuant to the provisions of 30 M.R.S.A. §1951 – 1958 (Interlocal Cooperation), several municipalities in Aroostook County executed an agreement creating the Northern Aroostook Regional Airport Authority. A copy of the agreement is attached hereto and made a part hereof. On the date when the agreement was approved in this office, July 14, 1969, the following municipalities had executed the Interlocal Cooperation Agreement: Fort Kent, Frenchville, Madawaska, New Canada Plantation, St. Agatha, St. John Plantation and Wallagrass Plantation.

The provisions of 6 M.R.S.A. §162, subparagraphs 1 through 3, specify that the Director of Aeronautics shall biennially recommend to the Legislature that it appropriate sums of money deemed necessary to aid in the construction, extension and improvement of State, county or municipal airports in Maine and also provides for the manner in which such moneys are granted to cities, towns or counties separately or cities and towns jointly for said purposes. Grants may be made with the consent of the Governor and Executive Council in an amount not to exceed 50% of the total cost of the construction, extension or improvement of an airport.

Examination of the records of the Secretary of State's Office indicates that the Interlocal Agreement proposing the creation of the Northern Aroostook Regional Airport Authority has not yet been filed with the Secretary of State pursuant to the provisions of 30 M.R.S.A. §1954.

QUESTION:

Can the Director of Aeronautics, with the consent of the Governor and Council, grant moneys to the Northern Aroostook Regional Airport Authority, appropriated by the Legislature, in an amount not to exceed 50% of the total cost of the construction of the Northern Aroostook Airport?

ANSWER:

Yes, provided the Authority first files a copy of the Interlocal Agreement with the Secretary of State.

REASONS:

When the Agreement is filed as required by law (30 M.R.S.A. §1954), then the provisions of 6 M.R.S.A. §162 authorize the payment of construction moneys from the "Airport Construction Fund" to the Authority because the several municipalities are towns which have joined within the purview of said statute for the express purpose of

constructing, maintaining and operating an all-season airport serving the Upper St. John River Valley in Aroostook County. (See Agreement annexed, page 1.)

“2. State aid.

“The director with the consent of the Governor and Council may from the amount appropriated to aid in the construction, extension and improvement of state, municipal or county airports, known as the ‘Airport Construction Fund’ grant to cities, towns or counties separately and *cities and towns jointly with one another* or with counties an amount not to exceed 50% of the total cost of the construction, extension or improvement of such airport or airports.” (Emphasis supplied.)

JOHN W. BENOIT, JR.
Deputy Attorney General

May 6, 1971

Fred E. Holt, Deputy Commissioner

Extent of Forest Commissioner’s Jurisdiction under 12 M.R.S.A. § 514

SYLLABUS:

The jurisdiction of the Forest Commissioner over naturally occurring great ponds with artificially raised waters begins at the artificial mean low-water mark.

FACTS:

Pond P was, in its natural state, a “great pond” within the meaning of the Colonial Ordinance of 1641–47. Approximately a century ago a dam was constructed at the outlet, raising the water level. Pond P presently has a surface area in excess of 30 acres and its shore is owned by several littoral proprietors.

One of these proprietors wishes to dredge in a bog which is above the *natural* low-water mark of Pond P and which, but for the dam, would be dry land. However, because of the impoundment, the bog is flowed by the waters of Pond P for a portion of each year.

QUESTION:

Does the littoral proprietor need a permit to dredge the bog?

ANSWER:

To the extent that the bog is below the artificial mean low-water mark of Pond P, yes.

OPINION:

12 M.R.S.A. § 514 invests the Forest Commissioner with regulatory authority over “lands specified herein under the direction of the Governor and Council and on such terms as they direct.” Subsection 3, paragraph B of section 514 empowers the

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AGREEMENT TO CREATE THE NORTHERN
AROOSTOOK REGIONAL AIRPORT AUTHORITY

PREAMBLE: There is need for an airport in the Upper St. John River Valley (consisting of the towns of Allagash, Eagle Lake, Fort Kent, Frenchville, Madawaska, New Canada Plantation, St. Agatha, St. Francis, St. John and Wallagrass, all in the County of Aroostook and State of Maine) to serve its people, encourage and expedite the further development of its natural resources, facilitate and improve communications with other areas, support its present industry, attract and promote further industry, develop its recreational resources, support, promote and expand its commerce and trade, and facilitate and assure the general development and improvement of the area. Because this airport will serve the needs of all the people living in this area and the need for concerted effort to realize a project of this nature, it is advantageous for the municipal corporations constituting the Upper St. John River Valley area, or as many of them as possible, to cooperate with each other and form an agency pursuant to Title 30, Sections 1951 to and including 1958, 1964 Maine Revised Statutes, to attain this common end.

PURPOSE: The purposes of this agreement are as follows: 1) to allow the signatory parties hereto to pool their resources and coordinate their efforts by forming a separate legal entity which will build, maintain and operate an all-season airport serving the Upper St. John River Valley.

AGREEMENT TO CREATE A LEGAL ENTITY: The parties hereto hereby associate themselves together and form an organization pursuant to Title 30, Sections 1951 to and including 1958, 1964 Maine Revised Statutes, hereinafter known as the Northern Aroostook Regional Airport Authority, a separate legal entity. The Authority will act and form all things necessary or incident to the building, maintenance and operation of an all-season airport, and as such will take and hold by purchase, gift, grant, devise, or bequest, personal or real property; will own, operate and maintain needed facilities; will purchase, sell, lease, rent, mortgage, pledge and exchange real estate and personal estate necessary for the construction, management and operation of said airport and airport facilities; will elect all necessary officers and hire servants and agents to conduct and transact its business and will prescribe their duties and fix their compensation; will negotiate, contract, enter into agreements and bind itself

legally; will have the right and power to sue and be sued; will borrow money; will manage and administer the assets of the Authority and the income derived therefrom; may adopt, administer and enforce airport zoning regulations pursuant to Title 6, Sections 241 to and including 246; will make bylaws consistent with this Agreement and the laws of the land; and will act, do and form all things necessary or incident to the above-named purposes.

ORGANIZATIONAL STRUCTURE:

1. The officers shall be a President, Vice-President, Secretary, Treasurer, Executive Committee and Board of Directors.
2. The Board of Directors shall consist of persons, who are voting citizens, chosen and appointed by the municipal corporations which are signatory parties hereto. Each municipal corporation shall choose and appoint one member to the Board of Directors for every 1,500 inhabitants, or part thereof, residing within its jurisdictional limits. Members will serve for a period of one year from the first day of April following their appointments. The Board of Directors shall elect by ballot all officers of the Authority and shall have the general management of the business of the Authority. A majority of their own number shall constitute a quorum to transact business. They shall promulgate by-laws by which the Authority will conduct its business. These by-laws may be amended by vote of at least 60% of their membership.
3. The Executive Committee shall consist of five members who will be annually elected on the first day of April by ballot by the Board of Directors from its membership. It shall in general supervise and control all the business and affairs of the Authority, subject to the control of the Board of Directors.
4. The President shall be annually elected on the first day of April by ballot by the Board of Directors and shall be a member of the Executive Committee. He shall, when present, preside at all meetings of the Board of Directors, Executive Committee, and committees appointed by the Board of Directors. He shall be the principal executive of the Authority and shall perform all the duties prescribed by the Executive Committee.
5. The Vice-President shall be annually elected on the first day of April by ballot by the Board of Directors. In the absence or disability of the President, he shall have the powers and be subject to all the duties of the President so long as such absence or disability continues. He shall

JOHN PELLETIER
ATTORNEY AT LAW
100 N. BOSTON ST.
BOSTON, MASS. 02111

also have such other powers and duties as may from time to time be conferred upon him by the Executive Committee.

6. The Treasurer shall: a) have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Executive Committee; and b) in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President and Executive Committee.

7. The Secretary shall keep a faithful record of all meetings of the Board of Directors, Executive Committee and other committees appointed by the Board of Directors and send proper notices of meetings of the Executive Committee and Board of Directors and in general perform such duties as may be required by the President and the Executive Committee.

8. The Secretary and Treasurer shall be annually elected on the first day of April by the Board of Directors. All officers shall hold their duties until their successors are duly elected, or appointed in the case of the Board of Directors, and qualified.

TERMINATION: This Agreement will terminate on January 1, 2069. Upon termination, the real and personal property will be sold in a manner prescribed by the Board of Directors and the proceeds thereof, together with all the other assets of the Authority, will be distributed to the municipal corporations which are signatory parties hereto in the same ratio as the signatory parties hereto will make monetary contributions for the construction of the airport. Distribution to the signatory parties will be made after all debts and obligations have been paid and discharged.

BUDGET: The construction of the airport shall be financed by monies which will be obtained from the signatory parties, County, State and Federal governments, and private sources. Once construction has been completed,

operating expenses and capital improvements will be financed out of operating revenue, provided nevertheless, that the Board of Directors has the right and privilege to raise additional money by means they deem appropriate for said purposes. On the first day of April of each year the outgoing Executive Committee shall submit a budget of projected income and expenses for the forthcoming fiscal year, which will be from April 1 to April 1, to the incoming Board of Directors.

MISCELLANEOUS: Immediately after the signing of this Agreement, the signatory parties will appoint members to the Board of Directors and the Board of Directors will elect officers for the remainder of the fiscal year.

ALLAGASH PLANTATION

By: _____

Its Selectmen - duly authorized at a Special Town Meeting held on _____
Dated: _____

TOWN OF EAGLE LAKE

By: _____

Its Selectmen - duly authorized at a Special Town Meeting held on _____
Dated: _____

TOWN OF FORT KENT

By: Rudolph T. Pelletier

Rudolph T. Pelletier

Its Councilmen - duly authorized at a Special Town Meeting held on Dec 19 1988
Dated: Dec 19 1988

RUDOLPH T. PELLETIER
ATTORNEY AT LAW
P. O. BOX 238
MADAWASKA, MAINE 04756

Rudolph T. Pelletier By:

TOWN OF FRENCHVILLE

Clara B. Boudreau
Ernest B. Boudreau
Robert B. Boudreau
Its Selectmen - duly authorized at a
Special Town Meeting held on _____
Dated: _____

Clara B. Boudreau By:

TOWN OF MADAWASKA

Clara B. Boudreau
Ernest B. Boudreau
Robert B. Boudreau
Its Selectmen - duly authorized at a
Special Town Meeting held on February 19, 1914
Dated: _____

Clara B. Boudreau By:

NEW CANADA PLANTATION

Clara B. Boudreau
Ernest B. Boudreau
Robert B. Boudreau
Its Assessors - duly authorized at a
Special Town Meeting held on _____
Dated: _____

Clara B. Boudreau By:

TOWN OF ST. AGATHA

Clara B. Boudreau
Ernest B. Boudreau
Robert B. Boudreau
Its Selectmen - duly authorized at a
Special Town Meeting held on _____
Dated: _____

_____ By:

TOWN OF ST. FRANCIS

_____ By: _____
_____ Its Selectmen - duly authorized at a
Special Town Meeting held on _____
Dated: _____

RUDOLPH T. PELLETIER
ATTORNEY AT LAW
P. O. BOX 230
MADAWASKA, MAINE 04756

ST. JOHN PLANTATION

David Berube By:

David Berube
President

Its Selectmen - duly authorized at a
Special Town Meeting held on _____
Dated: _____

WALLACRASS PLANTATION

W. J. Martin By:

Michael J. Bennett
Chairman

W. J. Martin
Its Assessors - duly authorized at a
Special Town Meeting held on _____
Dated: 22 July 1970

STATE OF MAINE

Attorney General's Office

July 14, 1969

I certify that I have examined the foregoing interlocal
cooperation agreements, and the same is in proper form and
compatible with the laws of the State.

Robert G. Fuller, Jr.
Assistant Attorney General

RUDOLPH T. PELLETIER
ATTORNEY AT LAW
P. O. BOX 130
NADAWASKA, MAINE 04780