

MAINE STATE LEGISLATURE

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July 19, 1974

Timothy P. Wilson, Director

Bureau of Civil Emergency
Preparedness
Attorney General

Robert J. Stolt, Assistant

Your memo of June 25, 1974 re 37-A M.R.S.A. § 59 (1) & (2)
(Ch. 728 P.L. of 1973)

QUESTION 1: Whether the State Director of the Bureau of Civil Emergency Preparedness may, in effect, veto all county director appointments by failing to approve such appointments? Yes.

Subsection 2 of the new section 59 provides "a director of an inter-jurisdictional, county or regional agency may be appointed only after approval by the director of the bureau." This means that the Director of the State Bureau of Civil Emergency Preparedness may effectively "veto" the appointment of such agency directors by refusing to approve their appointment. This so-called "veto" applies only to appointments made on and after June 28, 1974. Appointments made under the old section 59 were automatically terminated at midnight June 27, 1974 when the new section became law.

QUESTION 2: Whether the language of 37-A M.R.S.A. § 59 (1) means that municipalities contained within the several counties of a region shall appoint regional directors? Yes.

Subsection (1) of the new section 59 assigns to the Director of the State Bureau, with the approval of the Governor, the responsibility of determining the manner in which regional directors shall be appointed. The regional directors are then to be appointed by the governing bodies of the municipalities involved in the manner selected. Those appointments are then subject to the approval of the Director [37-A M.R.S.A. § 59 (2)]. The Director, with the approval of the Governor, determines the method of appointment. The involved municipalities appoint. The Director approves the appointment.

QUESTION 3: Whether county directors are entitled to a hearing if 37-A M.R.S.A. § 59 allows them to be removed by the State Director? Yes.

Because 37-A M.R.S.A. § 59 (1) & (2) does not give the State Director unilateral authority to appoint inter-jurisdictional, county, or regional directors, he may not unilaterally remove them. They may be removed by the appointing authority with the approval of the State Director. However, the section requires that such directors may be removed only for cause. Accordingly, they are entitled to a hearing before the appointing authority and the State Director prior to removal.

RJS/mf

AN INFORMAL OPINION