

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date Sept. 30, 1975

To W. G. Blodgett, Ex. Director Dept. Maine State Retirement System  
From Donald G. Alexander, Assistant Dept. Attorney General  
Subject Southern Kennebec Valley Community Action Program Eligibility Under  
5 M.R.S.A. as a participating district in the Maine State Retirement  
System

Your memorandum of August 21, 1975 asks if the Southern Kennebec Valley Community Action Program (SKVCAP) is eligible to participate in the Maine State Retirement System as a local district under the provisions of P L. 1975 chap. 622 § 5, when that section becomes effective.

Section 5 defines a local district eligible for participation as "any county, municipality, quasi-municipal corporation, incorporated instrumentality of the State or of one or more of its political subdivisions, or any incorporated association of employees of the state or of such local districts, or incorporated association of such local districts, or any entity eligible to become a participating local district, or presently participating in the system, under this section as in effect immediately prior to January 1, 1976."

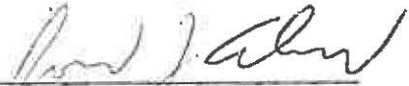
The SKVCAP by its corporate charter is a private nonprofit agency. Therefore, it does not qualify as a quasi-municipal corporation. The question then becomes whether the SKVCAP qualifies as an "instrumentality of the state or of one of its political subdivisions." The "instrumentality" qualification is a key feature added by § 5 which did not exist in the prior law (5 M.R.S.A. § 1092).

The SKVCAP does qualify as an instrumentality under this section. Federal law, 42 U.S.C.A. § 2790 requires that, for a private non-profit agency to qualify as a community action program agency it be so designated by a state or political subdivision. Such designation has occurred. Further, the corporate charter of the SKVCAP provides:

"The purposes of said corporation are exclusively charitable and educational, namely, to act as a private-non-profit agency in the administration, operation, sponsorship and coordination of community action programs under the Federal Economic Opportunity Act of 1964, Title 2, designed to combat poverty in such of the following municipalities in Southern Kennebec County, Maine as shall, through appropriate municipal action, designate, endorse, and authorize this corporation to act as a private community action agency under said Economic Opportunity Act of 1964....." (emphasis added)

This agency performs its functions only after designation and approval by the relevant municipalities. Further, the functions it performs, combating poverty and its causes are generally and directly in support of municipal responsibilities. Further the board of governors of the SKVCAP includes 1/3 municipal officials, 1/3 elected representatives of the poor, and 1/3 representatives of appropriate effected agencies (this information gained from a phone call to L. R. Mullins, Jr., Executive Director of SKVCAP). Such representation is required by 42 U.S.C.A. § 2791(b).

Thus by both corporate charter and federal law municipal designation and approval is essential to the agency's functioning. Additionally, municipal officials play a significant role in the continuing operation of the agency, and the agencies functions are directly supportive of those of the participating municipal governments. Therefore, SKVCAP is clearly an instrumentality of these municipalities within the meaning of § 5 of P.L. 1975 chap. 622 which will become 5 M.R.S.A. § 1001 subsection 11-a.

  
DONALD G. ALEXANDER  
Assistant Attorney General

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