

MAINE STATE LEGISLATURE

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December 30, 1975

John L. Martin, Speaker

House of Representatives

Joseph E. Brennan

Attorney General

Northern Aroostook Regional Airport Authority

We have received and reviewed materials which were sent to us concerning the Northern Aroostook Regional Airport Authority (NARAA). You have requested an opinion concerning the legal status of NARAA, specifically whether the Authority is a state agency. The answer to your question is affirmative, insofar as NARAA is a public agency organized as permitted by the State, furthers policies relating to aeronautics, is regulated by the State, and qualifies for receipt of State funding.

NARAA is a legal entity created pursuant to 30 M.R.S.A. § 1953 by mutual agreement among and between ten municipalities in the Upper St. John River Valley. This interlocal cooperation agreement was reviewed and certified by this office as to its form and legality, and it is filed with the Secretary of State's Office. The agreement was subject to State review and approval in all aspects.

The purpose for creating NARAA, as set forth in the agreement, was ". . . 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." This purpose furthers the State interest and public purpose in aeronautics as set forth in 6 M.R.S.A. Chapters 1-13.

Title 6 M.R.S.A. § 4, concerning the "State airways system" provides:

"The state airways system is declared to consist of all air navigation facilities available for public use now existing or hereafter established, whether natural or man-made, except those under the jurisdiction of the Federal Government. It is declared that jurisdiction over the state airways system is vested in the department [Department of Transportation] and that expenditure of state funds in the interest of safety on any or all of the facilities of this system serves a useful public purpose and satisfies a public need. The director shall prescribe the terms and conditions of the activities authorized for each such facility."

This section establishes control by the State of airports and airport authorities like NARAA. These controls, consistent with federal regulations concerning aeronautics, are further specified in sections 12 to 15 of Title 6. Furthermore, the section specifies the public purpose

and public need which will be served by State expenditures for such facilities. This office has previously stated that NARAA is eligible to receive State funds and we are assured that the Authority has received such expenditures. Attorney General's Report 1967-1972, pp. 338-340. Authority for these expenditures is found in 6 M.R.S.A. § 162,2.

Other statutory provisions which concern airport facilities and which should be noted are as follows, in pertinent part:

"The State, municipalities and other political subdivisions separately, and municipalities and other political subdivisions jointly with one another or with the State by and through their duly constituted representatives are authorized to apply for and accept federal aid to further any purpose related to the development of aeronautics and to do all things necessary or incidental thereto, subject to section 162, sub-section 3 [set forth below].

"Airports owned and operated by any city, town or county are declared to be governmental agencies and entitled to the same immunities as any agency of the State." 6 M.R.S.A. § 163.

and,

"No municipality or other political subdivision in this State, whether acting alone or jointly with another municipality, a political subdivision or with the State, shall submit to the Administration [Federal Aviation Administration] any request for federal aid under the Federal Airport and Airways Development Act of 1970, so called, or any amendment thereof, unless the project and the project application have been first approved by the director [Commissioner of Transportation]." 6 M.R.S.A. § 162,3.

In light of the foregoing, it is clear that NARAA, though not specifically mandated by the Legislature, was organized as a legal entity and governmental agency in a manner and for a purpose authorized by the State. The Authority performs a public service which enhances the interests and public purposes of the State. NARAA operates within the scope of State regulation and enjoys certain immunities conferred by statute. Finally, the Authority has received State funds which are declared to serve a public purpose and satisfy a public need, and the Legislature intended that it be authorized to obtain federal aid, subject to State project approval. Therefore, to this extent and for these reasons, NARAA is a State agency.

JOSEPH E. BRENNAN

JEB: jg

cc: Daniel Webster, Jr.

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