

# MAINE STATE LEGISLATURE

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February 12, 1976

The Honorable Philip C. Jackson  
Senate Chairman  
Committee on Local and County Government  
State House  
Augusta, Maine 04333

The Honorable C. Everett Dam  
House Chairman  
Committee on Local and County Government  
State House  
Augusta, Maine 04333

Gentlemen:

Recently your committee posed two questions regarding village corporations:

First, you asked whether a village corporation may be given authority "to levy a base charge upon owners of lots . . . in an amount not to exceed \$96 per annum," such charge to apply in an equal amount to all lots regardless of value?

The Legislature may not give a village corporation authority to levy a flat assessment upon owners of lots regardless of the value of the lot. Article IX, Section 8, of the Constitution of Maine requires that "all taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof. . . ." A village corporation must make its assessments, where it has been given assessment authority by the Legislature, in the same manner as is provided by law for assessment of state, municipal and county taxes. See City of Auburn v. Paul, 84 Me. 212 (1892) and Frank v. Assessors of Skowhegan, Me., 329 A.2d 167.

Second, you asked whether the charter for a village corporation may authorize but not require the municipality in which the corporation is located to return to the village corporation, for its use, any or all tax revenues raised by the municipality within the corporation limits?

The charter of a village corporation may contain a provision which authorizes the municipality in which the corporation is located to voluntarily return to the village corporation, for its use, any or all of the tax revenues raised by the municipality within the corporation limits.

A voluntary revenue sharing provision inserted in a village corporation charter should limit the tax revenues returned to less than 100% and specify the purposes for which the revenue may be expended. A 100% return would relieve the village of the costs of assessment and collection, thus placing a non-recoverable and unjustifiable expense upon the municipalities' taxpayers living outside the limits of the corporation. The failure to specify the purpose for which the revenues may be expended may result in frivolous spending by the village corporation without providing essential services; unnecessary duplication of services by the village corporation and the municipality; and, lack of relief to the municipality from responsibility for specific municipal burdens within the village area which are normally supported by the tax revenue returned to the village corporation. I recommend that you examine the appropriations sections of the charters of existing village corporations, such as c. 108, §§ 2-6, P. & S.L. 1917, "An Act to Incorporate Birch Point Village Corporation," before approval of any new village corporation. Although these sections provide for limited mandatory return, they are excellent examples of the considerations involved in municipal-village corporation revenue sharing.

Third, you asked whether a charter containing the voluntary revenue sharing provision contained in question 2 would create any legal precedent; and, if so, what would be the effect of that precedent?

I defer answer to your third question as I am unable to construe the precedential effect of your proposal at this time.

If I may be of further assistance in this matter, please feel free to contact me.

Sincerely yours,

ROBERT J. STOLT  
Assistant Attorney General

RJS/ec