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*Bond Issues: Use of Proceeds for ~~other purposes~~
unspecified purposes.*

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

August 4, 1976

Honorable Alton E. Cianchette
State Senator
9 Libby Street
Pittsfield, Maine 04967

Dear Senator Cianchette:

This letter responds to your question concerning utilization of funds raised by bond issue for the Wiscasset Airport. Chapter 178 of the Private and Special Laws of 1967 authorized, subject to referendum approval, a general bond issue to raise money for construction, extension and improvement of airports. The bond issue was subsequently approved at referendum and the bonds were issued. Among the allocations of the funds raised in this manner was \$30,000 for the airport at Wiscasset to "Extend runway to 3,400 feet." By the time these funds became available, the runway had already been extended to 3,400 feet, and your question is whether in these circumstances the \$30,000 may be used for other improvements to the airport. The answer to your question is that these funds may be used for other purposes only if the authorized use is amended by the Legislature and approved by referendum.

We have checked with officials of the Department of Transportation in order to obtain more facts concerning the situation in question. It is our understanding that at about the same time that the 1967 bond issue was being considered by the Legislature, Wiscasset applied for and received from the Aeronautical Fund approximately \$25,000 to extend the runway. This money came from a 1965 general appropriation to the Fund. We understand that the runway extension was completed in 1968. There is no apparent reason for the eventual double-funding of this project.

The question of permissible uses of funds raised by bond issues, and specifically those for airports, has been previously addressed by this office. I am enclosing a copy of an opinion of

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February 2, 1976, which sets forth the reasons why such funds may not be used for purposes other than those set forth in the authorizing enactment, without further legislative action and submission to referendum. This same rationale would apply to the use of funds at the Wiscasset Airport.

I hope this information will be helpful. Please continue to contact this office whenever we may be of assistance.

Sincerely,

S. KIRK STUDSTRUP
Assistant Attorney General

SKS:mfe

cc: Philip Simpson
Robert Johnson, Department of Transportation

February 2, 1976

Honorable Elmer F. Berry, Jr.
Honorable Robert W. Clifford

Senate Chambers

S. Kirk Studstrup, Assistant

Attorney General

Utilization of Bond Issue Funds for Auburn-Lewiston Airport

The following memorandum responds to questions raised during a meeting of January 14, 1976, and your subsequent oral request for an opinion on the following question:

"May funds to be raised by a general fund bond issue pursuant to P. & S.L. 1967, Chapter 178 and to be used at the Auburn-Lewiston Airport to 'acquire land, clear approaches, extend runway 17-35,' be used now for the same type of work to runway 4-22 instead of runway 17-35?"

Before answering the question, it would be helpful to examine the chronology of events related to the general subject. In 1967 the 103rd Legislature enacted Private and Special Law, Chapter 178, to authorize a general fund bond issue in the amount of \$2,837,500 and to appropriate the money so raised for construction, extension and improvement of airports throughout the State. In light of the State debt limit set forth in Article IX, § 14 of the Constitution of Maine, the bond issue was sent to referendum and was duly ratified by a majority of the electors in the State. Section 6 of Chapter 178 specified by purpose and amount the funds which were to be used at each of the listed airports. Among the purposes and amounts so listed was the following:

"Auburn-Lewiston	
Acquire land, clear approaches, extend runway 17-35	\$300,000
Install localizer	50,000"

We have been informed that subsequent to this bond issue referendum, it was determined that the studies which proposed extension of runway 17-35 were not completely accurate and that it would be more economical to extend runway 4-22. In 1971 the Legislature enacted an amendment to P. & S.L. 1967, C. 178, § 6, which would have changed the purpose of the total \$350,000 allocated for the Auburn-Lewiston Airport to "General rehabilitation and repairs of Airport," as well as changing the location of a new airport from Rumford to Oxford. P. & S.L. 1971, C. 168. However, this act never became effective as it was rejected by the voters at referendum. Therefore, the purpose of \$300,000 of the total amount originally allocated for the Auburn-Lewiston Airport is still identified with runway 17-35.

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After studying the foregoing facts and the law on this subject, in our opinion the answer to the question is that the bond issue funds may not be used for purposes of extending runway 4-22, unless the voters approve this change of purpose by referendum.

Section 14, Article IX, of the Constitution of Maine provides as an exception to the State debt limit that:

" . . . whenever two-thirds of both Houses shall deem it necessary, by proper enactment ratified by a majority of the electors voting thereon at a general or special election, the Legislature may authorize the issuance of bonds on behalf of the State at such times and in such amounts and for such purposes as approved by such action;" (emphasis supplied)

It is clear from this provision that the Legislature may authorize the issuance of bonds only for those purposes which have been ratified by the electors of the State. In the present case, that purpose is specifically for the extension of runway 17-35. This office has previously stated that these funds could not be used to repair existing portions of runway 17-35 because the only purpose for the funds, as specified in § 6, was for extension of that runway. Attorney General's Opinion, February 15, 1972. In another opinion of approximately the same time, we stated that funds designated in a general fund bond issue for "General Improvements (Crash Bldg. and Ramp Extension)" at the Portland Airport, could not be used for rehabilitation of a runway. Attorney General's Opinion, June 8, 1972. These opinions, as well as others on related topics, indicate the literal interpretation which must be used in cases of this type.

The primary goal in interpreting statutes is to give effect to the Legislative intent, and this intent is found primarily from the words used in the statute. Gilman v. Jack, 91 A.2d 207 (Me., 1952). In the present case, the words of the statute are the only source from which to ascertain the intent of the electorate with regard to the referendum question. Therefore, we must assume that "Acquire land, clear approaches, extend runway 17-35" means exactly what it says and nothing else. Consequently, the only way in which the available funds may be used to extend runway 4-22 is to change the purpose for the funds by amending P. & S.L. 1967, c. 178 and submit the amendment to referendum. The Legislature itself has confirmed our view on two occasions by submitting to the electorate, in referendum form, amendments of the purposes set forth in Chapter 178, including in one instance the same purpose which is the subject of this opinion. P. & S.L. 1971, c. 168 (noted above) and P. & S.L. 1969, c. 165.

S. KIRK STUDSTRUP
Assistant Attorney General