

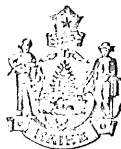
MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

JOSEPH E. BRENNAN
ATTORNEY GENERAL



60 924
RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

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

given (April 22, 1977)

The Honorable Philip F. Peterson
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Peterson:

This is in regard to your request for an opinion of this office as to the constitutionality of L.D. No. 924, entitled: AN ACT Concerning Funding of Social Service Agencies and Non-profit Corporations by Counties and Municipalities. Legislative Document No. 924 would require certain social service agencies and nonprofit corporations to request public revenues ^{1/} and account for the revenues to designated county commissioners if the agency or corporation does business in two or more municipalities in any one county. Social service agencies and nonprofit corporations doing business in two or more counties are required to request from and account for public revenues to the Legislature. It is our opinion that the proposed legislation is constitutionally unobjectionable.

The Maine Constitution grants to the Legislature "full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States." (Article IV, pt. 3, sec. 1). This is a broad grant of power; and statutes enacted pursuant to it are presumed to be constitutional. Baxter v. Waterville Sewerage District, 146 Me. 211, 79 A. 2d 585 (1951).

^{1/} The term "public revenues" is not defined in L.D. No. 924. As used in the L.D., it could be construed to include not only funds derived from municipal and county sources as the title of the L.D. suggests, but also state and federal appropriations regardless of the type of funding, i.e., matching funds, grant, or contract. If so construed, there may arise conflicts with federal statutes and regulations governing application and accounting for such funds.

Representative Peterson

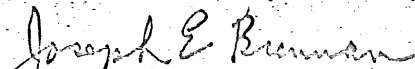
Page 2

In the exercise of this power, the Legislature may enact reasonable regulations for the public welfare without impairing the obligation of contracts and without violating the equal protection or due process provisions of the State or United States Constitution. Social service agencies and non-profit corporations, by their very nature, touch matters concerning the public welfare and are therefore subject to reasonable regulation. Absent a showing that a regulation enacted pursuant to the State's police power produces irrational or arbitrary discriminations constitutional guarantees are not violated.

One other observation regarding the control of public revenues and L.D. No. 924 is included here for your information. The Human Services law charges that department with the obligation of administering "all State funds and appropriations for the aid of private institutions and agencies doing health and welfare work in the State" (22 M.R.S.A. §3); and with the administration of "any funds which may be available from private, local, State or federal sources for the provision of social services." (22 M.R.S.A. §12).

If we can be of further assistance, please let me know.

Very truly yours,


JOSEPH E. BRENNAN
ATTORNEY GENERAL

JEB/vv

CC: Senator Thomas M. Mangano