

MAINE STATE LEGISLATURE

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

November 7, 1977

Leighton Cooney
State Treasurer
State Office Building
Augusta, Maine 04333

Dear Leighton:

This responds to your request for advice dated October 31, 1977. In that letter you asked for our opinion as to whether the provisions of law relating to Interlocal Cooperation, 30 M.R.S.A. § 1951, et seq., could be utilized to establish a state and local pool of funds for investment purposes as addressed in our opinion of October 7, 1977.


While the Interlocal Cooperation law has not been subject to substantial judicial interpretation and contains language which, broadly construed, could authorize agreements to delegate most state services or to pool state and local activities, we do not believe that it would be prudent to construe this section to extend to the pooling arrangements you suggest. We reach this conclusion because of the general doctrine that laws relating to expenditure or use of state funds should be construed conservatively and the provisions of the State Constitution and statutes establishing the Treasurer's Office and placing upon that office fiduciary duties and responsibilities which run solely to the State, not to local governments, Me. Const., Art. V, Part Fourth, 5 M.R.S.A. § 121, et seq. Further, one provision of law, 5 M.R.S.A. § 133, raises the potential for direct financial conflicts with municipalities.

In light of these provisions and the general problem addressed in the October 7 opinion, we do not believe that it would be possible to enter into joint pooling arrangements such as you contemplated without specific legislative authority. Accordingly, we would advise that the provisions of 30 M.R.S.A. § 1951, et seq. may not be used for the joint pooling arrangements proposed in your letters of September 21 and October 31. We would further advise that if you

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wish to engage in such joint pooling arrangements, you seek specific legislative authorization to permit deposit of state funds in such pooled accounts where they would be intermingled with non-state funds.

Sincerely,


JOSEPH E. BRENNAN
Attorney General

JEB:mfe