

# MAINE STATE LEGISLATURE

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Plantations (Incorporation) Responsibilities  
30 M.R.S.A. § 2061  
Municipalities' Obligation To provide Fire Service  
30 M.R.S.A. § 3772

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March 2, 1978

Honorable John E. Masterman  
House of Representatives  
State House  
Augusta, Maine 04333

Re: P. & S. L. 1977, Chapter 87

Dear Representative Masterman:

This responds to your questions of February 27, 1978, with respect to the responsibilities of Beaver Cove Plantation under "An Act Converting Beaver Cove Plantation into the Town of Beaver Cove".

Your first question was whether the plantation clerk is required to furnish absentee ballots for the election held pursuant to this law. The answer is yes. P. & S. L. 1977, Chapter 87, §§ 4 and 5 set out the procedures to be followed in calling and conducting this election. Section 4 provides that the election warrant shall issue "in accordance with the general laws". Section 5 provides that a meeting shall be specially called and held for the purpose of submitting "this Act" to the legal voters within Beaver Cove "voting by ballot". Section 5 further states:

This meeting shall be called, advertised and conducted according to the Revised Statutes, Title 30, Sections 2061 and 2065. The plantation clerk shall prepare the required ballots . . .

30 M.R.S.A. § 2061, entitled "Secret ballot", establishes certain fundamental voting procedures to be followed by any municipality when that municipality "accepts this section". While Beaver Cove has not yet accepted Section 2061 by the procedure set out within that section for so doing, the Legislature has expressly specified that the election to be held under this private and special law shall comport with Section 2061. Thus, for this election the acceptance or nonacceptance by Beaver Cove of 30 M.R.S.A. § 2061 is not in question.

30 M.R.S.A. § 2062 states, in part, "If a town has accepted Section 2061, absentee ballots may be cast at all regular and special elections at which section 2061 is applicable. . ." As previously stated, Beaver Cove has not "accepted" Section 2061, but the Legislature has required that election to be conducted according to 30 M.R.S.A. § 2061. The language of § 2062 quoted above is the result of amendments by P.L. 1975, c. 386 (L.D. 701). The Statement of Fact for L.D. 701 reads: "The purpose of this Act is to require all municipalities using the section 2061 secret ballot in their municipal elections to permit the casting of absentee ballots for elections of municipal officials and for referendum questions." Therefore, it is our opinion that the plantation clerk of Beaver Cove should prepare and furnish absentee ballots for the election to be held under P. & S. L. 1977, C. 87. The procedures to be followed by the clerk in implementing absentee voting are set out in 30 M.R.S.A. § 2062 and 21 M.R.S.A. § 1251, et seq.

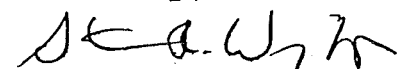
Your second question is whether the Town of Beaver Cove, if incorporation is approved, would be required to have a fire department. The answer to this question is no. 30 M.R.S.A. § 3772 states, in part:

Municipalities may provide fire protection for its inhabitants by maintaining a municipal fire department, supporting an incorporated volunteer fire association or by contracting with other governmental units for fire protection services. (emphasis added)

A municipality has, under this statute, the choice of deciding whether or not to provide fire protection for its inhabitants.

I hope this information will assist you. If you have additional questions, please contact our office.

Sincerely,

  
STEVEN F. WRIGHT  
Assistant Attorney General

SFW:jg