

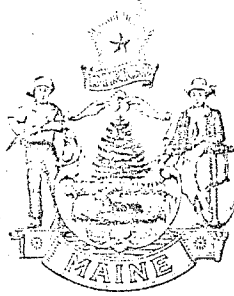
MAINE STATE LEGISLATURE

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AUGUSTA, MAINE 04333

79-62

April 3, 1979

Honorable James A. McBreairty
Maine State Senate
State House
Augusta, Maine 04333

Dear Senator McBreairty:

You have inquired whether a board of county commissioners may appropriate excise taxes collected from an unorganized territory for use outside the particular unorganized territory. My answer to this question is negative for the reasons stated below.

36 M.R.S.A. §1489(2) (1978-79 Supp.), as amended by P.L. 1977, c.698, §7, provides that:

"Excise taxes collected in unorganized places shall be credited by the county treasurer as undedicated funds for the unorganized place in which the tax was payable and may be appropriated by the county commissioners pursuant to Title 30, Chapter 405."

30 M.R.S.A. §5801 (1978-79 Supp.)¹ was enacted as emergency legislation (effective April 3, 1978) by Chapter 698, §4 of the Public Laws of 1977 and provides:

"All excise taxes credited to the county treasurer pursuant to Title 36, section 1489, may be appropriated by the county commissioners for use in the unorganized places where the tax was payable for same services and purposes as in municipalities."

Section 4 of Chapter 698 of the Public Laws of 1977 originated as House Amendment "A" to House Amendment "B" to L.D.2159, being "An Act relating to the Taxation of the Unorganized Territory." The Statement of Fact accompanying this amendment stated that it

1. Title 30, Chapter 405 of the Maine Revised Statutes Annotated.

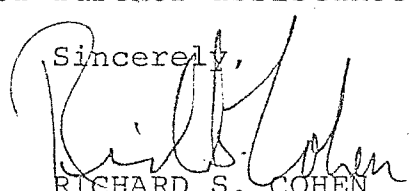
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"allows the county commissioners to appropriate excise taxes for purposes to be used in the unorganized place where the tax was paid."²

In view of the foregoing, it is apparent that excise taxes collected in unorganized places may be appropriated by the county commissioners. However, any such appropriation must be for use in the unorganized place where the tax was payable and collected.

I hope this information is helpful to you. Please feel free to call upon me if I can be of further assistance.

Sincerely,



RICHARD S. COHEN
Attorney General

RSC:sm

2. This amendment was sponsored by Representative Donald H. Burns of Anson and was prompted by an opinion from this Office to Representative Burns which concluded that the county commissioners must have statutory authority in order to expend excise taxes collected from unorganized places for a particular purpose. See Atty. Gen. Op. February 17, 1978.