

MAINE STATE LEGISLATURE

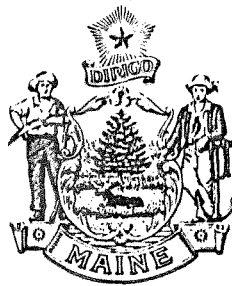
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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

June 15, 1979

P.R. Gingrow
Assistant Executive Director
Maine State Retirement System
State Office Building
Augusta, Maine 04333

Re: Auburn-Lewiston Airport: Social Security.

Dear Mr. Gingrow:

You have inquired whether the Auburn-Lewiston Municipal Airport, Inc. qualifies as a "political subdivision," as defined in 5 M.R.S.A. § 1222(6) so that it may provide Social Security coverage to its employees in accordance with c. 103 of Title 5.

Subsection (6) provides, in relevant part:

"The term 'political subdivision' includes an instrumentality of . . . one or more of (the) political subdivisions (of the State of Maine). . . but only if such instrumentality is a juristic entity which is legally separate and distinct from the . . . subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the . . . subdivision."

The Airport is clearly an instrumentality of the cities of Auburn and Lewiston. By joint agreement of the two cities, the Airport has the responsibility and the authority to carry out functions and provide services which the cities might themselves perform.

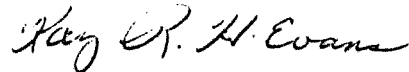
By virtue of its incorporation, the Airport is a "juristic entity which is legally separate and distinct from" the cities.

1/ The joint operation of the Airport began sometime prior to 1976; in that year, the arrangement was formalized by an Agreement entered into pursuant to c. 203, Title 30 M.R.S.A. (interlocal Cooperation). In 1979 the Airport was incorporated as a nonprofit corporation under Title 13-B, M.R.S.A.

Airport employees are carried on the payroll of one of the cities; the cities alternate annually. The carrying city is reimbursed for these costs by the Airport. The employees are hired and fired by and work entirely under the supervision and control of the Airport Board. The fact that the employees are carried on the cities' payrolls is, by itself, in these circumstances, insufficient to constitute them employees of the cities.

Thus, the Airport meets the definitional criteria of sub-§ (6) and may provide Social Security coverage in accordance with c. 103.

Very truly yours,



KAY R. H. EVANS
Assistant Attorney General

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