

# MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

March 4, 1980

Honorable Judith M. Curtis  
House of Representatives  
State House  
Augusta, Maine 04333

Dear Representative Curtis:

This responds to your request for advice on a matter relating to school administrative district taxes. Maine law, 36 M.R.S.A. § 503, provides that a town cannot assess a tax unless "the sum assessed is raised by vote of the voters at a town meeting legally called and notified." In light of this provision you have asked whether a town can refuse to raise school administrative district taxes if the town's voters so direct at a town meeting. Notwithstanding the language of 36 M.R.S.A. § 503, we are of the opinion that the voters of a municipality cannot refuse to raise school administrative district taxes by a vote at a town meeting.

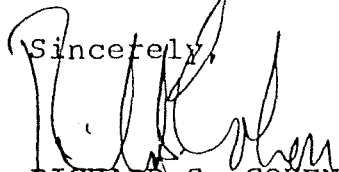
At the outset we must emphasize that municipalities and school administrative districts (SAD) are related but separate legal entities. When a municipality joins an SAD, it effectively transfers to the SAD control over school policy, administration and finance. Thus, the SAD assumes responsibility for establishing the school budget, and the voters of the SAD participate in that process at a district budget meeting authorized by either 20 M.R.S.A. § 226 or 20 M.R.S.A. § 226-A. Once the budget is determined, the SAD directors issue their warrants to the assessors of each member town requiring them to assess on the taxable property in their town a sum sufficient to raise the "town's share" of the SAD tax, 20 M.R.S.A. § 305.

As you can see from our description of the process, the "school tax" is not a municipal tax; it is a district tax. It

is voted on and approved by the voters of the district at the district budget meeting. Thus, 36 M.R.S.A. § 503, requiring town taxes to be approved by town voters, is inapplicable. A necessary corollary to this is that the town, acting under authority of a town meeting vote, cannot refuse to raise the SAD tax since the town is acting merely as a collection agent for the district. As our Law Court pointed out in an analogous situation dealing with the Uniform Property Tax, the only persons who are entitled to challenge a tax of this nature are the taxpayers, not the towns which collect the tax. Town of Acton v. McGary, 356 A.2d 700, 706-708 (1976). Therefore, 36 M.R.S.A. § 503 does not give a town the authority to refuse to collect an SAD tax.

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

Sincerely,



RICHARD S. COHEN  
Attorney General

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