

# MAINE STATE LEGISLATURE

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ATTORNEY GENERAL



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

October 8, 1980

Representative Harry L. Vose  
State House  
Augusta, ME 04333

Dear Representative Vose:

You have addressed three inquiries to this office concerning plantation organization. Your first two inquiries, concerning the procedures for plantation organization, will be addressed in a separate opinion. This opinion addresses your third question:

Can an unorganized township be organized by the County Commissioners for the sole purpose of issuing weir permits and/or establishing clam ordinances?

Before responding to this question a more basic issue must be resolved: Once organized, does a plantation government qualify to participate in the municipal shellfish conservation program of 12 M.R.S.A. § 6671 and the fish weir licensing scheme of 38 M.R.S.A. § 1022 et seq? The municipal shellfish conservation provisions of 12 M.R.S.A. § 6671 provide:

Any municipality may by vote of its legislative body, raise and appropriate money for the implementation of a shellfish conservation program.

12 M.R.S.A. § 6671(6) provides further:

For the purposes of this section, municipality includes a village corporation, and the combined towns of Yarmouth and North Yarmouth.

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This provision may be interpreted as supplemental, adding village corporations to the list of governments in the general definition of municipalities found in 1 M.R.S.A. § 72(13):

'Municipality' shall include cities, towns and plantations, except that 'municipality' shall not include plantations in Title 30, chapters 201 to 213, 235 and 239 subchapters I-A, I-B, II, III, III-A, and IV and chapters 240 to 245.

Although plantations are not considered municipalities for the purposes of some Title 30 provisions, this exception does not extend to the municipal shellfish conservation provisions in Title 12. Therefore, plantations do qualify as municipalities under 12 M.R.S.A. § 6671 and may adopt a municipal shellfish conservation program and ordinance, after appropriation of funds and approval by the Commissioner of Marine Resources.

Plantations may also issue fish weir licenses under 38 M.R.S.A. § 1022 et seq., which provides, inter alia:

Any person intending to build or extend any wharf, fish weir or trap in tidewaters, within the limits of any city or town, may apply in writing to the municipal officers thereof, stating the location, limits and boundaries, as nearly as may be, of such intended erection or extension, and asking license therefor.

Although this provision refers only to cities or towns, 1 M.R.S.A. § 72(25) provides that the term "'town' includes cities and plantations, unless otherwise expressed or implied." Furthermore, the reference to municipal officers in section 1022 may be interpreted as including plantation assessors, according to the definition of municipal officers set forth in 1 M.R.S.A. § 72(12).<sup>1</sup> Thus, once

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1. 1 M.R.S.A. § 72(12) provides "'[M]unicipal officers' means the mayor and alderman or councilors of a city, the selectmen or councilors of a town and the assessors of a plantation."

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organized, a plantation would have the authority to issue licenses for fish weir sites in tidewaters with the plantation boundaries.

Having established that plantations may participate in municipal shellfish conservation programs and fish weir licensing, your third question, concerning organization of a township for the sole purpose of issuing weir permits or shellfish ordinances, may be addressed. There is no provision in the controlling statutes (30 M.R.S.A. §§ 5601 et seq.) for a "limited purpose" organization. Thus, if a plantation were organized, the inhabitants would have to accept the full range of responsibilities set out in 30 M.R.S.A. § 5601 et seq.

If you have any questions concerning this first opinion, please don't hesitate to contact our office.

Sincerely,

*Elizabeth R. Butler*

ELIZABETH R. BUTLER  
Assistant Attorney General

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