

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

July 9, 1982

Honorable Harry L. Vose
29 Washington Street
Eastport, Maine 04631

Dear Representative Vose,

I am writing in response to your request for advice on a matter relating to the expenditure of public services tax revenues.

The facts which you related to us are as follows. The Town of Dennysville maintains and operates a recreation center for its residents and those of Edmunds Township. The center, which is located in Edmunds Township, is owned by Dennysville but subject to Edmunds Township's right to acquire it if and when the township becomes a plantation or a town. A proposal was made to build a well and a new bathroom for the center. You have asked whether the county commissioners of Washington County may use funds in the Edmunds Township public services tax account to pay for these improvements.

The Edmunds Township public services tax account consists, if we understand the facts correctly, of tax revenues raised pursuant to 30 M.R.S.A. § 1202. That statute, prior to its amendment in 1980 by P.L. 1979, c. 666, § 3, authorized the county commissioners to assess a special property tax in the township to pay for fire protection and public dumps for the township.^{1/} At present,

^{1/} Prior to its amendment, 30 M.R.S.A. § 1202 provided in pertinent part:

The county commissioners of Washington County are authorized, on behalf of the inhabitants of . . . Edmunds Township[s], to enter into contracts . . . or to take such other steps . . . to provide fire protection, other than forest fire protection, and publid dumps for said townships . . . The county commissioners shall annually assess upon such townships an amount sufficient to provide such services. . .

The tax revenues were deposited in a special county account pursuant to 30 M.R.S.A. § 1204.

the statute authorizes the county to provide such services to Edmunds Township but it no longer authorizes the county commissioners to assess the special public service tax.^{2/} The cost of the services is now paid by the State of Maine from the Unorganized Territory Tax Fund.^{3/}

The issue, therefore, is whether "surplus" public services tax revenues may be spent for something other than fire protection and public dumps. We are of the opinion that public services taxes can be spent only for the purposes which the Legislature has permitted them to be spent -- public dumps and fire protection for Edmunds Township. The language of the statute is clear on this point and admits of no exception. See Footnote 1, supra. If the county commissioners wish to utilize the Edmunds Township public services tax revenues for the payment of improvements to the recreation center, they will need the specific approval of the Legislature in the form of a new law.

2/ 30 M.R.S.A. § 1202, as last amended by P.L. 1979, c. 666, § 3 provides in pertinent part:

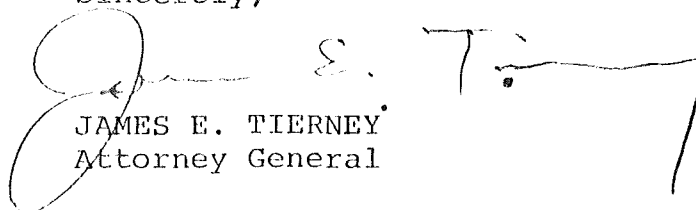
The county commissioners of Washington County are authorized, on behalf of the inhabitants of all unorganized townships within the county to enter into contracts on such terms as they deem fit with one or more persons, associations or municipalities, or to take such other steps as they deem advisable, to provide fire protection, and public dumps for said townships.

3/ The Unorganized Territory Tax Fund, created by the Legislature in 1978, P.L. 1977, c. 698, § 8, enacting 36 M.R.S.A. § 1601 et seq., was established to fund, on a statewide basis, the "municipal cost component" of services previously provided by counties in the unorganized territories. Section 1603(1)(C) of the act defines this component to include:

The cost of reimbursement by the State for services a county provides to the unorganized territory in accordance with . . . Title 30, chapter 5 [30 M.R.S.A. §§ 1201-1205]. No county shall be reimbursed for services provided on or after January 1, 1979, unless a legislative allocation is obtained pursuant to this chapter.

I hope this answers your question. Please feel free to call if further clarification is necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Tierney". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

JAMES E. TIERNEY
Attorney General

JET:mfe