

MAINE STATE LEGISLATURE

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

January 15, 1986

Honorable Dana P. Stevenson
House of Representatives
State House Station #2
Augusta, Maine 04333

Dear Representative Stevenson:

This will respond to your oral request for an Opinion from this Department as to whether 30 M.R.S.A. § 1401, et seq., as enacted by Chapter 223 of the Public Laws of 1985, allows the Waldo County Budget Committee to set the salaries of county officers at a level different from those set by 30 M.R.S.A. § 2. For the reasons discussed below, this Department answers your question in the negative.

30 M.R.S.A. § 2(1)(N) (1985-86 Supp.) establishes the salaries of the Commissioners, Treasurer, Sheriff, Judge of Probate, Register of Probate and Register of Deeds in Waldo County. 30 M.R.S.A. § 1401, as enacted by Chapter 223 of the Public Laws of 1985, provides:

The purpose of this chapter is to establish in Waldo County a method of appropriating money for county expenditures, according to a budget, which shall first receive approval of a budget committee. This chapter amends the present statutory method in sections 252 and 253 by transferring the authority of the Waldo County legislative delegation and the Legislature to approve the Waldo County budget to a committee comprised of Waldo County and municipal officials. This chapter shall apply only to Waldo County.

The "Statement of Fact" accompanying the original bill (Legislative Document 971), which ultimately became Chapter 223, describes its purpose as follows:

The purpose of this bill is to establish a county budget committee in Waldo County which would be responsible for approving the county budget. The present authority of the Waldo County legislative delegation and the full Legislature to approve the county budget would be transferred to a committee comprised of elected Waldo County municipal selectmen and councilors.

In an Opinion dated October 18, 1985, (Op.Me.Atty.Gen. No. 85-21), this Department concluded that pursuant to 30 M.R.S.A. § 1651 (1985-86 Supp.) the Cumberland County Commissioners did have the authority to set the salaries of county officers at a level different from those set by 30 M.R.S.A. § 2 for the reason that Section 1651 expressly provides that the Cumberland County Commissioners are authorized to appropriate money according to a budget "notwithstanding section 2." The legislation creating the Waldo County budget committee, on the other hand, contains no express reference to 30 M.R.S.A. § 2, and unlike the legislation dealing with Cumberland County, does not expressly exempt the Waldo County budget committee from the operation of 30 M.R.S.A. § 2.

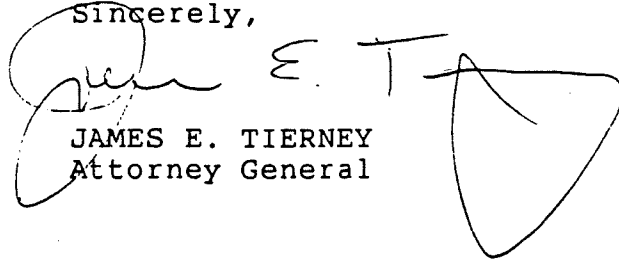
Moreover, the fact that the Legislature has authorized the Waldo County budget committee to approve the budget for Waldo County does not carry with it the authority to set the salaries of county officers at a level different from that already established by the Legislature in 30 M.R.S.A. § 2, in the absence of express legislative language to that effect, as in the case of Cumberland County.

Finally, in order for this Department to conclude that the Waldo County budget committee has the authority, by virtue of 30 M.R.S.A. § 1401, to set the salaries of county officials at a level different from that established in 30 M.R.S.A. § 2(1)(N), it would be necessary for this Department to hold that the latter statute was implicitly repealed by the former. The repeal of a statute is generally disfavored and will only be determined if the two statutes are so repugnant that they cannot stand together evidencing a legislative intent that one should repeal the other. See State ex rel. Tierney v. Ford Motor Co., 436 A.2d 866 (Me. 1981). The two statutes in

question here, 30 M.R.S.A. §§ 2 and 1401, are not mutually repugnant or inconsistent, and there is nothing in the legislative history of Section 1401 to suggest that the Legislature intended an implied repeal of 30 M.R.S.A. § 2(1)(N). On the contrary, the two statutes are entirely consistent with each other.

I hope this information is helpful to you, and please do not hesitate to contact this office if we can be of further assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Tierney", is written over the typed name. To the right of the signature is a large, hand-drawn triangle.

JAMES E. TIERNEY
Attorney General

JET/ec