

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date March 13, 1975

To Abbie C. Page, Resource Planner

Dept. State Planning Office

From Cabanne Howard, Assistant

Dept. Attorney General

Subject Status of Executive Order 6 and 35

You have asked whether two executive orders remain in force after the termination of the term of the Governor, Kenneth M. Curtis, who issued them. The two orders were Executive Order 6 of January 26, 1972, establishing a system of planning and development districts and Executive Order 35 (FY 1974-75) of December 20, 1974, making a slight adjustment in the boundaries of the districts established by the first order.

The general principle regarding the effectiveness of an act of a chief executive beyond his term is that, so long as the chief executive is acting pursuant to explicit constitutional or statutory authority, such acts remain in force and are binding on his successor unless altered by the successor. See e.g., in area of the continuing force of gubernatorial appointments, the Opinions of the Attorney General of September 28, 1972, January 24, 1956 and December 15, 1955; State ex rel. Fox v. Brewster, 84 S.E. 2d 231 (W. Va., 1954); McGinness v. Hunt, 57 Ariz. 70 (1941). In the present instance, Executive Order 6 was issued pursuant to 30 MRSA §4501, Laws of Maine of 1969, Ch. 382 §2 (since repealed and replaced by 30 MRSA §4521, which confers on the Governor similar authority and which provided the authority for the amendatory Executive Order 35 (FY 1974-75)). Since the designations of planning and development districts made therein were supported by specific legislative authority, they would continue in force beyond the termination of the term of the Governor who made them. It should be noted, however, that under 30 MRSA §4521 (2), the current Governor may "revise the district boundaries to reflect changing conditions or otherwise to fulfill the purposes of this chapter."



CABANNE HOWARD

Assistant Attorney General