

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**R E P O R T**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1949 - 1950**

allotments at the beginning of the year which contemplate the expenditure of more funds than are provided for within the appropriations available for these departments.

Section 14 of Chapter 14 specifically provides that the Governor shall require the head of each department or agency of the state government to submit to the Department of Finance a work program for the ensuing fiscal year, such program shall include all appropriations made available to such department or agency for its operation and maintenance and for the acquisition of property, and it shall show the requested allotments of said appropriations *by quarters* for the *entire fiscal year*.

While under the provisions of Section 14 of said chapter the Governor and Council with the assistance of the Budget Officer may revise, alter, or change such allotments before approving the same, yet the aggregate of such allotments shall not exceed the total appropriations made available to such department or agency for the fiscal year in question. In other words, it is my opinion that the law requires that the work program for the ensuing fiscal year shall show the allotments by quarters for the entire fiscal year within the appropriations made available by the legislature.

RALPH W. FARRIS  
Attorney General

February 9, 1950

To Fred M. Berry, State Auditor

Re: Chapter 18, P. L. 1949, Maintenance of State and State-aid Highways

I have your memo of February 6, 1950, relating to the provisions of Chapter 18, P. L. 1949, which was an amendment to Sections 29, 45, 46 and 50 of Chapter 20, R. S., 1944, passed as an emergency measure, so that it took effect when approved by the Governor on February 24, 1949. I also acknowledge receipt of a copy of a letter written by the State Highway Commission to the municipal officers of Maine, dated February 24, 1949.

You state in the third paragraph of your memo that it was the practice of the State Highway Commission to bill maintenance charges to the municipalities on a calendar year basis and that all such charges were billed for the calendar year 1948. You further state that no billings were made by the Commission for maintenance costs for the period January 1, 1949 to February 24, 1949, the effective date of this emergency legislation. The amount of money involved for maintenance charges during this period is estimated at \$50,000, which the State would have received if the provisions of Chapter 20, Sections 46 and 50, R. S. 1944, as amended, continued in effect until February 24, 1949. Upon this statement of facts you ask the following question:

“Should the State Highway Commission bill the maintenance charges to the municipalities as were due the State under the provisions of the laws existing prior to the enactment of Chapter 18, Public Laws of 1949; or are all maintenance charges to be assumed by the State beginning with the calendar year January 1, 1949?”

It is my opinion that all maintenance charges under the provisions of Chapter 20 are on a calendar year basis. Section 45 as amended provides that if any town fails to pay its portion of the cost of snow removal work on its state highways on or before the 1st day of January of the following year, the same shall be collected and paid in the manner provided in section 31, and the amount so collected from such town shall be added to the fund for maintenance.

Furthermore, the emergency preamble to Chapter 18 states that "it is essential . . . that the towns should have knowledge of the amounts to be raised for the maintenance of state aid highways before the towns hold their annual town meetings in March; and in view of the fact that municipal officers were notified that the emergency legislation had been enacted, providing that the improved state-aid highways shall be continually maintained under the direction and control of the Commission at the expense of the State, the towns made no provision for raising money on a calendar year basis. This indicates that it was the intent of the legislature that the municipalities should be relieved from all maintenance charges for the calendar year of 1949.

RALPH W. FARRIS  
Attorney General

February 16, 1950

To Col. Spaulding Bisbee  
Re: The Civil Defense and Public Safety Law

Reference is made to the letter addressed to you under date of February 6, 1950, by James L. Reid, County Attorney, Kennebec County. In this letter Mr. Reid raises the question whether or not the County Commissioners are authorized to expend county funds in furtherance of the Civil Defense and Public Safety activities contemplated by the "Maine Civil Defense and Public Safety Act of 1949." Mr. Reid's question is raised because of the fact that the statute defines "political subdivision" as "any city, town or village corporation in the state," not specifically mentioning counties.

It is my opinion that although counties are not specifically mentioned in the definition of "political subdivisions," the counties may nevertheless, and should, participate in the program contemplated by the Act itself. Section 12 of the Act states that the Governor and the executive officers (presumably of the State) or governing bodies of the political subdivisions of the State are to utilize the services and facilities of existing departments, offices and agencies of the State. While the County Commissioners are not in a narrow sense of the words "agencies of the State," it is nevertheless my opinion from an examination of the whole Defense Act that the County Commissioners, in carrying out their functions as administrators of the county government, are an agency or facility of State government in a broader sense, and, I believe, within the contemplation of the Civil Defense Act. Accordingly, in being "utilized" within the meaning of Section 12 of the Act, it would follow that they would be authorized to make such expenditures as are reasonably necessary to carry out their part in the official program which has been promulgated to carry out the terms of the Act.

JOHN S. S. FESSENDEN  
Deputy Attorney General