

MAINE STATE LEGISLATURE

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(70) ~~XXXXXXXXXX~~

July 14, 1952

To Kenneth Burns, Accountant Supervisor, Institutional Service
Re: Carrying of Encumbered Funds for More than One Year

Chapter 147 of the Resolves of 1949 provided the sum of \$200,000 for repairs to the Bangor State Hospital. A portion of this fund was encumbered prior to the closing of the 1950-51 fiscal year by the letting of contracts to continue the electrical, plumbing and other repairs and replacements contemplated by the Resolve of 1949. Because of the difficulty in obtaining supplies and certain other conditions which delayed the fulfillment of these contracts request is made of this office as to the power of the Controller to carry these encumbered funds into the 1952-53 fiscal year.

An examination of the statutes relative to this problem reveals an ambiguity which should be cleared up by the next legislature and which prevents this office from making a clear-cut ruling on ~~the~~ the matter.

It can be said on the one hand that Chapter 14, section 21, is the most generous of the statutes with respect to the carrying of encumbered funds. This deals with the construction of buildings, highways and bridges. In that statute authority is given the Controller to carry encumbered funds to the succeeding fiscal year. Applying this section of our laws to the present problem, a possible answer is that it is the intent of the legislature that encumbered funds may be carried for only one year. On the other hand, there is no statute expressly prohibiting the carrying of encumbered funds for more than one year. It is clear that the Resolve of 1949 does not come within the provisions of section 21, the Resolve authorizing the repairing of a building while section 21 contemplates construction of buildings, highways and bridges.

Considering the fact, however, that contracts have been let for the repairs of the Bangor State Hospital and that obligations exist under such contracts on the part of the State, it is the opinion of this office that the Controller is within his legal power in carrying this encumbered appropriation into another fiscal year.

As stated above, this ambiguity in the statutes should be cleared up at the next incoming legislature.

We are sending a copy of this memo to the Controller with the statement that this office will be pleased to assist in the clarification of statutes relative to encumbered funds.

James G. Frost
Deputy Attorney General

jgf/c
ss: State Controller