

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

April 7, 1958

705

To Scott K. Higgins, Director, Aeronautics Commission  
Re: State Funds Requested by the City of Portland

This is in response to your memo of March 12, 1958, which reads as follows:

"Attached is a copy of a letter dated January 10, 1958 received from the City of Portland requesting additional State funds in the amount of \$143,000, covering the State's share of additional cost for the construction of the new East-West runway at Portland Municipal Airport. These costs were incurred primarily due to the fact that the original contractor defaulted his contract and the project was not completed.

"At a meeting of the Maine Aeronautics Commission on February 20, 1958, Portland's request was discussed at great length and in considering the circumstances which the City of Portland has made its request, as contained in the second sentence of paragraph one of Portland's letter, the Commission took the following action:

"Item 4. In response to a request dated January 10, 1958 from the City of Portland for \$146,000 State funds as the State's share for additional cost of construction of the new East-West runway at Portland Municipal Airport under Federal Aid Airport Projects No. 9-17-001-507 and 9-17-001-5609, the Director is hereby instructed to submit the pertinent facts relative to the present payment of State funds for these projects to the Attorney General for his opinion, as to whether or not State funds should be disbursed at this time since the city is still in litigation with the original contractor.

"The original \$250,000 appropriation of State funds was introduced to the 96th Legislature, S.P. 553 - L.D. 1486, Chapter 127, Resolves, approved May 7, 1953. The additional \$150,000 mentioned in Portland's letter was appropriated by the 98th Legislature, S.P. 168 - L.D. 447, Chapter 163, Resolves, approved May 29, 1957.

"The Commission questions the legality as to whether or not additional State funds should be paid to the City of Portland before a decision is made concerning the city's suit against the original contractor.

"At a hearing before the Appropriations committee requesting the additional \$150,000, the point was definitely stressed by the City Manager, Chairman of the City Council and myself, that the \$150,000 would not be used unless an unfavorable decision was rendered against the City of Portland. However, the Resolve as passed, does not mention this angle. It would be appreciated

if you would advise this Commission in writing as to your opinion in this matter."

The acts authorizing the expenditure do not expressly cover the question whether the funds could be advanced or whether the program is one of reimbursement. It certainly was contemplated by the Legislature that the sum be expended as necessary to defray the State's share of actual cost of the project.

We are of the opinion that the request is one that should be placed before the Governor and Council. Of course, payment of any part of the appropriation in the 1957 Resolve must first be approved by the Governor and Council.

As a result of the 1953 appropriation, the Governor and Council approved payment to the City of Portland in the specific sum of \$250,000. The appropriation by the 1957 Legislature was achieved by amendment of the 1953 law. It thus becomes necessary for the new appropriation to receive the attention of that body.

We would suggest that the present problem be explained to them and payments be made according to their decision.

James Glynn Frost  
Deputy Attorney General

jgf/c