

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

Paragraph 7 of 38 M.R.S.A. 361 reads in part as follows:

“The commission shall consult with and advise the authorities of municipalities, persons and businesses having, or about to have, systems of drainage or sewerage *except purely storm water systems*, as to the best methods of disposing of the drainage or sewage with reference to the existing and future needs of the municipality, other municipalities, persons or businesses which may be affected thereby.

. . . Municipalities and sewer districts shall submit to said commission for its advice and approval the plans and specifications for any proposed new system of drainage, sewage disposal or sewage treatment, *except purely storm water systems* and any alterations in existing facilities. . . .” (Emphasis supplied)

Under Paragraph 7, the Commission has no authority to consult and advise municipalities about systems of drainage or sewerage which are purely storm water systems. The same rule applies to submission of plans and specifications for proposed new systems.

The Commission is not barred from enforcement action if the situation develops to a point where there is sufficient evidence of a classification violation. In such case the Commission may make an appropriate order for enforcement under 38 M.R.S.A. § 451.

WARREN E. WINSLOW, JR.  
Assistant Attorney General

October 1, 1969  
Executive

Allen G. Pease, Administrative Asst.

**SYLLABUS:**

A Council Order for the purpose of expending funds must show on its face the source of the funds to be used.

**FACTS:**

On Tuesday, September 30, 1969, you telephoned and requested a written opinion answering a question relating to the purchase of an aircraft. The aircraft is for use of various state departments and the Governor. The matter was being considered by the Governor and Council at a special meeting that afternoon. The Council Order to be considered reads as follows:

“ORDERED, That the State Purchasing Agent be and hereby is authorized to accept the bid of Central Maine Flying Service, Inc., of Old Town, Maine, the low bidder, and to contract with the said firm in the net amount of \$76,900.00 for delivery of a new State Executive Aircraft, a 1969 Piper Navajo Airplane, effective October 1, 1969.

**STATEMENT OF FACTS**

“Section 12 of Title 6 of the M.R.S.A. states in part that ‘The Director shall have the care and supervision of such planes as may be owned by the State for the use of its departments and agencies and shall provide adequate hangar facilities and be responsible for the maintenance, repair, upkeep and operation of such planes, .....

“The present aircraft was originally acquired under the Federal Surplus Property Program in 1960, converted from military to civilian use, and has been in continuous operation since. The Director feels that it should be replaced at this

time.

“Copies of the bids are available for examination. Funds are available in Account Number 4006.5, The Aeronautical Fund, to encumber the contract.”

*QUESTION:*

Who has authority to purchase an executive aircraft, such to be used by state departments and the Governor?

*ANSWER:*

See Opinion.

*OPINION:*

First, we note that the order does not state from what fund or appropriation payment for the aircraft is to be made. A factual statement in the Statement of Facts indicates that funds are available in the Aeronautical Fund to encumber the contract. It must be noted that a Statement of Facts is no more than that and is not a part of the Council Order.

A Council Order, which purports to authorize a contract and expenditure of funds, must indicate what fund, appropriation or department is to be responsible for payment under the terms of the contract.

The instant Order being silent on this matter is of no effect as it authorizes no one to make payment under the contract.

GEORGE C. WEST  
Deputy Attorney General

October 3, 1969  
Executive

Governor Kenneth M. Curtis

*SYLLABUS:*

The Council Chambers must be open to any members of the public who may wish to attend pardon hearings.

*FACTS:*

The Governor, realizing the emotional reaction of some petitioners for pardon before the Governor and Council, would like to know who must be allowed admittance to pardon hearings.

*QUESTION:*

May the Governor and Council hold pardon hearings and close the doors of the hearing room to all but the press, petitioner and his representatives, without violating the public right to know laws of the State of Maine pursuant to 1 M.R.S.A. § 401, et seq?