

# MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date 20 August 1971

To William E. Schumacher, M.D., Director

Dept. Bureau of Mental Health

From Courtland D. Perry, Assistant Attorney General Dept. Mental Health and Corrections

Subject P&SL 1971, Chapter 138 -- AN ACT Appropriating Funds for Drug Abuse

SYLLABUS:

The proviso contained within Section 1 of P&SL., 1971, Chapter 138, that the State Drug Abuse Council return State funds to the General Fund in an amount equivalent to funds received from other sources is not applicable to Section 2 of the same Act, wherein the sum of \$75,000 is appropriated to the Department of Mental Health and Corrections, Interagency Commission on Drug Abuse. The duration of the appropriation set forth in Section 1 of P&SL., 1971, Chapter 138, is controlled by the clear language of the Act and as set forth must be applied.

FACTS:

This office has been requested by William E. Schumacher, M.D., Director of the Bureau of Mental Health to express its opinion relative to certain aspects of P&SL., 1971, Chapter 138, AN ACT Appropriating Funds for Drug Abuse, the pertinent portions of which are quoted below:

"Sec. 1. State Drug Abuse Council; appropriation. There is appropriated from the unappropriated Surplus of the General Fund the sum of \$35,000 to the State Drug Abuse Council to fund continuing programs in an effort to combat the abuse of dangerous drugs especially by the young people in the State of Maine. The State Drug Abuse Council shall provide continuing funds to governmental agencies and nonprofit corporations, to develop and carry out present programs for the purpose of combating dangerous drug abuse, including such programs which are endorsed and such programs to be endorsed by the State Drug Abuse Council which is made up of residents of concerned state agencies and representatives of the medical and osteopathic associations.

"Programs authorized for funding from the appropriated sum of \$35,000 do and shall include development and education of local drug abuse councils, the purchase of films, training materials and literature for the use of these councils and for others in

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combating drug abuse, for education of teachers of health in improved methods of dangerous drug education, the reprinting of a Department of Education booklet on curriculum development and information on dangerous drugs, and for the establishment of a state-wide answering service as an information and referral resource for individuals with problems relating to dangerous drugs.

"Any funds obtained from other sources for the funding of all or any portion of the program as described above shall obligate the State Drug Abuse Council to return to the General Fund of the State funds in the amount of the grant from other sources.

"This appropriation shall not expire at the close of the fiscal year ending June 30, 1971, but shall extend to June 30, 1972.

"This appropriation shall be administered by the Department of Mental Health and Corrections in behalf of the State Drug Abuse Council"

"Sec. 2. Interagency Commission on Drug Abuse; appropriation. There is appropriated from the Unappropriated Surplus of the General Fund the sum of \$75,000 to the Department of Mental Health and Corrections, Interagency Commission on Drug Abuse to provide funds for grants to assist local drug abuse programs and any balance of this account as of June 30, 1972 shall carry forward for the same purposes until June 30, 1973."

QUESTION:

1. Is Section 2 of P&SL., 1971, Chapter 138, subject to the proviso contained within Section 1 of that Act, i.e., is the Department of Mental Health and Corrections, Interagency Commission on Drug Abuse required to return to the General Fund of the State, amounts equivalent to amounts received by that agency from sources other than the legislative appropriation of \$75,000, set forth in Section 2 of the Act?
2. Must the provision of Section 1, P&SL., 1971, Chapter 138 that the

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appropriation made therein shall not expire on June 30, 1971, but shall extend to June 30, 1972 be strictly applied?

ANSWER:

1. No
2. Yes

REASON:

1. The appropriation of \$75,000 to the Department of Mental Health and Corrections, Interagency Commission on Drug Abuse set forth in Section 2 of P&SL., 1971, Chapter 138, is not made subject to any return-of-funds provision with respect to funds received from other sources. The return-of-funds proviso contained within Section 1 of the Act relates only to funds received from other sources by the State Drug Abuse Council. The two Sections are entirely separate, relate to separate appropriations and agencies. The return-of-funds proviso in Section 1, clearly, has no applicability to Section 2 and the Department of Mental Health and Corrections, Interagency Commission on Drug Abuse.

2. Section 1 of P&SL., 1971, Chapter 138 provides in part:

"This appropriation shall not expire at the close of the fiscal year ending June 30, 1971, but shall extend to June 30, 1972."

This language is not subject to interpretation, it contains no ambiguity; in fact, nothing could be clearer than the language used in setting forth the duration of the appropriation.

An examination of the background of the Act reveals that it was always the clear intent of the Legislature that the appropriation be in existence during the period set forth.

Legislative document 1012, which contained the full text of Section 1 of P&SL.,

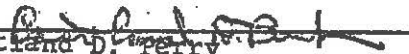
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1971, Chapter 138, was submitted as an emergency measure, having been introduced in the Senate on February 25, 1971, it was heard on March 30, 1971, and was amended to include Sections 2 and 3 on May 19, 1971, was enacted, as amended, and finally approved on June 25, 1971.

The urgency expressed in the Emergency Preamble to the Bill calling for immediate action and the necessity for immediate availability of appropriated funds is considered the basis for the provision that the funds be available during the 1970-71 fiscal year. Although, there was a substantial delay in the enactment of this legislation involving the consideration of amendments which contained different provisions for the duration of appropriations the Legislature did not change the appropriation duration period set forth in Section 1. It must be said to stand.

Any alteration of the dates applicable to the appropriation made in Section 1 of the Act can only be by further action taken by the Legislature.

  
~~Courtland D. Perry~~  
Assistant Attorney General