

# MAINE STATE LEGISLATURE

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April 24, 1974

Robert E. Hodgdon

Parks and Recreation

Lee M. Schepps, Assistant

Attorney General

Small Grant Program to Conservation Commissions

This is in response to your memorandum of April 11, 1974, asking two questions. The first, you inquired whether or not grants pursuant to Chapter 223 of the Private and Special Laws of 1973 (the "Act") can be made directly to the municipal conservation commissions involved, or, instead, whether or not they are required to be made to the municipal officers. While the Act is not explicit upon the subject, several phrases used by the Legislature in the Act rest on the assumption that the grant is to be made directly to the conservation commission. For example, the Act refers to "applications from Conservation Commissions," talks of funds to be "matched by the conservation commission" and refers to a grant to be "made to conservation commissions."

I note that Title 30 M.R.S.A. § 3851 expressly authorizes conservation commissions to receive gifts in the name of the municipality for any of its purposes and, in contrast to other statutory powers it possesses, it may receive gifts without the consent of the municipal officers. Accordingly, grants under the Act may be made directly to conservation commissions.

Your second question inquired whether or not each grant by the State under the Act is to be no more than 50% of the anticipated project costs or, instead, whether or not the State is required by the Act to reimburse the conservation commission up to 50% of actual cost of the project. The Act simply states that "No grants from this Small Grants Program shall exceed 50% of the approved project cost and shall be matched by the conservation commission." The Act is silent about the precise manner in which the matching arrangement is to be consummated. That is to say, the Act does not require the Department of Conservation to administer the program on a reimbursement basis, nor does it require the Department of Conservation to administer the program on an anticipated cost basis. Accordingly, so long as the Department of Conservation grants no more than 50% of the approved project cost and so long as the funds paid by the Department of Conservation are matched by the conservation commission, the manner in which the funds are handled is a matter of administrative discretion.

I hope this is responsive to your request. Please let us know if we can be of further assistance.

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LEE M. SCHEPPS  
Assistant Attorney General

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AN INFORMAL OPINION