

MAINE STATE LEGISLATURE

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Snowmobile Program
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Parks & Recreation
Attorney General

Financial Assistance to Individuals Grooming Trails

You have asked if the Bureau of Parks and Recreation can provide financial assistance to individuals grooming private snowmobile trails.

Answer

Yes.

Discussion

Title 12 M.R.S.A. § 1972 authorizes the Bureau of Parks and Recreation to make "grants in aid to political subdivisions, educational institutions, regional planning agencies, snowmobile groups and others for the construction and maintenance of snowmobile trails . . . on such terms as the Bureau determines necessary." (emphasis added) The term "snowmobile groups and others" indicates a legislative intent that some of these funds may be made available to private parties. Further, § 1972 contains no indication that the money could only be made available for public snowmobile trails. Thus, the money may be made available to private individuals for snowmobile trail grooming if such expenditures are expenditures for a "public purpose."

Public funds must be expended for public purposes, 81 C.J.S. States § 133. It has long been settled doctrine in Maine that the Legislature cannot constitutionally authorize use of public monies for private purposes. Allen v. Inhabitants of Jay, 60 Me. 124 (1869), Brewer Brick Company v. Brewer, 62 Me. 62 (1871). However, over the years, though the doctrine has not changed, increasingly broad uses have been determined "public" purposes, and the Maine Court has stated that: "The meaning of the word "public use" has been liberally interpreted in this State." State v. Vahlsing, Inc., 147 Me. 417 (1952) 426. As the use of funds you propose appears to have been contemplated by the legislature, their judgment that such use is a public benefit eligible for public funds should be accepted unless overturned by a court.

You also asked what procedures you would advise for grants to such private persons improving private snowmobile trails with State money. In this connection, the following are suggested:

1. Persons receiving the funds should agree in writing that the snowmobile trail upon which the funds will be expended will be fully available to the public, without discrimination, upon the same terms and conditions as state or municipally operated snowmobile trails are available to the public.

2. Those persons should also present a signed statement certifying that they have contacted all land owners along the trail and that the landowners agree that the trail can be used by the public as indicated above.

3. Additionally such persons should agree that the trail will be marked and efforts will be made to assure that the trail is maintained and that use of the trail is governed in a manner similar to public snowmobile trails.

4. You should receive a full accounting for all expenditures made with State funds including receipts where the purchases have been made and an accounting of time spent where services have been provided.

DGA/mf