

# MAINE STATE LEGISLATURE

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May 6, 1976

O. W. Siebert, State Budget Officer

Bureau of the Budget

Donald G. Alexander, Deputy

Attorney General

Relationship of Chapter 313, Public Laws 1975-Recovery of claims against the State

This responds to your memorandum of April 12, 1976, to the Attorney General. In that memorandum you pose the question of whether, since enactment of Chapter 313, State agencies can continue to pay small claims without requesting Governor and Council approval and/or funds from the contingent account?

Initially, addressing this question requires some clarification as to what is and what is not a claim. It is my understanding that this opinion developed from concern in your office and the Executive Council that all claims of State employees for expenses or damages incurred while engaged in State business must be processed through the mechanism established by Chapter 313. Such is not the case. For expenses reasonably incurred in the course of their official duties or for damage which reasonably results from performance of official duties, State employees may be compensated directly by their individual departments. This general matter of compensation of State employees for expenses incurred in the course of their business activities was addressed in an opinion of this office of August 13, 1974, relating to legal fees. A copy of that opinion is attached.

The type of employee expense or damage claim which we believe could be paid directly by the employing department would be expense or damage incurred or resulting from the reasonable performance of the employee's assigned official duties. This would cover such matters as legal expenses as discussed in the attached opinion, reimbursement for damage to clothing incurred in the course of State business and provable damage to other personal property. The question of damage to motor vehicles may arise. These damages should be covered by the employee's insurance, the cost of which is taken into consideration as part of the 12¢ per mile reimbursement. However, deductible costs not paid by insurance could be repaid by a department. We would further note that as to departmental reimbursement, the Department of Finance and Administration could impose an upper limit above which claims would have to be presented to the Council. Such a limit could apply to all departments except those headed by independent constitutional officers.

With the reservation relating to expense and damage claims of State employees cited above, however, it is the opinion of this office that all other claims against the State, whether by employees or private individuals, must be processed pursuant to Chapter 313.

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Chapter 313 of P.L. 1975, which enacted 5 M.R.S.A. § 1510, requires that the Governor and Council consider: "Every claim against the State or any of its agents, which is not submitted under a specific statutory provision other than this section and which does not exceed the sum of \$2,000." The language of this section is quite clear that every such claim against the State for damages in an amount of less than \$2,000 should be considered pursuant to the procedures established by § 1510. Further the provisions of § 1510 are the exclusive method for consideration and payment of such claims absent either specific statutory provisions which authorize payment of claims through other means or the general authority of departments to pay reasonable employee business expenses, as discussed above.

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DONALD G. ALEXANDER  
Deputy Attorney General

DGA:mfe

Encl.