

MAINE STATE LEGISLATURE

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December 22, 1976

O. W. Siebert, State Budget Officer

Bureau of the Budget

Donald G. Alexander, Deputy

Attorney General

This responds to your request for an opinion as to the effect of changes in 5 M.R.S.A. § 1585 relating to transfer of funds within departments and the procedures which must be employed regarding such transfer of funds. Specifically, you asked:

1. "What is the Governor's role in such transfers?"
2. "What is the role of the Secretary of State in such transfers?"
3. "What type of an order, if any, is needed?"
4. "Is public notice or public hearing required to approve such transfers?"

The responses to your questions are as follows:

1. The amendments to Title 5 M.R.S.A. § 1585 adopted by P.L. 1975, c. 771, § 72, remove the Executive Council from any role in the transfer of funds. The effect of the amendment is to leave the Governor with complete discretionary authority to approve or disapprove transfers of funds in the same manner as previously done by the Governor and Council.

2 and 3. No role is specified for the Secretary of State. However, as transfers of funds and thus deviation from the intention of the Legislature as manifested in appropriations legislation would occur, it would probably be best to have some official State document recognize this transfer. Accordingly, it may be best to continue to draft orders signifying approval of these transfers and file these orders officially with the Secretary of State, with the Secretary of State noting, thereon, the date of receipt of the order so that questions about the timing of the order and the effectiveness of any fund transfers would be minimized. It should be emphasized, however, that nowhere is such a procedure required.

4. Similarly, there is no procedure for public notice or public hearing regarding fund transfers. In this connection also the Governor or the State departments or agencies making the transfer recommendations could develop such procedures as they see fit.

DONALD G. ALEXANDER

Deputy Attorney General