

# MAINE STATE LEGISLATURE

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Counties' Court Expenses  
Courts' Financing By Counties

4 M.R.S.A. 118

15 M.R.S.A. 1320

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AUGUSTA, MAINE 04333

March 29, 1977

Thomas E. Delahanty, II, Esquire  
District Attorney, District II  
2 Turner Street  
Auburn, Maine 04210

Re: County Support of Court Financing.

Dear Mr. Delahanty:

This letter responds to your request for an opinion regarding payments by the several counties to the State for assistance in financing court operations.

The questions which you have requested us to answer all concern payments by Androscoggin and other counties to the State Treasurer pursuant to 4 M.R.S.A. § 118, which reads:

"§ 118. Support from counties.

"Effective July 1, 1976, each county shall pay annually to the State for the support of the Supreme Judicial and Superior Courts an amount equal to the direct expenditures by that county during the calendar year 1975 for the support of the Superior and Supreme Judicial Courts in all categories of expense assumed by the State as of July 1, 1976, less the amount received by that county from fines, fees, forfeitures and other revenues from the District, Superior and Supreme Judicial Courts during 1975. Such payments shall be made in equal semi-annual installments on July 1st and January 1st of each year. The amount of direct expenditures by the counties during the year 1975 shall be fixed and confirmed by the Treasurer of State."

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Your questions and the answers will be set forth separately below. However, it would be useful to set forth briefly the legislative history of this section before addressing the questions.

Title 4 M.R.S.A. § 118 was enacted as part of P.L. 1975, Chapter 383, which in its bill form was designated L.D. 575, as amended. The title of the bill was "An Act to Provide State Financing of the Expenses of the Superior and Supreme Judicial Courts," and the Statement of Fact reads, in pertinent part:

"This bill provides for the assumption by the State of the operational expenses of the Superior Court presently borne by the 16 counties, such as the cost of jurors, witnesses, assigned counsel for indigent defendants and the like."

In its original form, this bill did not provide for any payments to the State by the counties. However, the bill was amended by Committee Amendment "A" (Filing No. S-140) which added 4 M.R.S.A. § 118. The Statement of Fact for the amendment reads:

"This amendment provides for county reimbursement of State financial support for the Supreme Judicial Court and for the Superior Court. . . ."

There is no pertinent, recorded legislative record of debate or comment on either L.D. 575 or its amendment. Subsequent enactments dealt with the same general subject matter, but did not affect 4 M.R.S.A. § 118. (P.L. 1975, Chapters 408 and 735). The foregoing constitutes the recorded legislative history of the section in question.

QUESTION #1:

"Are expenses for Clerks of Courts and Law Libraries to be considered in determining county payments under 4 M.R.S.A. § 118 or is the contribution of each county limited to expenses incurred for the direct operation of the court?"

The last sentence of section 118 indicates that the amount of the expenditures for the year 1975 are to be "fixed and confirmed by the Treasurer of State," and, therefore, the Treasurer of State would be the primary source for an answer to your first question. However, since you have indicated to us that the question remains unresolved despite consultations with the Treasurer, we offer the following opinion as guidance.

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Although P.L. 1975, Chapter 383 provides that the State will take over from the counties the financing of the Court system, section 118 specifies that in the future the counties will annually make a fixed payment to the State calculated from the base year of 1975, to assist in this financing. The key words of § 118 for determining the expenditures during 1975 which are to be included in calculating this payment are ". . . direct expenditures, . . . for the support of the Superior and Supreme Judicial Courts in all categories of expense assumed by the State as of July 1, 1976. . . ."

It is our opinion that the words "direct expenditures" were intended to exclude items such as expenditures for lighting and heat in the Courthouse which are not directly attributable to the Courts or their ancillary operations. Items such as expenses for the Clerk of Courts and the County Law Library, each of which to a greater or lesser extent directly contribute to and support the operations of the Court and the administration of justice, would be considered "direct expenditures." In addition, the items to be included were also designated as those items which were being assumed by the State as of July 1, 1976. Both the salaries of the Clerks of Courts, whether elected or appointed, and their office expenses, and the County Law Libraries were included among those categories of expense assumed by the State in P.L. 1975, Chapter 383. (Clerks of Courts - 30 M.R.S.A. § 2 and 4 M.R.S.A. § 551; County Law Libraries - 27 M.R.S.A. §§ 221, et seq.) In light of the foregoing, it is our opinion that expenses for Clerks of Courts and Law Libraries during the year 1975 are to be considered by the Treasurer of State in fixing and confirming the amount of direct expenditures.

QUESTION #2:

"Are revenues received by the counties to be deducted from any sum due the State?"

We assume that this question deals with revenues received by the county during 1975 and their treatment for purposes of computing the annual payment by the counties to the State. Section 118 specifically provides that fines, fees, forfeitures and other revenues received by the counties from the Courts during the year 1975 are to be deducted from expenditures for the Superior and Supreme Judicial Courts in order to arrive at the amount which is to be paid annually to the State. Since these revenues are now being paid directly to the State pursuant to the provisions of Chapter 383, it is logical that the Legislature intended to reflect this loss of revenue to the counties by allowing deduction for these revenues in 1975 from the 1975 expenditures for the Courts.

QUESTION #3:

"Are counties entitled to a credit or deduction from sums due the State for amounts paid as witness fees, service of process and/or court officer fees and expenses (4 M.R.S.A. § 118; 15 M.R.S.A. § 1320)?"

Title 15 M.R.S.A. § 1320, sub-§ 2 reads:

"2. Expenditures. In fixing the amount of direct expenditures by the counties in calendar year 1975 for the support of the Superior Court pursuant to Title 4, § 118, the Treasurer of State shall not consider sums expended in criminal prosecutions in the Superior Court on account of witness fees for state witnesses, fees and expenses payable on account of the services of police officers as witnesses and as complainants, and fees and expenses payable on account of the services of police officers in serving criminal process."

This section concerns only funds expended in calendar year 1975 and only in those categories as they relate to criminal prosecutions. Expenditures for these items as they relate to the administration of civil justice in 1975 would be included in calculation of the direct expenditures if these are items which the State would pay after July 1st, 1976. Stated differently, items of expense for operation of the Courts which the counties continue to pay after July 1, 1976, if any, should not be included in computing the direct expenditures for 1975. Otherwise, the counties would be in the position of contributing twice to the payment of these expenses.

It should be noted that any "credit or deduction" discussed above would be only for those expenditures in the year 1975 since it is only those expenditures which are used by the Treasurer of State in computing the amount which the counties shall contribute annually in the future. There would be no credit or deduction of these expenses in subsequent years from the set amount which is due the State.

QUESTION #4:

"If sums appropriated by the Legislature in individual county line item budgets are inadequate to pay assessments made by the State must the counties pay the full share assessed by the State or may they pay only the amount appropriated?"

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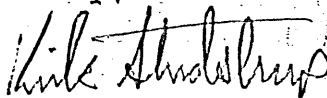
This question seems to be predicated upon an assumption that the County Commissioners and the Legislature will fail to recognize the fixed obligation of the county pursuant to 4 M.R.S.A. § 118 in submitting estimates and approving expenditures for the line item category in the county budget concerning operation of the Courts. We do not believe this is a valid assumption. Once the Treasurer of State has determined the amount to be paid by each county pursuant to § 118, this amount becomes a fixed expense each year, and the probability that this expenditure would not be recognized in the budget as estimated by the County Commissioners and approved by the Legislature is remote.

QUESTION #5:

"If the county must pay the full sum assessed by the State and does not have sufficient funds to meet this obligation, how shall it raise the necessary revenue?"

As pointed out in our answer to Question No. 4, we believe the possibility of the problem posed by this question is quite remote. However, if such a situation should exist due to circumstances which are not clear at present, such a budgetary "short fall" would be handled in the same manner as any other county budgetary "short fall" on an individual basis. Possible solutions could include, but would not be limited to, use of the county contingency fund at the discretion of the County Commissioners, intra-departmental transfers, or a request for legislative relief.

Sincerely,<sup>YIV</sup>



S. KIRK STUDSTRUP  
Assistant Attorney General

SKS/ec

cc: Senator Philip C. Jackson  
Representative James S. Henderson  
State Treasurer Leighton Cooney  
State Auditor Rodney L. Scribner  
Elizabeth Belshaw  
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