

MAINE STATE LEGISLATURE

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Education Budget Matters
30 M.R.S.A. 251 + 252

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June 22, 1977

Honorable Peter J. Curran
House of Representatives
State House
Augusta, Maine

Dear Representative Curran:

We are responding to your oral request for an opinion of this office which concerns county budgets and expenditures. Your question is, "Who has the authority to determine how funds are to be expended within each budget category, particularly personal services, as those categories are set forth in the legislatively approved budget?" The answer to your question is that the initial responsibility for determining such expenditures rests with the county commissioners, subject to the ultimate authority of the Legislature exercised through its county budget approval process.

The general duties and budgetary duties of the county commissioners set forth in Title 30 M.R.S.A. §§ 251 and 252 respectively have been interpreted by the Supreme Judicial Court to mean that it is the duty of the county commissioners to control the expenditures of each county department. Watts Detective Agency v. Inhabitants of Sagadahoc County, 137 Me. 233, 238 (1941). In this regard, the county commissioners serve as the ultimate fiscal control at the county level and would make determinations as to how funds are to be expended within each budget category for each department, including personal services, except as otherwise provided by law.

However, the authority of the county commissioners to control expenditures within county departments discussed above is ultimately subject to the control of the Legislature. This office has frequently expressed its opinion that the county derives its powers solely from the Legislature and that legislative approval of the county budget estimates is a direction by the Legislature that funds obtained from the county tax and other sources are to be expended in accordance with that budget. Therefore, the authority of the county commissioners

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to control expenditures is exercised within the bounds established by the legislatively approved budget and must not be exercised in such a way to frustrate the legislative intent which is expressed therein. It should be noted that the county commissioners are afforded certain flexibility in their fiscal administration by statutorily authorized contingent accounts and intra-departmental transfer of funds. 30 M.R.S.A. § 252. We are enclosing a selection of seven previous opinions of this office which more specifically treat individual questions which have arisen within the general legal principles just stated.

Please continue to call on us whenever we may be of assistance.

Sincerely,

S. KIRK STUDSTRUP
Assistant Attorney General

SKS:mfe

Enclosures

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