

MAINE STATE LEGISLATURE

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Lottery: Payment For Prizes
State Fund: Authority To Sign Checks
SMRBAV 1543

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December 1, 1977

To: Richard Dieffenbach, State Controller
From: Donald G. Alexander, Deputy Attorney General
Re: Payment of Lottery Prizes from Special Imprest Account

This responds to your memorandum of November 16, 1977, inquiring as to the legality of a special arrangement for payment of certain prize monies to winners of the Maine State Lottery. In your memorandum, you describe your proposal as follows:

"Background: The Maine State Lottery believes that the ability to make on-the-spot payments to winners at the time of the drawings will enhance the marketability of its games. Its director has requested an imprest prize account similar to that which is used in other States.

"Specifications:

1) The prize imprest account would be in addition to the petty cash funds assigned to the Lottery but its operation would be similar in nature. On the day of the drawing, funds sufficient to pay all prizes to be awarded (less Federal Income Taxes to be withheld) would be transferred from the Lottery's equity in the Treasurer's Cash Pool to the prize account. Expenditures would be reflected on the Controller's records the next day by journal entry when the unused prize money is returned to the Treasurer's Cash Pool and the detailed information supporting the payment is filed with The Bureau of Accounts and Control.

2) Use of the prize fund would be restricted to payment of validated prizes. The Lottery Director and a Commissioner would co-sign all prize payments.

3) The prize account is to be a special checking account established and reconciled by the State Treasurer."

Initially, in reviewing your proposal, it should be noted that the matter must be considered different from treatment of petty cash accounts. Petty cash accounts are specifically authorized by statute for each department, 5 M.R.S.A. § 1505. Similar direct or implicit authorization would have to exist for the proposed special imprest account, if payments from the special account are to be made through checks signed in a manner other than the standard practice for signing State checks.

Generally, with the petty cash exception, signatures on State checks are governed by the provisions of 5 M.R.S.A. § 1543, requiring authorization of the Controller and the Treasurer on a warrant designating a special payee. The only exceptions in § 1543 relate to the Maine Employment Security Commission and Indian tribes. Accordingly, the State laws relating generally to Finance and Administration do not provide the requisite authorization. Likewise, a review of the lottery law, 8 M.R.S.A. § 35, et seq., does not disclose any authority for lottery officials to act in lieu of the State Controller and the Treasurer in signing checks other than the petty cash exception discussed above.

Therefore, we regret to advise that we do not find sufficient authority in the statutes for establishment of the special imprest account from which disbursements could be made based upon the signature of the Lottery Director and a Commissioner of the Lottery.

Establishment of the account as proposed would require special authorizing legislation similar to the authorizing legislation now in effect for departmental petty cash accounts.

There may be other alternative means to provide instant payment of lottery winners in lieu of the proposed special imprest account which might be worth exploring (e.g., use of previously purchased bonds, cashier's checks, money orders or other such drafts.) I have not thought of the legal or policy implications of all of these, but suggest them for consideration in light of the negative decision regarding the proposed special imprest account.

DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec

cc: John P. O'Sullivan, Commissioner
Leighton Cooney, State Treasurer
George Orestis, Lottery Director
Richard Besson, Lottery