

MAINE STATE LEGISLATURE

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*Treasurer Delegation of Authority
5 M.R.S.A. 121*

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

December 19, 1977

To: Maurice F. Stickney, Deputy Treasurer
From: S. Kirk Studstrup, Assistant Attorney General
Re: Delegation of Authority to Sign State Checks

This memorandum responds to your request for advice from this office dated December 14, 1977, on a question concerning your authority to sign state checks on behalf of the State Treasurer. It is our understanding that this question arises because the State Treasurer has been requested to attend a drawing of the State Lottery and to sign checks for delivery to the winners on the spot. Since Mr. Cooney will not be able to attend the drawing, he would delegate his authority to sign these checks to you. It is also our understanding that the 32 prize checks involved would be drawn upon a special account set up for this purpose and that you have been identified to the bank as an individual who may draw checks upon that account. Our answer to your question is affirmative for the reasons stated below.

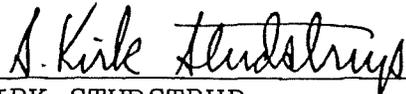
The statutory powers and duties of the State Treasurer are found generally in Chapter 7 of Title 5 M.R.S.A. Section 121 of that title states, in pertinent part:

"In the event of a vacancy in the office of Treasurer of State, the deputy treasurer of state shall act as the Treasurer of state until a Treasurer of State is elected by the Legislature. During the absence or disability of the Treasurer of State, the deputy treasurer of state shall perform the duties of the office. When a vacancy occurs, he shall give bond to the State, with sureties, to the satisfaction of the Governor, for the faithful discharge of his trust."

Insofar as the signing of State checks constitutes one of the duties of the office of Treasurer of State, it is clear from the statute that the Deputy Treasurer would perform this duty during the Treasurer's absence.

We are informed that because the State's check-writing operations have been computerized, it is rare for the Treasurer to personally sign a check. Therefore, in most cases the duties of the office taken over by the Deputy Treasurer during the Treasurer's absence would not include signing checks. However, § 121 is explicit in its delegation and there may be circumstances in which the Deputy's authority to sign checks will be necessary to meet emergencies.

It should be noted that the statutory delegation is limited and should be used only during actual absence or disability of the Treasurer. The provision is not authority for a general delegation of the Treasurer's duties, nor should it be extended in this manner because of the difference in bonding of the Treasurer and his Deputy. Therefore, this opinion should be limited to the specific facts of the question you have presented to us.



S. KIRK STUDSTRUP
Assistant Attorney General

SKS:jg

cc: Richard Dieffenback