

MAINE STATE LEGISLATURE

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County Expenditure Authority
County Federal Funds
30 M.R.S.A. § 252
" " " 253
" " " 255

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333
February 13, 1978

Honorable Donald V. Carter
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Carter:

This responds to your letter of February 7, 1978, and subsequent oral conversations, raising various county budgeting questions. Because you have requested a prompt response, extensive research has not been possible. However, in the limited time available, we have done our best to prepare answers to the questions.

Your first two questions are whether the County Commissioners or the County Treasurer have authority to transfer funds from line to line within an account, or to transfer funds from one account to another. We answer this question in the affirmative, in those cases where the transfers are within an appropriation of a particular department. 30 M.R.S.A. § 252, paragraph 6, permits transfers among accounts within a department where funds in one account prove insufficient, the request for the transfer is made by the department, and the transfer is approved by the County Commissioners.

Your third question is whether the County Commissioners or the County Treasurer may set up new accounts not specifically approved by the Legislature. We would advise that in reviewing the general county fiscal statutes, 30 M.R.S.A. §§ 252 and 253, we find no authority to set up such accounts. However, we would caution that such authority may be provided in other independent appropriations legislation relating to the specific counties. Further unapproved accounts may be set up for use of Federal funds (see discussion of question #4)

Your fourth question is whether counties may expand or create new accounts using CETA Funds or Federal funds other than General Revenue Sharing Funds without approval by the Legislature. We would answer that question in the affirmative. 30 M.R.S.A. § 255 authorizes counties to accept federal and state grants. Specifically, the law states:

"Counties may apply for and accept and expend federal government grants for any purpose for which federal government grants are made available to counties, either directly or through the state."

This would appear to give counties authority to accept and expend federal funds without specific legislative approval. By the provisions of 30 M.R.S.A. § 253, revenue sharing funds are exempted from the general authority to receive and expend, those funds being subject to approval by the Legislature in the same way as regular county budgets.

You also question whether a county may spend funds for criminal justice planning.

It is clear that a county may spend funds for criminal justice planning if those funds are derived from a federal criminal justice grant (see response to question 4). In addition, it may be possible for a county, through the sheriff's office, to spend certain funds for matters relating to criminal justice planning in light of the general law enforcement responsibilities given to the sheriff, which include coordination of various county law enforcement responsibilities in relationship with the state government, see particularly 30 M.R.S.A. § 1121.

In Question 5 and 6 you ask whether the County Commissioners or the County Treasurer have authority to:

5. To exceed expenditures over and above any approved account, including the \$50,000 authorization in the Contingency Fund?

6. To expend departmental revenues or credits over and above the amounts authorized by the Legislature?

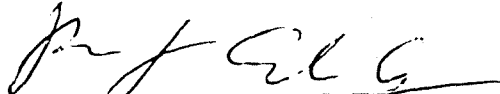
It is not possible to answer these questions without a specific fact situation in light of the differing authorities and potential uses of such funds as Federal aid, the Contingency Account, some aspects of disaster relief or other funds which may be available outside the regular legislative appropriations process. We would suggest that if you have specific questions in this area initially it may be best to seek an audit through the Department of Audit so that they may identify the source of funds used for particular purposes and perhaps the authority under which those funds have been used. As indicated in response to question 3, the general county financing laws, except for the Contingency Account, do not appear to contemplate, as a general matter, the expenditures of regular county appropriations suggested by your questions 5 and 6. However, there may be other provisions in specific appropriations bills or other laws which we have not researched which may allow such expenditures.

Your seventh question is whether the County Commissioners or the County Treasurer have authority to expend county or general revenue sharing funds which have not been set up in a non-lapsing account after the books have closed. The second paragraph of 30 M.R.S.A. § 253 provides that general revenue sharing funds for counties shall be appropriated and subject to the same fiscal controls as regular county funds. Thus, general revenue sharing funds and county funds may be treated as one for purposes of this question. Generally, a non-lapsing account prohibits expenditure of unexpended funds in a particular fiscal year

after the books have closed for that fiscal year. Reviewing the county fiscal statutes we find nothing which would suggest that the general rule does not apply to counties. Therefore, we would advise that it does not appear that counties have authority to spend remaining county or general revenue sharing funds in lapsing accounts after the books have closed for a particular fiscal year.

I hope this information is helpful.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

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