

# MAINE STATE LEGISLATURE

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April 11, 1980

Honorable Frank P. Wood  
P.O. Box 365  
Springvale, Maine 04083

Dear Representative Wood:

This will respond to your opinion request in which you ask the following question:

"Does state law require that all federal funds (including CETA) utilized by the county, have to appear in the County Budget presented to the Legislative Delegation?"

In order to place your question in perspective, it is necessary to examine the process by which county budgets are prepared, reviewed and approved.

Pursuant to 30 M.R.S.A. §252 (1978), the county commissioners are required to "prepare estimates of the sums necessary to defray the expenses which have accrued or may probably accrue for the coming year." The county estimates are to be prepared so as to authorize specific appropriations to each department or agency of county government for personal services, contractual services, commodities, debt service and capital expenditures. After the estimates have been prepared, the county commissioners are required to hold a public hearing on them prior to the first of December of each year. At least ten days prior to the public hearing, a copy of the estimates must be sent to each member of the county legislative delegation. Following the public hearing, but prior to the convening of the Legislature, the county commissioners are required to meet with the members of the county legislative delegation to "finalize estimates for the year." 30 M.R.S.A. §252.

Section 253 then provides that the county estimates are to be recorded by the county clerk. Before the first of each year a copy of the estimates must be transmitted to the Secretary of State "to be by him laid before the Legislature." 30 M.R.S.A. §253 (1979-80 Supp.).

In preparing the estimates which are to be presented to both the legislative delegation and the Legislature as a whole, the county commissioners are also required to comply with paragraph 2 of section 253, as most recently amended by Chapter 351, §1 of the Public Laws of 1979, which provides:

"Any county which is the recipient of federal funds shall provide for the expenditure of those funds in accordance with the laws and procedures applicable to the expenditure of its own revenue and shall record estimates of the expenditure as provided in this section."

Once the county estimates have been presented to the Legislature, it is the responsibility of that body to review, and ultimately adopt, the county budget. See Op. Atty. Gen., February 4, 1980; Op. Atty. Gen., June 29, 1979; Op. Atty. Gen., February 27, 1979; Op. Atty. Gen., February 2, 1979. As part of the county budget review process, the Legislature has the authority to amend the estimates as prepared by the commissioners, including the authority to alter specific line appropriations. See 30 M.R.S.A. §§253, 253-A (1978).

Having outlined the procedures governing the preparation, review and approval of a county's estimates and budget, it is now possible to consider your original question which is whether funds received by a county under the Comprehensive Employment and Training Act (CETA - 29 U.S.C. §§801, et seq.) must be reported to the county legislative delegation and the Legislature as part of the county budget review process. Your question necessitates an interpretation of the second paragraph of 30 M.R.S.A. §253, as amended by Chapter 351, §1 of the Public Laws of 1979, quoted above.

Whenever we are called upon to interpret a statutory enactment our task is to ascertain and give effect to legislative intent. See, e.g., Paradis v. Webber Hospital, Me., \_\_\_ A.2d \_\_\_, slip op. at 4 (Opinion filed December 31, 1979); New England Tel. & Tel. Co. v. Public Utilities Commission, Me., 379 A.2d 448, 453 (1977). Initially, we must be guided by the well-established principle of statutory construction that, absent evidence to the contrary, words in a statute are to be given their common and ordinary meaning. See, e.g., Vance v. Speakman, Me., \_\_\_ A.2d \_\_\_, slip op. at 5 (Opinion filed December 31, 1979); State v. Flemming, Me., 377 A.2d 448 (1977); In Re Belgrade Shores, Me., 359 A.2d 59 (1976). See also 1 M.R.S.A. §72 (3) (1979). Moreover, it is often helpful, in deciphering the legislative intent underlying the enactment of a particular statute, to examine the legislative history of the law in question. See, e.g., State v. Bellino, Me., 390 A.2d 1014, 1021 (1978); Finks v. Maine State Highway Commission, Me., 328 A.2d 791, 797 (1974). Finally, when construing a piece of legislation the courts will attempt to interpret it so as to give effect to the purpose which the Legislature sought to accomplish. See State v. Heald, Me., 382 A.2d 290, 294 (1978); Waddell v. Briggs, Me., 381 A.2d 1132, 1135 (1978).

The second paragraph of 30 M.R.S.A. §253 mandates that those counties which have received "federal funds" must "provide for the expenditure of those funds in accordance with the laws and pro-

cedures applicable to the expenditure of its own revenue..." As mentioned previously, the estimates of county expenditures must be presented to both the county legislative delegation and the entire Legislature. If the term "federal funds" as used in section 253 includes CETA funds received by a county, it would appear to follow that those funds must be reported to the legislative delegation and the Legislature as part of the county budget review process. When it enacted Chapter 351, §1 of the Public Laws of 1979, amending 30 M.R.S.A. §253, the Legislature did not define what was meant by the term "federal funds." However, applying the plain meaning rule of statutory construction, we are inclined to conclude that funds received by a county under the Comprehensive Employment and Training Act (29 U.S.C. §§801, et seq.) are "federal funds" within the scope of 30 M.R.S.A. §253 (1979-30 Supp.). Nothing in the language of section 253 suggests that the Legislature intended that the term "federal funds" be given a narrow interpretation, so as to exclude CETA funds from the operation of the statute. CETA funds are appropriated by Congress, distributed by the United States Secretary of Labor and are receivable by "prime sponsors" who meet federal eligibility requirements. See 29 U.S.C. §§101, 103, 112. Such funds are clearly federal in nature. To conclude otherwise would ignore the plain language utilized by the Legislature when it enacted Chapter 351, §1 of the Public Laws of 1979.

Our conclusion finds support in the legislative history of section 253. Prior to its amendment by P.L. 1979, c.351, §1, the second paragraph of section 253 only applied to counties which were recipients of federal revenue sharing funds.<sup>1</sup> Chapter 351, §1 of the Public Laws of 1979 originated as L.D. 316 (S.P.140) being "An Act to Insure the Accountability of Counties in the Expenditure of Federal Funds." The bill was presented by Senator Huber and co-sponsored by Senator Najarian. The "Statement of Fact" accompanying L.D. 316 provided:

"The purpose of this bill is to insure legislative scrutiny of federal funds expended by counties. As of November 1, 1978, a similar procedure is required in the preparation of the state budget whereby federal funding is considered by the Legislature as part of the total budget. As long as county budgets are adopted by the Legislature, it is the intent of this bill that the total budget be acted upon."

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1. Prior to its amendment by P.L. 1979, c.351, §1, paragraph 2 of 30 M.R.S.A. §253 provided:

"Any county which is the recipient of federal revenue sharing funds shall provide for the expenditure of such funds in accordance with the laws and procedures applicable to the expenditure of its own revenue and shall record estimates of the same as provided in this section."

The bill was referred to the Committee on Local and County Government which issued an "ought to pass" report with Committee Amendment "A." (S-175). See Leg. Rec. 1147 (Senate, May 14, 1979). As thus amended, L.D. 316 was eventually enacted.<sup>2</sup>

Unfortunately, there was no legislative debate on either L.D. 316 or its amendment, S-175. However, the "Statement of Fact" accompanying L.D. 316 indicates that the purpose of the legislation was to require counties to present to the legislative delegation and the Legislature a complete package concerning the funds, both state and federal, expected to be expended during the fiscal year. Nothing in the "Statement of Fact" suggests that CETA funds were to be exempted from this requirement. On the contrary, the fact that section 253 originally applied only to federal revenue sharing funds indicates that when the Legislature enacted c.351, §1, P.L. 1979 it intended section 253 to apply broadly to all federal funds received by the counties. Had the Legislature intended section 253, as amended by Chapter 351, to apply to certain types of federal funds but not to others, it could easily have said so. Instead, it eliminated the reference to federal revenue sharing funds and replaced it with the broad language "federal funds."

In the "Statement of Fact" accompanying L.D. 316, the drafters of the bill stated that "[a]s of November 1, 1978, a similar procedure is required in the preparation of the state budget whereby federal funding is considered by the Legislature as part of the total budget." This statement was a reference to Chapter 583, §4 of the Public Laws of 1977, which enacted 5 M.R.S.A. §§1681-1686(1979) Chapter 583, P.L. 1977 originated as L.D. 1676 (H.P.1387) and was entitled "An Act to Provide for Budgeting of State Expenditures of Federal Funds." L.D. 1676 was presented by Representative (now Senator) Najarian who also co-sponsored the legislation amending 30 M.R.S.A. §253. Chapter 583, §4, P.L. 1977 requires state agencies receiving and expending "federal funds" to submit estimates of federal expenditures to the State Budget Officer who, in turn, is required to prepare a federal expenditure budget for presentation to and review by the Legislature. 5 M.R.S.A. §§1682, 1683 (1979). The term "federal expenditure" is defined in 5 M.R.S.A. §1681(1) as

"any and all financial assistance made to a state agency or to an employee of such an agency acting in his official capacity by the United States Government, whether

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2. Committee Amendment "A" (S-175) made minor changes in section 253 and created a new section 253-A permitting counties to accept and expend federal funds if the Legislature was not in session.

a loan, grant, subsidy, augmentation, advance, reimbursement or any other form where such financial assistance will be expended by the state agency or employee acting in his official capacity."<sup>3</sup>

As can be seen from a reading of 5 M.R.S.A. §1681(1), the term "federal expenditure" was defined broadly to encompass "any and all [federal] financial assistance," with the sole exception of federal pass-through funds. We are confident that CETA funds are included in this definition of "federal expenditure" and, in fact, we have been informed by the State Budget Office that CETA funds received by the State are included in the federal expenditure budget in accordance with 5 M.R.S.A. §§1681, et seq. On the floor of the House, Representative Najarian expressed the view that the purpose of L.D. 1676 was to provide the Legislature with comprehensive data concerning the total budget picture of state government. 2 Leg.Rec. at 2448 (House, July 25, 1977).

In view of the fact that the drafters of L.D. 316 were attempting to accomplish on the county level what Chapter 583, §4, P.L. 1977 accomplished on the state level, we believe that the Legislature intended the term "federal funds" as used in 30 M.R.S. §253 to have a meaning similar to the definition of "federal expenditure" embodied in 5 M.R.S.A. §1681(1). Accordingly, it is our conclusion that pursuant to 30 M.R.S.A. §253, as amended by P.L. 1979, c.351, §1, CETA funds received by a county must be reported to the county legislative delegation and the Legislature as part of the regular county budget review process. We believe this conclusion furthers the statutory purpose which Chapter 351 was designed to accomplish, namely, to provide the Legislature with complete information regarding county expenditures so that the Legislature would be better prepared to act on the county budget.

While counties which have received CETA funds must report these funds as part of the county budget review process, we would point out that there may be limits on the authority of the Legislature to direct how CETA funds may be expended by a particular county. Recipients of CETA funds must expend those funds in accordance with the provisions of the Comprehensive Employment and Training Act and regulations promulgated thereunder.

Furthermore, we would caution the Legislature against reducing a county's appropriations with the expectation that CETA money may be used to replace the funds eliminated from the county budget. 29 U.S.C. §823(g)(1)(c) forbids CETA funds from being used to supplant "the level of funds that would otherwise be made available from non-Federal sources...."

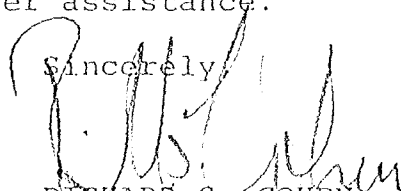
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3. 5 M.R.S.A. §1681(1) also provides that the term "federal expenditure" "shall not include federal pass-through funds which are received by the State Government and passed directly to local governments in those cases where the State is permitted no discretion with respect to disposition of the funds to local governments under the terms of the grant and federal law."

The question of whether the Legislature has any authority to control how counties expend CETA funds is beyond the scope of your opinion request, and we have not undertaken an in-depth analysis of the CETA act or the regulations promulgated by the Secretary of Labor. Nevertheless, it is possible that legislative attempts to control how counties spend CETA money may run afoul of federal law.

I hope this information is helpful. Please feel free to call upon me if I can be of further assistance.

Sincerely,



RICHARD S. COHEN  
Attorney General

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