

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

April 27, 1984

Honorable Louis Jalbert
39 Orestis Way
Lewiston, Maine 04240

Dear Representative Jalbert,

On April 19, 1984 you contacted this Department and requested a review of certain action by the Androscoggin County Commissioners with respect to an item involving the legislatively approved budget for that county. In response to your request, a member of this Department discussed this matter with you and the chairperson of the Androscoggin County Commissioners who has also provided this Department with all relevant documents pertaining to this matter. This Department has reviewed this material and other material which has been filed with the Office of the Secretary of State including Chapter 59 of the Resolves of 1984 which authorizes the expenditures for Androscoggin County for 1984 and is now in a position to express its views concerning the facts and law which govern this matter.

In accordance with 30 M.R.S.A. §252, the Androscoggin County Commissioners prepared the estimates of the sums necessary to defray the expenses of Androscoggin County for 1984. In preparing those estimates the Sheriff of Androscoggin County requested that the Commissioners include the sum of \$10,494.90 for a regular position described as "Inmate Medical, Transportation, Classification." This request was made for the "Support of Prisoners" department (Appropriation #1050) and was denied by the County Commissioners when they prepared the estimates for submission to the county legislative delegation.

Pursuant to 30 M.R.S.A. §252, "the County Commissioners of each county shall meet with the county legislative delegation to finalize estimates for the year." At the meeting between the County Commissioners and the county legislative delegation,

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the county sheriff requested the legislative delegation to approve funding for the "Inmate Medical" position which had earlier been denied by the County Commissioners. During the course of reviewing the estimates as prepared and submitted by the County Commissioners, the legislative delegation voted to add the sum of \$10,494 to Appropriation #1050 (Support of Prisoners) Line 3020 (Personal Services-Regular Employee) and in doing so made the following comment, "(add inmate medical)." At the same time, the legislative delegation voted to reduce by the sum of \$6,000 the appropriation for part-time employees within the Support of Prisoners Department (Line 3105, Appropriation #1050). The estimates for Androscoggin County as amended by the Androscoggin County Legislative Delegation were submitted to the Joint Standing Committee on Local and County Government of the 111th Legislature on February 21, 1984. Those estimates, as amended by the legislative delegation, were subsequently approved by the entire Legislature and the Governor and became Chapter 59 of the Resolves of 1984, which became effective on March 30, 1984.

At their regular meeting held on April 18, 1984 the Androscoggin County Commissioners, by a 2-1 vote, approved the following motion

"To deny approval for the creation of a full-time position of classification/medical/transportation deputy and to authorize the sheriff to continue to discharge those responsibilities with the use of part-time personnel."

It is that action by the County Commissioners of Androscoggin County which has prompted your request to this office.

It has been the consistent position of this Department that the authority of the County Commissioners to control expenditures within county departments is ultimately subject to the control of the Legislature. This Department has frequently expressed its opinion that a 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 to control expenditures is exercised within the bounds established by the legislatively approved budget and must not be exercised in such a way so as to frustrate

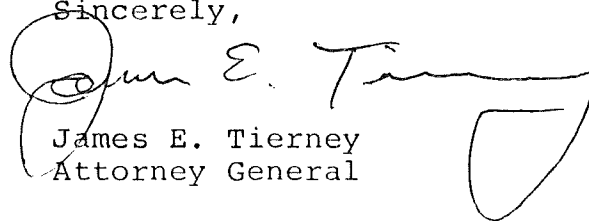
the legislative intent which is expressed therein. See Op. Atty. Gen., March 3, 1984; Op. Atty. Gen., February 2, 1979; Op. Atty. Gen., June 22, 1977; Op. Atty. Gen., February 1, 1977. Moreover, by virtue of 30 M.R.S.A. §253-A the Legislature has specifically reserved to itself "the power to change or alter specific line categories within the county estimates."

In view of the foregoing, this Department is satisfied that the Legislature, through the county budget review process, has specifically directed the Commissioners of Androscoggin County to provide a regular position within the Support of Prisoners Department described as "Inmate Medical, Transportation, Classification." There can be little doubt that this was the Legislature's intent since this very position was requested by the County Sheriff and denied by the County Commissioners and then restored to the county estimates by the county legislative delegation. Accordingly, it is this Department's conclusion that the Legislature has expressed its intent that the County Commissioners fund an Inmate Medical Position within the Support of Prisoners Department and in fact the Legislature has authorized the amount of \$10,494 for that purpose.

This Department wishes to emphasize that during the course of reviewing this material, at your request, it has received full cooperation from the County Commissioners. Moreover, in concluding that the Legislature has directed the County Commissioners to authorize the Inmate Medical position, this Department expresses no opinion as to the merits of that decision. Rather, this Department's role has been to attempt to ascertain the intent of the Legislature when it reviewed, amended, and ultimately approved the estimates for Androscoggin County.

I hope this information has been helpful to you in fulfilling legislative intent. Please feel free to call upon this office or me if I can be of further assistance to you.

Sincerely,



James E. Tierney
Attorney General

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