

MAINE STATE LEGISLATURE

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August 9, 1955 760

To Sumner T. Pike, Chairman, Public Utilities Commission
Re: Public Utilities Counsel

This is in response to your memo of July 20, 1955, in which you request comment and criticism upon your proposal to hire full-time legal counsel for the Public Utilities Commission. It is my understanding that this position would be, if possible, entirely independent of the office of the Attorney General.

With your memo you sent a position description setting forth in detail the duties to be performed by such counsel. These duties are already covered by statute and are assigned to County Attorneys and the Attorney General. I am afraid the statutes preclude you from doing what you wish in the way you wish. Some of the statutes to which I refer are Section 8 of Chapter 44, R.S. 1954, and Section 1 of Chapter 20, R.S. 1954.

Particularly because of Section 1 of Chapter 20 I feel that your proposal could lead to difficulty and dissession with and among other departments and agencies of the State. Because of this law, all counsel now assigned to any department, board or commission are Assistant Attorneys General. The responsibility for legal assistance to State departments is placed by this statute upon the Attorney General. I believe that so long as the responsibility remains as it is, it should carry with it, as a matter of protection, the right to appoint such assistants as are needed to fulfill the requirements of the statute.

A proposal somewhat similar to the one you now make was made to the legislature last winter with respect to the Highway Commission L. D. 1110 provided that the Highway Commission might employ full-time legal counsel to be an Assistant Attorney General, ex officio, to give such legal services to the department as necessary and, by consent of the Attorney General, to represent the State in the several courts. This bill was heard by the Committee on Highways, was reported out, ought not to pass, and failed of passage.

You state, "We have concluded that the inherent advantages in hiring and retaining our own personnel, as contrasted with the uncertainty of political appointment, make it desirable that the position be one within the framework of the State civil service system." In contrast to this is the fact that Assistant Attorneys General are not often changed, particularly when occupying positions which require the amount of training and experience visualized in your proposal. Then, too, it would appear that a person would require training in such a position for longer than the probationary period currently in force, which would make it very difficult to dismiss such person if he proved unsatisfactory, whereas, if he were not under the State system, it should prove a relatively simple matter to replace him if necessary.

This office has been aware of an apparently growing need for counsel for the Commission. We would be most happy to discuss the matter with you at your convenience, with a view to determining and filling your needs.

Frank F. Harding
Attorney General