

MAINE STATE LEGISLATURE

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June 5, 1975

Timothy Wilson

Executive - O.E.O.

Charles R. Larouche, Assistant

Attorney General

Status of the Division of Economic Opportunity

I understand your initial question to be: Is the Division of Economic Opportunity an agency of the State of Maine? The answer to that question is negative.

"Only the Legislature can establish a public office (other than a constitutional office) as an instrumentality of government. Whether the creation of the office is necessary or expedient, its duties, its powers, its beginning, its duration, its tenure, are all questions for the legislature to determine and be responsible to the people for their correct determination." State v. Butler, 105 Me. 91. Also see Metcalf & Eddy v. Mitchell, 269 U.S. 514; Taylor v. Comm. ex. rel. Dummont, 202 S.W.2d 992; Pope v. Comm. of Internal Revenue, 138 F.2d 1006; and Hudson v. Auneur, 75 P.2d 587, 101 Colo. 550.

After careful research, I have found no statute which establishes either the Division or the Office of Economic Opportunity. Accordingly, there is no such "agency" in the State of Maine.

I understand your next question to be: Is there a Division of Economic Opportunity within the Office of the Governor? The answer to that question is affirmative.

It appears from Executive Council Order No. 1388, dated December 16, 1964, with Request for Adjustment of Allotment attached, and from Executive Council Order No. 1422, dated December 31, 1964, a copy of which is enclosed for your convenience, that by agreement of the Governor and Council on those dates, the Governor established a Division of Economic Opportunity within his Office for the purpose of assisting him in discharging his functions under the Federal Economic Opportunity Act. I have examined many other Executive Council Orders spanning 1964 to the present time which indicate that this Division is still active and within the Office of the Governor.

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If I can be of any further aid to you in this matter,
please advise me.

CHARLES R. LAROUCHE
Assistant Attorney General

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