

MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL
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January 18, 1979

To: Members of the 109th Legislature

From: Richard S. Cohen, Attorney General

As you probably know, one of the major functions of the Department of the Attorney General is to provide legal assistance to the Legislature on a non-partisan basis. I would like to take this opportunity to outline that function to you in some detail.

Our most important responsibility in connection with the legislative process is to issue legal opinions when requested by either branch of the Legislature or by members of the Legislature. That duty is set out in Title 5, section 195, of the Revised Statutes, as follows:

§ 195. Opinions on questions of law

The Attorney General shall give his written opinion upon questions of law submitted to him by . . . either branch of the Legislature or any Members of the Legislature on legislative matters.

In order that we may discharge this responsibility promptly and effectively, I have assigned my Administrative Assistant, Stephen Diamond, the task of coordinating legislative opinions. It would greatly assist us if you would submit all opinion requests to Mr. Diamond, or in his absence, to Deputy Attorney General John Paterson. Both Mr. Diamond and Mr. Paterson are located on the second floor of the State House, in offices adjacent to Room 228.

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It would also be to our mutual benefit if opinion requests could be submitted as far as possible in advance of the date the opinion is needed. This office has its heaviest workload during the legislative session. In addition, many questions involve complicated legal issues. Only if we have the time necessary for thorough research and careful review can we be confident that our responses to your inquiries will be accurate and complete.

Our practice regarding the distribution of opinions is as follows: If the affected legislation is pending before a committee, copies of the opinion are sent to the person requesting it, to the sponsor of the legislation and to the chairpersons of the committee. If the affected legislation has been reported out of committee, copies of the opinion are sent to the person requesting it, to the sponsor of the legislation, to the President of the Senate and to the Speaker of the House.

To avoid possible confusion, I should also comment briefly on the scope of the Attorney General's authority to issue opinions. Under section 195 of Title 5, that authority is limited to questions submitted by the Governor or by the head of any state department or agency, as well as by members of the Legislature. Regarding members of the Legislature, our authority is further restricted to questions on "legislative matters." The statute does not permit us to respond formally to inquiries from citizens or from units of local government.

While we endeavor to fulfill all requests for information which do not require an interpretation of state law, we are legally bound to avoid involvement in what are essentially private or local disputes which do not directly pertain to legislative matters. Although I feel strongly that this office should continue to function as an informational resource for the citizens of Maine, I am equally determined that we remain within the limits of our statutory authority to issue opinions. I would hope that I can count on your assistance in this matter.

As in the past, members of the Attorney General's staff will be available to provide technical assistance when requested by legislative committees or by individual legislators. In performing this function, however, we fully recognize that it is the prerogative of the Legislature to formulate public policy. Accordingly, the rendering of technical assistance on a particular piece of legislation should not be construed as an endorsement of the policy reflected in the legislation. Along these lines, it is the practice of this office that attorneys not make recommendations on questions of policy unless they have the express approval of

the Attorney General.

I wish to emphasize that I consider the duties of this office which relate to the legislative process to be of the highest priority. I look forward to working with you on these and other matters during my tenure as Attorney General.

RICHARD S. COHEN
Attorney General

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