

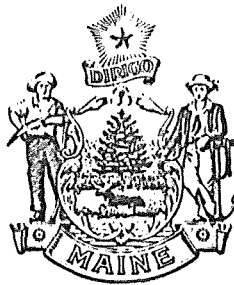
MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

RICHARD S. COHEN
ATTORNEY GENERAL



79-139
STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

July 18, 1979

Herbert Hartman, Temporary
Deputy Commissioner
Department of Conservation
State House
Augusta, Maine 04333

Re: Applicability of Freedom of Access Law to Budworm
Policy Review Committee

Dear Mr. Hartman:

This is in response to your memo to me of July 9, in which you solicit the opinion of this office with respect to whether the Freedom of Access Law, 1 M.R.S.A. § 401 et seq., requires that meetings of the so-called Budworm Policy Review Committee be open to the public. I understand that this Committee is an informal and ad hoc one, established and appointed by the Commissioner of the Department of Conservation in order to provide to him recommendations and advice with respect to his ultimate formulation of a budworm policy report to be submitted to the Legislature. Moreover, I understand that this Committee consists of several private and public members who do not receive special compensation from the State for their participation. Finally, it is recognized that the existence and establishment of this Committee is nowhere required or contemplated by any statute, and, accordingly, that the Committee has no statutory powers or duties.

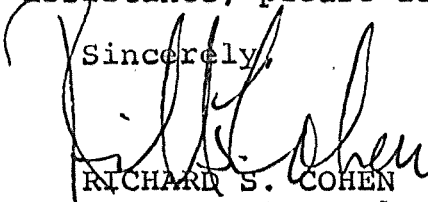
Based upon the foregoing facts, I find that the Freedom of Access Law does not require that meetings of this Committee be open to the public. That law does require that "transactions of any functions affecting any or all citizens of the State by . . . any board or commission of any state agency or authority" shall constitute a "public proceeding" which, subject to exceptions not pertinent here, shall be open to the public. 1 M.R.S.A. §§ 402(2)(B) and 403. However, the Committee here involved, being an informal and ad hoc committee having no statutory power and indeed unrecognized by any statute, cannot be said to be a "board or commission of a state agency or authority." The Committee's

function is limited to whatever recommendations or advice it may wish to provide to the Department of Conservation and its Commissioner so that the latter may make his own separate report to the Legislature. Of course, that latter report will be a public document subject to public scrutiny, as will any written materials or advice submitted by the Committee to the Commissioner or Department.

The substance of this opinion follows closely the opinions of Joseph E. Brennan to John L. Martin and Rodney S. Quinn, dated July 12, 1976, and December 15, 1976, respectively, relating to various ad hoc committees of the Governor. Copies of those opinions are attached for your information.

If I can be of further assistance, please let me know.

Sincerely,


RICHARD S. COHEN
Attorney General

RSC:mfe

Enclosures