

# 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



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 30, 1979

William B. Manheimer, Esquire  
One Community Drive  
Augusta, Maine 04330

Dear Mr. Manheimer:

This is in response to your request for an opinion as to whether you may serve as Chairman of the Advisory Council to the Maine Employment Security Commission as well as a member of the Maine Guarantee Authority. A review of the statutes of the Maine Guarantee Authority and of the Maine Employment Security Commission indicates that there is no incompatibility or conflict of interest in your serving in both capacities.

Title 26 M.R.S.A. §1082.5 provides for an advisory council for the Commissioner of Manpower Affairs. This section provides, in part, that

"Such council shall meet no less than 4 times a year and shall aid the commission in formulating policies and discussing problems relating to the administration of this chapter and in assuring impartiality and freedom from political influence in the solution of such problems. The advisory council may also make recommendations to the legislature for such changes in this chapter as in their opinion will aid in accomplishing the objectives of this chapter. . . ." (emphasis supplied)<sup>1/</sup>

The Maine Guarantee Authority is an agency of the State of Maine established pursuant to Title 10 M.R.S.A. §701, et seq. The general purpose of the Maine Guarantee Authority is to provide for the betterment of economic development in the State of Maine. See, e.g., Title 10 M.R.S.A. §671 and §702.

---

<sup>1/</sup> The chapter referred to herein is Chapter 13 of Title 26 M.R.S.A. This chapter governs unemployment compensation, see §1082 for the specific legislative statement of policy of this chapter.

The basic concept of incompatibility of offices was enunciated by the Maine Supreme Judicial Court in Howard v. Harrington, 114 Me. 443 (1916). In that case, which involved the positions of mayor and judge of the police court, the Court indicated the principle concerning the determination of incompatibility involved the consideration of

"the character and relation of the offices, as where the function of the two offices are inherently inconsistent and repugnant"

The Court stated that:

"The true test is whether the offices are incompatible in their natures, in the rights, duties or obligations connected with or flowing out of them" Howard v. Harrington, supra, at 447.

The statutory authority of the two offices with which you are concerned does not appear to render the positions inconsistent, repugnant or in conflict with each other. The purposes of each position appear, for the most part, to be unrelated. Accordingly, there appears to be no reason why you may not discharge the obligations of each office without any conflict with the other, particularly where the Maine Employment Security Advisory Council is merely advisory.

I hope this information has been helpful. Should you need further advice, please feel free to contact me.

  
SARAH REDFIELD  
Assistant Attorney General

SR:jg